



Your ref: AA1000476
Contact officer: Robert Janissen
Contact phone: (02) 6243 1387

23 Marcus Clarke Street
Canberra ACT 2601
GPO Box 3131
Canberra ACT 2601
tel: (02) 6243 1111
fax: (02) 6243 1199
www.accc.gov.au

15 May 2020

Emily Shoemark
Snedden Hall & Gallop Lawyers

Sent by email

Dear Emily

Battery Stewardship Council application for authorisation AA1000476 – request for information

I refer to the application for authorisation lodged by the Battery Stewardship Council (**BSC**) on 18 March 2020 and response provided by BSC to interested party submissions on 11 May 2020. As discussed, in order to assess the application we are seeking clarification on a number of issues, outlined below.

We request that you provide a response for publication on the ACCC's public register by 22 May 2020.

Business to Business Contracting

Section 3.2(c) of the application indicates that organisations who seek accreditation must make a commitment to:

- (i) *'contracting for the supply of battery-related goods and services only with other accredited members to the Scheme (where possible) using enterprise-to-enterprise contracting*
- (ii) *in circumstances where it is necessary for a member to continue current contract arrangements non-members of the Scheme, still ensuring that all end-of-life batteries are provided to an accredited battery recycler for environmentally sound disposal'*¹

The ACCC is seeking clarification regarding the exceptions to the obligation for members to only contract with other members.

1. Under which circumstances will accredited members of the scheme be permitted to contract with members outside the scheme, excepting current contractual arrangements referred to in 3.2(ii) ?

¹ Application Recived, ACCC Authorisation AA1000476 – Battery Stewardship Council, pp 4.5,
<https://www.accc.gov.au/system/files/public-registers/documents/Application%20Received%20-%2018.03.20%20-%20PR%20VERSION%20-%20AA1000476%20BSC.pdf>

2. In the event that an accredited member is unable to contract with another accredited member due to practical difficulties (e.g. lack of accredited member(s) in their region), will there be any exceptions to the restrictive dealing provisions?
3. If BSC's answer to (2) is yes, what exceptions would there be, and how would these exceptions be determined and implemented?

Levy visibility to consumers

Section 3.3.2 of the Scheme Design proposes *'that an annual levy be imposed on all imports ...the levy would be passed through the supply chain to the consumer in a transparent manner as a visible fee.'*²

The ACCC is seeking clarification as to how BSC intends the levy to be visible to consumers at the point of sale.

1. Will the consumer be advised at the point of sale that the fee has been incorporated into the cost of the battery?
2. If so, how will this levy amount be indicated to the consumer? For example, will the fee be included as a line item on a receipt or invoice, will there be in-store messaging, or will iconography or text be included on the battery packaging to indicate that part of the purchase price included the fee?

This letter has been placed on the ACCC's public register. If you wish to discuss any aspect of this matter, please do not hesitate to contact Robert Janissen on 02 6243 1387 or adjudication@acc.gov.au.

Yours sincerely



Darrell Channing
Director
Adjudication Branch

² Application for authorisation AA1000476, Attachment A, page 17.