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FILE No:
DOC:
MARS/PRISM

24 March 2003

By Courier

Adjudications Branch
Australian Consumer and Competition Commission
470 Northbourne Avenue
Dickson ACT 2602

Attention: Mr Scott Gregson

Our Ref: 887781/ 243605

Dear Scott

MICHELIN AUSTRALIA PTY LTD NOTIFICATION – CONFIDENTIALITY

We refer to our telephone discussions on 20 March 2003 and 21 March 2003 about the confidentiality of the annexures to our client's notification.

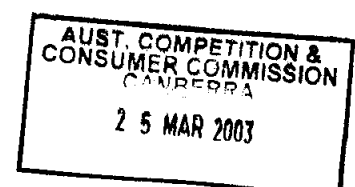
1. Confidential Annexure A

We confirm that our client agrees that Confidential Annexure A may be placed on the public register *except* that it requests the Commission to exclude from the public register the details of item 3(b)(ii)(B) (estimated number of Recamic Franchisees within the next year). As discussed, these details allude to our client's commercial arrangements and our client maintains that they are highly sensitive and confidential.

For your convenience, we enclose a copy of Confidential Annexure A marked to block out the material in respect of which our client claims confidentiality.

2. Confidential Annexure B

We enclose a non-confidential supporting submission ("**Public Submission**") that refers in general terms only to matters which our client claims are confidential and highly commercially sensitive, but which is otherwise exactly the same as Confidential Annexure B. Our client would be happy for the Public Submission to be placed on the public register.



Our client requests that you do not place the original Confidential Annexure B on the public register because, as discussed, it refers to confidential commercial information and market intelligence that is not publicly available. Disclosure of these matters on the public register would place our client at a significant disadvantage.

We do appreciate your prompt approach to us about your concerns, and hope that they are now alleviated. If you wish to discuss this matter, please do not hesitate to contact us.

Yours faithfully


Michael Wilton
Partner
Deacons

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RESTRICTION OF PUBLICATION CLAIMED

Annexure A

CONFIDENTIAL

3. (b) Number of those persons –
- (i) At the present time
(B) Recamic Franchisees: 5
 - (ii) Estimated within the next year
(B) Recamic Franchisees: [REDACTED] (estimated)
4. (c) Where number of persons stated in item 3(b)(i) is less than 50, their names and addresses

Recamic Franchisees:

- Archfield Holdings Pty Ltd ABN 17 092 328 955, 90 Colebard Street West, Archerfield, Queensland, 4108
- Burntjade Pty Ltd ABN 33 092 637 637, First Floor, 292 Rokeby Road, Subiaco, Western Australia, 6008
- Deverich Pty Ltd ABN 89 087 622 795, Level 4, AMP Centre, 50 Bridge Street, Sydney, New South Wales, 2000
- Marathon Tyres Pty Ltd ABN 26 082 184 923, Level 12, 821 Pacific Highway, Chatswood, New South Wales, 2066
- Mengs Tyre Sales ABN 29 279 654 199, Boundary Road, Mackay, Queensland, 4740

Dated 18 March 2002

Signed on behalf of the applicant



Michael Wilton
Partner
Deacons

RESTRICTION OF PUBLICATION OF PAGES 4-9 INCLUSIVE IS CLAIMED.

SUPPORTING SUBMISSION

Background

1. Michelin Australia Pty Ltd ABN 84 006 761 628 ("**MAPL**") is an importer and wholesaler of new Michelin group-branded tyres ("**Tyres**"). It supplies new Tyres, including truck and bus Tyres, to tyre dealers for retail sale.
2. MAPL is also the franchisor in Australia of the Recamic retreading process. Recamic franchisees ("**Recamic Franchisees**") retread used tyres (including but not limited to Tyres) using the Recamic retreading process. The retreaded tyres are then supplied on a wholesale basis to tyre dealers. Recamic Franchisees are the only wholesale source of Recamic retreaded tyres.
3. Certain tyre dealers who purchase new Tyres from MAPL are parties to MAPL's Australian Retail Partner Agreement – these dealers are referred to in this submission as "**Dealers**". These Dealers generally specialise in the retail supply of truck and bus tyres, and may retail retreaded truck and bus tyres, including Recamic retreaded truck and bus tyres acquired from Recamic franchisees ("**Recamic Retreads**"). However, Dealers are under no obligation to acquire Recamic Retreads.

Summary of proposed conduct

4. MAPL proposes to allow some of its dealers a rebate on new truck and bus tyres they purchase from MAPL if they also acquire retreaded Recamic-branded truck and bus tyres from Recamic Franchisees.

Market

5. The relevant markets are:
 - (1) the market for the wholesale supply of retreaded truck and bus tyres;
 - (2) the markets for the wholesale acquisition and retail supply of retreaded truck and bus tyres; and
 - (3) the market for the retail supply of truck and bus tyres.
6. Competition in all of these markets is robust.

Market for wholesale supply of retreaded truck and bus tyres

7. The market to supply retreaded truck and bus tyres on a wholesale basis in Australia is extremely competitive.
8. A very large number of individual retreaders compete to supply retreaded truck and bus tyres to tyre dealers. MAPL believes there are approximately 61 retreaders operative in Australia, and that approximately 31 retreaders use the Bandag system (the Bandag system is not associated with MAPL or the Michelin group). Other significant non-MAPL licensors of retreading systems are Bridgestone and Goodyear. Retreaders may also use systems licensed by South Pacific Tyres, Oliver, Bridges Retread and Bell Tread.

9. The 5 current Recamic Franchisees make up a very small percentage of individual retreaders (MAPL estimates this percentage to be between 8% and 8.5% of the total number of retreaders).
10. It is highly unlikely that the proposed arrangement would have any effect on this market.

Markets for the wholesale acquisition and retail supply of retreaded truck tyres

11. There are a large number of dealers competing to acquire retreaded truck and bus tyres on a wholesale basis, and to supply them to the public on a retail basis. MAPL estimates that Dealers make up approximately 5% of all such dealers. MAPL Dealers are not restricted to supplying only Michelin-branded Tyres.
12. There are a number of different brands of retreaded truck and bus tyres competing in these markets, and these brands are highly competitive with each other. Recamic Retreads make up a very small percentage of the total number of retreaded truck and bus tyres supplied on wholesale and retail bases.
13. Accordingly, it is highly unlikely that the proposed arrangement would have any effect on these markets.

Market for the retail supply of truck tyres

14. In the market for the retail supply of truck and bus tyres generally, there is intense competition between new and retreaded tyres because they are generally substitutable for each other. MAPL estimates that 50% of the general market for truck and bus tyres is made up of retreads. MAPL does not have a significant share of the market for new truck and bus tyres.
15. It is unlikely, given the small market share of Recamic Retreads and Dealers that the proposed arrangement would have a substantial effect on this market. If there is any effect, it would be to stimulate competition between new and retreaded truck and bus tyres.

Public benefit

16. Recamic Retreads compete in the retail market for retreaded truck and bus tyres with other brands of retreaded truck tyres. As noted above, retreaded truck and bus tyres are also substitutable for and highly competitive with new truck and bus tyres, in the general market for truck and bus tyres. As noted above, MAPL estimates that approximately 50% of general market for tyres is made up of new, imported tyres.
17. One of the intended effects of the proposed arrangement is to increase the number of Recamic Retreads available to consumers of truck and bus tyres. This is likely to:
 - (1) enhance consumer choice in the market for retreaded truck and bus tyres;

- (2) enhance consumer choice in the market for truck and bus tyres generally; and
- (3) to the extent that consumers are likely to take advantage of enhanced choice in both those markets, stimulate the development of domestic substitutes (i.e. retreads) for new imported tyres.

Public detriment

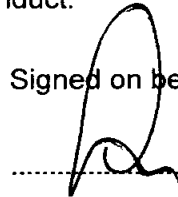
18. MAPL submits that public detriment is very unlikely to occur as a result of the relevant conduct. In particular, there is unlikely to be any anti-competitive effect on the three relevant markets because of:
 - (1) the robust nature of competition in those markets; and
 - (2) the small market share of Recamic Retreads in those markets.
19. It is also noted that Dealers are not obliged to purchase a specific number of Recamic Retreads or at all, and are not required to supply only Michelin-branded new truck and bus tyres.

Public benefit likely to outweigh public detriment

20. MAPL submits that the public benefit of the proposed conduct will outweigh the public detriment of the proposed conduct.

Dated 24 March 2002

Signed on behalf of the applicant



Michael Wilton
Partner
Deacons