



MARINE STORES PTY LTD

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Recyclers for the Beverage Industry

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Australian Competition & Consumer Commission
23 Marcus Clarke Street
CANBERRA ACT 2601

Attention: Ms M Kolacz

Dear Ms Kolacz

AA1000415 - Recyclers of South Australia Inc (RSA) - Application for Authorisation

Marine Stores Pty Ltd (**Marine Stores**) makes the following submissions in relation to the draft Determination issued by the ACCC on 22 June 2018 in respect of the above application (**Application**). These submissions are supplementary to the submissions lodged by Marine Stores with the ACCC on 13 April 2018 and 8 June 2018.

1. Marine Stores continues to be of the view that the granting of authorisation will result in a public detriment rather than a public benefit.
2. If, despite the submissions received by the ACCC to date from interested parties, the ACCC continues to propose to grant authorisation to RSA, Marine Stores submits that any such authorisation should be conditional on no office holder of RSA being a director, employee or shareholder (whether directly or indirectly) in any of Central Recyclers (Aust) Pty Ltd (ACN 008 119 828), Flagcan Distributors Pty Ltd (ACN 007 938 520), Flaglass Pty Ltd (ACN 096 743 707) or any other company acting as a super collector in the South Australian CDL scheme, or being involved in any business of selling or leasing container counting machines or glass culleting.
3. The grounds of the submission in paragraph 2 are that:
 - 3.1 If an office holder of RSA is involved with a super collector Marine Stores will be at a commercial disadvantage in that such super collector, (e.g. Flagcan) is likely to become aware of commercially sensitive information about Marine Stores arising out of negotiations between Marine Stores and RSA concerning collection agreements. If Marine Stores is put in a position of such commercial disadvantage it is likely to result in higher costs which given the nature of the industry are likely to be passed on to consumers.
 - 3.2 In relation to companies involved with the selling or leasing of container counting technology and machinery to collectors, because of the variation of sizes in the collection businesses, the use of certain equipment may not be efficient or cost effective for some collectors. Such collectors may nevertheless be encouraged to purchase such equipment or services on the basis that higher handling fees can be

charged to recover costs without introducing any efficiency trade-offs. Again, such higher handling fees are likely to be passed on to consumers.

- 3.3 Marine Stores is concerned that the involvement of office holders of RSA in a company such as Flaglass which purchases glass cullet from collectors could result in an unfair influence on collectors who are members of RSA to deal with Flaglass. This could result in lower prices being paid to collectors for their glass cullet given that Flaglass is a seller of glass cullet and other potential buyers are users of glass cullet (so do not need to recover a wholesale margin). Consequently, collectors may wish to recover any shortfall in respect of such lower prices for their glass cullet by claiming higher handling fees in their collection agreements with Marine Stores which in turn are likely to be passed on to consumers.
- 3.4 Marine Stores submits that it is not realistic to expect that these conflicts of interest could be effectively managed. Marine Stores submits that office holders of the RSA can not disassociate themselves in a meaningful way when making decisions on behalf of their members when they are commercially connected to the outcome of a decision. Regardless of the fact that they can recuse themselves from the formal decision making process the risk still remains that influence can be brought to bear outside such formal decision making process.

Please let me know if you require any clarification of any of the above.

Yours faithfully,



Gerry Doran
General Manager
Marine Stores Pty Ltd