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**13 July 2018**

**By email**

Gavin Jones  
Director, Merger & Authorisation Review  
Australian Competition and Consumer Commission  
Level 17, 2 Lonsdale St  
MELBOURNE VIC 3000

**Email:** [Adjudication@acc.gov.au](mailto:Adjudication@acc.gov.au), [Gavin.Jones@acc.gov.au](mailto:Gavin.Jones@acc.gov.au), [Miriam.Kolacz@acc.gov.au](mailto:Miriam.Kolacz@acc.gov.au),  
[Tessa.Cramond@acc.gov.au](mailto:Tessa.Cramond@acc.gov.au)

Dear Mr Jones

**AA1000415 - Recyclers SA – submission in response to Draft Determination**

We refer to:

- The Draft Determination published by the ACCC on 22 June 2018 in relation to Recyclers SA's application for authorisation (**Application**); and
- Statewide Recycling's (**Statewide**) interested party submission on 27 April 2018 (**Submission**).

For the reasons set out in its Submission, Statewide has serious concerns that the Application by Recyclers SA:

- will not, and is not likely to, result in any of the public benefits identified by Recyclers SA – rather, it will likely differentially enhance the private rights of a few collection depots to the detriment of the industry as a whole; and
- will likely result in significant public detriment and anti-competitive outcomes for reasons including that it is seeking authorisation for price fixing conduct and will result in distorting the otherwise competitive and effective landscape for CDS.

Statewide submits that the conditions of authorisation proposed in the Draft Determination will be important to addressing these concerns, in particular the proposed conditions to:

- limit the collective negotiations to operational matters which the depots do not compete,<sup>1</sup> and ensuring there is not wholesale sharing of information between collection depots;<sup>2</sup>
- ensure that the arrangements are truly voluntary to enter into by collection depots as well as super collectors;<sup>3</sup>
- ensure that Recyclers SA's members who have a conflict of interest will recuse themselves from any discussion, negotiations, or advice in relation to collective negotiations with super collectors,

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<sup>1</sup> Draft Determination at [35], [97]

<sup>2</sup> Draft Determination at [93]

<sup>3</sup> Draft Determination at [100]-[101]

save to the extent that they as a depot owner will be informed of the outcome of such discussions, negotiations and advice. Such recusals will be recorded in minutes of any meetings;<sup>4</sup>

- ensure records of discussions taken place will be redacted and kept confidential from the Directors of Flagcan and CDS;<sup>5</sup> and
- ensure the bargaining group includes equal and across the board representation of depots (with the exclusion of those with a conflict of interest).<sup>6</sup>

Please contact us if you would like to discuss this letter.

Statewide would be happy to engage further with the ACCC and to provide additional information to assist in the ACCC's consideration of the authorisation.

Kind regards

A handwritten signature in black ink that reads 'Gina Cass-Gottlieb'.

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<sup>4</sup> Draft Determination at [38], [106]-[108].

<sup>5</sup> Draft Determination at [106].

<sup>6</sup> Draft Determination at [38], [113].