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Our Ref **139972/1 NT.pm**
Your Ref **A91336-A91337**

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Friday, 8 March 2013

Australian Competition and Consumer Commission
GPO Box 3131
CANBERRA ACT 2601

Attention: David Hatfield

BY EMAIL: david.hatfield@accc.gov.au

Dear Mr Hatfield

**AUSTRALIAN TYRE INDUSTRY COUNCIL
APPLICATION FOR AUTHORISATION (A91336-A91337)**

We refer to your letter of 5 March 2013 enclosing further submissions received from Green Distillation Technologies Pty Ltd ("GDT") and the Australian Motor Industry Federation ("AMIF")

We note the supportive nature of the AMIF submission and make no further comment in relation to it.

We are instructed to comment on the various submissions and papers received from GDT.

ATIC questions the statement by GDT that it is a "tyre recycler with a proven, environmentally sustainable process for end of life tyres...". ATIC notes that GDT is not a member of the relevant industry association for tyre recyclers and has, to date, and in so far as ATIC's investigations have revealed, played a non-detectable role in the tyre recycling industry.

The validity and relevance of its submissions must be read in that light.

As stated in the past, ATIC does accept that a number of points raised by GDT are valid, and notes that GDT expressed "broad support for the objectives" of TSS at the Pre Decision Conference as well as in its letter dated 1 March 2013. ATIC is concerned however that a number of the matters raised by GDT in its letter of 1 March 2013 are unwarranted and potentially misleading.

Noting the ACCC's interest in the points raised by GDT, ATIC has instructed us to respond to each of the numbered paragraphs in its letter in turn.

1. This paragraph misrepresents the Scheme. It is misleading to suggest that TSA will charge "a fee for service – management of disposal of [the public's] ELT's...".

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All parties at the Pre Decision Conference, and those who have previously made submissions to the ACCC have stressed the need for national coordination within the industry.

It is proposed that TSA will be that coordinating authority. TSA will coordinate data collection, research and development, the education of industry and the public and contribute to the development of potential new markets for end of life tyre derived products such as explosives and rubberised asphalt. It will not manage disposal of end of life tyres.

2. The public is already charged an undetermined and unstated cost for tyre disposal. There is no uniformity or coordination of the disposal and, as a result, no guarantee that, despite the payment of a disposal charge, the tyres will be disposed of in an environmentally responsible manner. Thus, the current system maintains and reinforces the market failure.

The reason for the above is that in the current market end of life tyres have a negative value (ie, consumers must pay for their disposal). By collection of the proposed levy, TSA will have the means to reverse this situation so that end of life tyres will acquire a neutral or even positive value. In such circumstances, it is only natural that the costs currently associated with their disposal will eventually disappear.

It appears, for example that success in this regard occurred in relation to lead acid batteries. Where once consumers had to pay dealers for disposal, there is now a value attached to the collection and recycling of lead acid batteries such that dealers are paid by industry for their collection and the need to charge the public for their disposal gradually disappeared. Thus, that cost to consumers has been eradicated.

It is reasonable to expect that the TSS will result in similar outcomes, over time, and in this way, will result in public benefit far outweighing any detriment occasioned by the imposition of the proposed levy.

3. This paragraph repeats the current deficiencies within the market. It is a free market and dealers can therefore charge as they see fit. For the reasons set out above, the TSS is expected to reverse this trend, add transparency and dilute the opportunity for dealers to apply unwarranted charges.

Through education, the TSS will result in better information to consumers; these will naturally avoid dealers who continue to charge unwarranted disposal fees.

4. It is misleading to state that the collection and recycling sectors will be underrepresented on the TSA board. For the reasons set out in our letter of 8 March 2013, ACCC can be confident that the TSA Board will represent these sectors. This position is supported by the peak industry body representing the sectors, the Australian Tyre Recycling Association (ATRA).
5. This statement is gratuitous, derogatory and unwarranted given the considerable effort that has been undertaken by government and industry to establish the Guidelines for the TSS, especially given our comments above about the perceived relevance of GDT within the industry.

In relation to the other untitled document submitted by GDT, ATIC notes this is repetitive of paragraph 4 in its letter of 1 March 2013.

ATIC also notes that GDT did participate in the public consultation process undertaken by the Tyre Implementation Working Group (TIWG) during the preparation of the Guidelines. The TIWG was supported by the Commonwealth Government and was independent of ATIC. The TIWG responded to GDT's submission. We attach a copy of that response.

For the reasons set out above, as well as in the application and its supporting documentation, ATIC's subsequent submissions, and the various submissions of interested parties, ATIC rejects the assertion by GDT in its letter of 1 March 2013 that the TSS in its proposed form is "unlikely to deliver a sustainable and fair solution". Rather, ATIC submits that the TSS will provide for national coordination to resolve the current failures within the market, delivering environmentally sustainable solutions and enhancing the public interest.

Sincerely

A handwritten signature in black ink, appearing to read "Nicholas Tebbe". The signature is fluid and cursive, with a long, sweeping tail on the final letter.

NICHOLAS TEBBEY

Supervising Director GERALD SANTUCCI

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Mr Gerry Morvell
Chair Tyre Implementation Working Group
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GPO Box 787
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Mr Roger van der Lee
Commercial Manager
Green Distillation Technologies Pty Ltd
Level 5, Trak Centre
443-449 Toorak Road VIC 3142

Dear Mr van der Lee

Consultation on the draft Guidelines for the tyre product stewardship scheme

Thank you for your submission on the draft Guidelines for the tyre product stewardship scheme (the scheme). While the Tyre Implementation Working Group (IWG) has previously noted that individuals and organisations who provided submissions would not receive a detailed response, I would like to briefly respond to some of your key concerns.

The Tyre IWG has finalised the Guidelines for the scheme as a result of the consultation process. A number of your concerns relate to the voluntary nature of the scheme. Australian governments have previously considered government regulation to reduce the quantity of tyres being landfilled, stockpiled or illegally dumped. However, in November 2009 environment ministers agreed to support the development of alternative industry-led schemes. This was in the context of the market conditions that existed at the time and in the absence of a clear case to regulate. On 16 September 2011 Australia's environment ministers gave in-principle support to a voluntary product stewardship scheme developed by the Tyre IWG.

One issue your submission raised was that recycling companies should be able to report based on tyre weight. The Guidelines now allow reporting by Recyclers based on end-of-life tyre weight. The Guidelines also now state that participants "*must* retain copies of all dockets/receipts from collectors and recyclers for TSA auditing purposes", as suggested in your submission.

The next steps in implementing the scheme involve the tyre industry obtaining authorisation for the scheme from the Australian Competition and Consumer Commission (ACCC) and establishing Tyre Stewardship Australia (TSA), a not for profit company, to implement and administer the scheme. The submission to the ACCC was lodged on 28 September 2012. At this stage TSA is expected to adopt the Guidelines and commence the scheme in the first half of 2013.

Thank you for your interest in the Guidelines for the scheme. The final Guidelines are attached for your information.

Yours sincerely

A handwritten signature in black ink, appearing to read 'G Morvell', written in a cursive style.

Gerry Morvell
Independent Chair
Tyre Implementation Working Group

15 October 2012