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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 22 February 2013.

We are instructed by our client to respond to each of the matters raised in your letter.

Our client is committed to developing the Tyre Stewardship Scheme (TSS) in a manner that provides for the highest levels of corporate governance, accountability and transparency, and which enhances the public interest through its delivery, education and results.

In order to assist the ACCC in its assessment of the likely public benefits of the TSS, we are instructed to answer your questions as follows:

1. Composition of the Board

ATIC agrees that the Board of Tyre Stewardship Australia (TSA) must adequately represent the industry as a whole, and provide appropriate mechanisms for the representation of all parties who might be affected by the TSS.

The current proposed structure of the Board involves:

- An independent chair;
- Four directors representing the responsibilities of importers, the industry leaders who have taken the lead, through ATIC, to implement the TSS;
- One director to represent the retail sector, presumed to be a staff member of the AMIF;
- One director representing the recycling and collecting industry to be appointed by agreement between the Applicant and the Australian Tyre Recycling Association; and

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- Additional directors might be appointed by the Board in consideration of their expertise within major industries such as automotive or mining.

The current proposed structure of the board enables wide industry representation and ensures that governance standards will be enforced.

Transparency and accountability will further be protected by the presence of an independent chairperson.

ACCC has asked ATIC to consider the merits of including the following representatives:

- Collectors:

We agree. Please refer to the note above about the board composition.

- Consumer Representatives and Environmental Bodies:

Our client believes that the interests of these groups will best be served through their presence on the advisory committee.

- Government:

An offer stands to include a government representative on the TSA Board, as an observer, and has been discussed this week with members of Department of Sustainability, Environment, Water, Population and Communities.

At present no advisory committee has been established. Such steps will be undertaken following Authorisation. The role of the advisory committee has always been identified as a tool for ensuring relevant consultation with the broader community.

2. *Proposed review of the Scheme after two years*

TSA will be subject to a full, independent review, to commence on the second anniversary of the Authorisation of the Scheme. This review will be conducted by an independent, external consultant to be appointed by the Board.

This review will assess:

- performance targets;
- industry involvement;
- quality of data collection; and
- financial transparency.

It is envisaged that the independent review will report within six months of its commencement.

The outcome of the review will be made public through the TSA website and the TSA Board will be charged with responding to and/or implementing any recommendations of the review itself.

3. *Data collection and annual reporting*

ATIC is committed to the collection targets specified by ACCC in paragraph 128 of its draft determination.

The TSA will use the collection of data to ensure transparency and accountability within the industry. This consolidated data will be used to report at least annually on the cashflow of TSA.

Data collection has been identified as one of the major obstacles faced by the tyre industry at present. ATIC refers to the Hyder report submitted with its Applications for Authorisation, which identifies the difficulty and evidences the fact that much data simply isn't collected.

There are proven objective difficulties concerning adequate collection of data to enable a breakdown of the proportion of end of life tyres being illegally stockpiled, going into landfill and being inappropriately exported.

It is reasonable to expect that the TSS will greatly improve the collection and distribution of data.

Obviously, the TSS will not be able to collect data concerning tyres that are not collected within the Scheme.

Further Questions

4. ATIC submits that Chapter 5 of the Guidelines provide specific detail of the processes that TSA will follow, and the consequences for non-reporting or improper reporting by members.
5. No budgetary commitments for TSA have yet been developed. However, at this stage the Applicant suggests that expenditure on research and development under the TSS is envisaged to amount to approximately 20% of the funds collected within the Scheme.
6. The Guidelines (see Appendix 1) provide for reporting obligations to be met either in respect of equivalent passenger units (EPU) or weight.

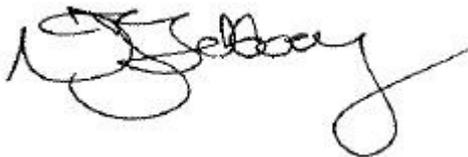
EPU is the traditional unit of measure used by most historical studies, however modern systems (especially those adopted by collectors and recyclers) are more likely to favour weight measurements.

The Applicant is in the process of verifying whether weight is one of the parameters available from the current ABS import statistics.

7. Within the Applicant's members' dominant market share, reporting and data collection is already of a high standard. Statistics for the remainder of the market can be extrapolated from ABS data including import statistics, etc, which are derived from Customs import records. For the reasons set out in (3) above, it is believed that the TSS will enable better data collection.

We look forward to discussing this with you further and invite you to contact us should you have any further queries.

Sincerely



NICHOLAS TEBBEY

Supervising Director GERALD SANTUCCI