



Department of Primary Industries

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Mr Scott Gregson
 A/General Manager
 Adjudication Branch
 Australian Competition & Consumer Commission
 PO Box 1199
DICKSON ACT 2602

23 MAY 2005

Dear Mr Gregson

APPLICATION FOR REVOCATION OF AUTHORISATION AND SUBSTITUTION BY REPLACEMENT AUTHORISATION LODGED BY AGSAFE LTD

Thank you for the opportunity to comment on the proposal submitted by Agsafe Limited (Agsafe) to the Australian Competition and Consumer Commission (ACCC) for an exemption under the Trade Practices Act in relation to their proposed Industry Waste Reduction Scheme (IWRS).

It would appear from the documents provided that there are two business activities conducted by Agsafe that are already the subject of exemptions to the Trade Practices Act, these being the *drumMUSTER* and the ChemClear schemes. The new proposal appears to relate to a desire by Agsafe to amalgamate the two schemes subject to existing exemptions. Although this appears to be an administrative change aimed at realising potential administrative efficiencies, possible significant ramifications may arise depending on how the funds collected by the new scheme are distributed.

The *drumMUSTER* scheme has been in operation since 1999 and is currently funded by a four cents per litre/kilogram levy on purchases of chemical products supplied by participating manufacturers. The ChemClear Scheme is relatively new and is partly unfunded and partly user pays (depending on the type of chemical collected). The user pays funded part relates to chemicals that have traditionally been known as "obsolete chemicals". The unfunded part relates mainly to chemicals that are still in the market place and in original containers, but are no longer wanted by the user. Such chemicals can potentially be repackaged and/or resold by participating chemical manufacturers.

The Agsafe proposal indicates that the funds collected from users of chemicals, by the *drumMUSTER* program will be used to run the combined IWRS, which will include the ChemClear program. The *drumMUSTER* scheme contributes funds to the running of container collection sites by agencies such as local government. The combining of infrastructure in terms of organisation of collection sites for *drumMUSTER* and ChemClear is a potential benefit of the proposal. However, due to the ChemClear system having two elements, one "user pays" that deals with chemical products that are regarded as obsolete and the other "unfunded" dealing with chemical products that are still able to be sold and used, the diversion of *drumMUSTER* funds into the ChemClear program has the potential to subsidise both or either of the two areas of the ChemClear system (i.e. obsolete chemicals or unwanted chemicals).

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Exactly how such a subsidy will be managed is not specified in the documents provided. However, if such a subsidy was to favour the currently unfunded part of the ChemClear scheme, then this could potentially give a financial subsidy to the participating manufacturers of chemical products in the scheme, which is currently not available. This would occur through purchasers of chemicals paying a levy when chemicals are bought and manufacturers receiving a subsidy for taking back unwanted chemicals that could be repackaged and resold. Consequently, I would like to request that the ACCC, in considering the exemption proposal submitted by Agsafe, ensure that any subsidisation of the ChemClear system by *drumMUSTER* is required to be done in a manner that avoids any potential for this type of product subsidisation to unduly affect competition in the chemical product market.

Yours sincerely



PETER HARRIS
Secretary