



Our ref: AA1000409  
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9 March 2018

Francesca Lai  
Lawyer  
Hall and Wilcox

**by email:** [Francesca.Lai@hallandwilcox.com.au](mailto:Francesca.Lai@hallandwilcox.com.au)

Dear Ms Lai

**Authorisation AA1000409 submitted by Tyre Stewardship Australia (TSA)  
– Information Request**

I refer to your application for authorisation and supporting submission lodged with the Australian Competition and Consumer Commission (the **ACCC**) on 5 December 2017. I refer also to the interested party submissions previously provided to you on 16 February 2018.

Following on from our meeting on Tuesday 6 March, and to assist with its assessment of this application, the ACCC is seeking TSA's response to any of the issues raised in submissions from interested parties. In addition, the ACCC seeks further information from TSA which is set out at **Attachment A** to this letter.

Please provide the requested information as soon as possible and in any case by no later than **COB 23 March 2018**. The information may be provided by email to [adjudication@acc.gov.au](mailto:adjudication@acc.gov.au).

I note that some of the information requested may be confidential to TSA. Under s 89 of the *Competition and Consumer Act 2010*, the ACCC may exclude documents or information from its public register by reason of the confidential nature of any of the matters contained in the document. If TSA does wish to request exclusion from the public register for any documents or information provided in response to the ACCC's request, please clearly indicate this when providing the documents.

Subject to our consideration of any request for exclusion from the public register, a public version of TSA's anticipated submission with the confidential sections redacted will be placed on the ACCC's public register once TSA provides the requested information.

If you wish to discuss any aspect of this matter, please do not hesitate to contact Kaitlin Hanrahan on (03) 9290 1917 or [kaitlin.hanrahan@acc.gov.au](mailto:kaitlin.hanrahan@acc.gov.au).

Yours sincerely

A handwritten signature in blue ink that reads "J Martin". The signature is written in a cursive style with a long horizontal stroke extending from the end of the name.

Jaime Martin  
A/g Director  
Adjudication

## **Attachment A – ACCC Information Request**

### **Clarification of the conduct for which authorisation is sought**

1. Please provide a summary of any change made to the original Scheme (including, if possible, a marked up version of the amended Guidelines) to indicate the differences between the current and proposed conduct.
2. The table of participants provided by TSA on page 5 of its submission does not provide a figure of the number of standalone recyclers in the Scheme. Please provide this number.
  - a. If possible, please also indicate what percentage of each category the participants constitute.
3. The ACCC notes that, among other provisions, TSA has sought authorisation in relation to the exclusive dealing provisions in s 47 of the *Competition and Consumer Act 2010*. Please outline which aspects of the Scheme are at risk of breaching the exclusive dealing provisions.
4. The ACCC also notes that, though the Scheme envisions that mining companies will be covered by the Scheme, there are currently no mining companies acting as accredited participants. Please outline TSA's strategy, if any, for the future engagement with mining companies in relation to the Scheme, including timeframes.
5. The ACCC notes that the table summarising the destination of end of life tyres (EOLT) on page 6 of TSA's submission shows that 38.7 per cent of EOLT were exported (baled and casings) for use as tyre derived fuel in 2016/17.
  - a. Please clarify whether this entire figure is included in the calculation of 'tyres going to environmentally sound use' in TSA's submission.
  - b. Please explain whether TSA monitors the destination/use of baled tyres leaving Australia; and whether TSA impose any requirements on such tyres.

### **Issues raised by interested party submissions**

6. A number of interested parties have submitted that the board of TSA does not have adequate representation from the recycling and collection industry on its Board.
  - a. The ACCC, in its previous decision, underlined that the efficacy of the Scheme would rely on (amongst other things) representation and participation across the whole end-of-life tyre stream. Please provide comment on the current makeup of the Board.
  - b. The ACCC notes that TSA's supporting submission indicates that it is currently conducting a recruitment process to appoint a recycler to the Board. Please provide any information as to the timing and process of this appointment.

7. Some interested parties have raised concerns that some accredited collectors/recyclers are not acting in accordance with the Scheme – for example by disposing of tyres in an environmentally unsound way (including landfill and export of baled tyres).
  - a. Please expand on TSA’s position on such practices, including how such end uses are reconcilable with the objectives of the Scheme.
  - b. What mechanism/process, if any, does TSA have in place to verify the fate of exported tyres?
  - c. Please outline the processes undertaken by TSA to ensure that participants, including collectors and recyclers, will act in accordance with the Scheme prior to accreditation? In your response, please provide an overview of the documentation that potential participants in the Scheme are required to provide to TSA prior to receiving accreditation.
  - d. Please outline the processes undertaken by TSA to ensure participants’ ongoing compliance with the Scheme.
8. Some concerns have been raised about the robustness of TSA’s data collection. Please outline any progress made by TSA in order to improve the robustness of reporting from participants in the Scheme.
9. A number of interested parties also provided suggestions that they believe would improve the effectiveness of the Scheme, including
  - a. independent reviews undertaken over the course of any re-authorisation
  - b. TSA’s review of the Scheme being brought forward so that it would occur within the first two years of re-authorisation
  - c. increasing the levy imposed on passenger tyres.

Please comment upon these suggested amendments and, in particular, how they would affect the operation of the Scheme.

10. In its submission, the Department of Environment submitted that TSA should implement all the recommendations made in the Marsden Jacobs and Associates 2017 independent report.
  - a. Please comment on which recommendations from the report, if any, have not been adopted and the reasons why.
  - b. One of the recommendations in the report was that TSA should seek accreditation under the Federal Government’s Product Stewardship Scheme. Please outline whether TSA is planning on seeking accreditation under the Scheme?
11. Please comment upon suggestions from interested parties who submit that the length of authorisation sought (10 years) is too long and will not allow for TSA to adapt to changes in the industry over the course of the authorisation.