



The General Manager
Adjudication Branch
Australian Competition and Consumer Commission
GPO Box 3131
CANBERRA ACT 2601

9 November 2010

Re Refrigerant Reclaim Australia authorisation application A91256

To whom it may concern,

In principle, Heatcraft Australia Pty Ltd (Heatcraft) supports RRA's application for authorisation to continue to apply an industry agreed levy and to also extend the scope of the authorisation to cover the discussion and agreement for the setting of rebates and the determination of processes and disposal practices to be applied to recovered refrigerant. This in principle support is on the understanding that the authorisation is purely to protect the RRA board and the members from allegations of anti-competitive or cartel actions and is conditional that any decision or agreement resulting from these discussions to change the current levies or rebates be independently reviewed and authorised by the ACCC after consultation with all relevant Stakeholders. Heatcraft does not support the RRA board being able to set and apply any such changes without this review and consultative process.

This position is based on our view that:

- the application document is the view of the RRA board and/or management and not that of the broader RRA membership.
 - due to the nature and composition of the RRA board it cannot be guaranteed to be an equal and/or fair representation of the stakeholder groups represented (the bulk refrigerant importers, the refrigeration and air-conditioning wholesalers, contractors, equipment manufactures/importers, numerous aligned industries/organisations and the broader community) and concern that the decisions made in this context could result in;
 - inadvertently facilitating anti-competitive outcomes or;
 - a potential reduction in the amount of used refrigerant recovered if rebates paid were reduced making it commercially unattractive for either the contractor or wholesaler to facilitate the collection and return of used refrigerant.
- Put simply we wish to ensure that **all stakeholder** views have been adequately addressed.
- the current financial model employed by RRA operates on the assumption that the funding for the future recovery of the ODS and SGF refrigerant bank will be sourced solely via levies placed on the importation of new refrigerants. The sale of reclaimed refrigerant for reprocessing and reuse could provide RRA with an alternative funding option and/or lower their operational cost (destruction charges), however, to date this option has not been commercially pursued.

Heatcraft disagree with the comment in section 6.(a)(iii) reclaim recovered refrigerant is effectively the creation of a new refrigerant; Reclamation is not the creation of a new refrigerant, it is the recycling of an existing refrigerant already in the market via what is basically a purification process. Reclamation would negate the need for a new refrigerant to be manufactured and imported.

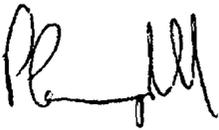
Furthermore, the statement "200 tonne in a total bulk market 4,500 tonnes" in section 6.(a)(iii) is an invalid comparison in that the figure of 200 tonnes represents the HCFC volume recovered where the figure of 4,500 tonnes is the total bulk market. The correct comparison would be either 500 tonnes total recovered refrigerant in a total bulk market of 4,500 tonnes (11%) or 200 tonnes recovered refrigerant in a bulk HCFC import volume of 1500 tonnes (13%), reducing by 30% in volume bi-annually. On this basis reclamation of the recovered refrigerant is very important and would put competitive pressure on and therefore greatly influence the price of quoted HCFC and higher priced HFC alternatives. The environmental argument about whether a recycled HCFC is better or worse for the environment than producing a new alternate HFC with a higher Global Warming Potential (GWP) is not germane to the Authorisation application.

Additionally, the sale of reclaimed refrigerant for reprocessing and reuse will be a catalyst to enable investment in reclamation/destruction technology and equipment as a viable alternative product stewardship option to current RRA current business model of destroying all recovered refrigerant by providing the critical mass and ongoing feedstock to establish such a business.

Notwithstanding the above, Heatcraft does not believe RRA has adequately considered or investigated the sale of recovered refrigerant for reclamation as an expense mitigation/alternative funding source. This may be due to the view that reclamation presents competition issues for RRA as sited in section 2. (a) (iii) ("A decision by RRA to reclaim and sell recovered refrigerant may have the effect of reducing sales of HFC's and HC's due to the availability of recovered refrigerant as an alternative product in the market") . However, recovered refrigerant is made up of approximately a 45/45/10 ratio HCFC's / HFC's / contaminates, making recycling of both HCFC's and HFC's possible. By destroying recovered refrigerant and not making it available for recycling, the development of alternatives products to new refrigerants is suppressed.

In conclusion, Heatcraft supports RRA's application but ask that the ACCC request that RRA consider the sale of recovered refrigerant for reclamation as an additional means of funding, that any decision or agreement resulting from discussions to change the current levies or rebates be independently reviewed and authorised by the ACCC after consultation with all relevant Stakeholders and that the ACCC works with RRA to address any perceived competition issues that may exist.

Yours sincerely,



Paul Campbell
Director of Operations
Heatcraft Australia Pty Ltd