



**Australian
Competition &
Consumer
Commission**

Our ref: C2005/201
Your ref: 134833.26.DM:nm
Contact Officer: Siobhán O'Gara
Telephone: 02 6243 1239

PO Box 1199
Dickson ACT 2602
470 Northbourne Ave
Dickson ACT 2602
ph (02) 6243 1111
fax (02) 6243 1199
www.accc.gov.au

2 March 2005

Mr Dennis Martin
Snedden Hall & Gallop
Lawyers
GPO Box 794
CANBERRA ACT 2601

Dear Mr Martin

Agsafe Limited – Application for minor variation of Authorisation A90871

Thank you for your letter of 17 February 2005 providing relevant documentation and information requested to assist the ACCC in assessing whether the variation sought is a minor variation.

The ACCC has formed the opinion that the variation sought is not a minor variation, on the following grounds:

1. amalgamating two programs, one of which is not authorised, results in a scheme fundamentally different to the arrangement authorised and constitutes a material change to the scope and nature of the authorisation; and
2. the transfer of funds from a program, which has been authorised, to a program which has not been authorised involves a material change to the effect of the authorisation,

alternatively, the amalgamation of levies from an authorised program and a non-authorised program, involves a material change to the effect of the authorisation.

I refer to ACCC staff meetings with your client and previous correspondence to the effect that where the variation involves significant changes to the arrangements originally authorised, an application for revocation and substitution of the authorisation may be the most appropriate approach. In this instance, you may wish to apply for a revocation of authorisations A90680 and A90681, and apply to substitute the authorised conduct with the proposed Industry Waste Reduction Scheme.



As you may be aware, before the ACCC may authorise a revocation and substitution of an authorisation, it must conduct the same public consultation process as it would conduct for a new application for authorisation. This process involves informing interested parties about the application for revocation and substitution and inviting submissions in response to it. Similarly, the ACCC must assess whether the benefit from the conduct proposed to be authorised under the substitute authorisation outweighs the likely detriment. The ACCC then issues a draft determination and invites interested parties to lodge further submissions in response to it, and/or calls a conference to discuss the draft determination. The ACCC then issues a final determination.

Should you wish to seek revocation and substitution of the current authorisations, it would be beneficial to provide a submission in support of the application setting out the likely benefits and detriments that would result from the proposed arrangement.

If you have any queries in relation to this letter or wish to discuss any aspect of this matter, please call Siobhán O'Gara on (02) 6243 1239.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Scott Gregson', with a large, sweeping flourish at the end.

Scott Gregson
A/g General Manager
Adjudication Branch