

2 February 2024

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Mr Gavin Jones
Australian Competition and Consumer Commission
Level 17, 2 Lonsdale Street
Melbourne VIC 3000



Dear Mr Jones

Re: Tyre Stewardship Australia Limited's application for re-authorisation under the ACCC Product Stewardship determination

Thank you for the opportunity for Tyrecycle to provide a response to Tyre Stewardship Australia's (TSA) application for revocation and substitution of an authorisation pursuant to subsection 91C(1) of the Competition and Consumer Act 2010 (Cth), dated 1 December 2023.

This response outlines Tyrecycle's position in relation to TSA's application for revocation of authorisation AA1000409 and substitution of AA10000655 which will act to extend the ACCC authorisation for TSA to implement the Tyre Product Stewardship Scheme (the Scheme).

Submission Overview:

Tyrecycle is supportive of the Scheme being extended, however, as detailed within this submission, Tyrecycle identifies opportunities to address concerns and challenges with the operation of the Scheme.

As Australia's largest tyre recycler, over the last few years, Tyrecycle has invested heavily (\$38,000,000 which has been supported by over \$10 million in Federal and State Governments contributions) in a number of significant upgrades and capital improvement projects that enable the processing of 150,000 tonnes of waste tyres from over 3,000 tyre retailers using a fleet of over 70 collection vehicles.

As such, Tyrecycle is supportive of the role that TSA plays in enabling a stronger, market-based tyre recycling market via the following key activities:

- Auditing and accrediting operators in the end-of-life tyre (ELT) supply chain.
- Investing in market development for new and expanded markets for ELT.
- Reporting on behalf of the sector on ELT outcomes.
- Promoting the benefits of using TSA accredited retailers and recyclers to the general public.

However, while there is value in the existence of a Scheme for the tyre recycling sector, Tyrecycle believes that should an extension be granted for TSA to operate the Scheme, accreditation should be issued with conditions to Scheme guidelines that support an equitable, competitive, and fair market – outcomes which are core to ACCC objectives and activities.



More, specifically, with reference to the current Scheme structure, Tyrecycle supports the following key principles and inclusions:

1. all tyre manufacturers, importers, and retailers are contributing to improved environmental outcomes for ELT;
2. there are more comprehensive data reporting requirements for TSA;
3. it is more inclusive of representation of tyre recyclers in the governance framework;
4. there are enhanced end market development targets included in the Scheme guidelines.

It is imperative the ACCC endorses a scheme that is truly equitable for all participants in the management of end-of-life tyres. As such, while Tyrecycle remains supportive of a role for TSA as administrator of the Scheme, this re-authorisation process provides the ACCC with an opportunity to give consideration to improving Scheme effectiveness by addressing the concerns raised in this submission.

About Tyrecycle

Tyrecycle is Australia's largest tyre recycler and part of the highly regarded integrated resource recovery group, ResourceCo.

Tyrecycle has seven dedicated tyre processing plants across Australia and is the only company in the tyre recycling industry to have a processing plant in each state of Australia employing 180 employees in addition to a large number of external contractors nationally.

Tyrecycle plants are equipped with advanced rubber re-manufacturing capabilities processing in the order of 20 million tyres per annum with a recycling rate of 99%, producing high quality repurposed material for the local and global market.

Tyres are recycled at secure facilities across our footprint into products including rubber chips, granules and powders that can be used in a variety of innovative applications. Tyrecycle's aim is to discover new applications for scrap tyres, ultimately avoiding tyres being sent to landfill.

See Appendix 1 for more details on future investment plans and information on Tyrecycle.

TSA's Application for Re-authorisation

Tyrecycle's Interaction & Support for TSA

Tyrecycle maintains being transparent with respect to its dealings with TSA and has offered support to TSA in the best interest of the industry.

We cooperate with TSA and its auditors to remain an accredited participant, while encouraging other businesses to join along the entire supply chain.

For example, we are currently working with our international customers to voluntarily participate in the Foreign End Market Verification program. This is purely voluntary and Tyrecycle has committed resources to assist with the process with its international partners as required.

We trust that any information Tyrecycle provides TSA through this work will provide a better understanding of foreign end markets and drive greater transparency and standards within the sector more broadly. It is in this spirit that Tyrecycle collaborates with TSA for the betterment of the sector as a whole.

Influence on Industry Investment

The existence of TSA, the way it enacts the ACCC guidelines and communicates, has a direct influence on the investments of Australia's tyre recycling industry.

TSA's ACCC authorisation has instilled within the tyre recycling sector the importance of exceptional operational practices. Subsequently, recyclers such as Tyrecycle, have continually strived to maintain high performance outputs with significant capital investments across the country.

TSA has an important role in providing confidence within the industry by overseeing standards for the management of ELT. Without this function there is a very real risk of lower order recycling outcomes proliferating the sector in a 'race to the bottom'.

Notwithstanding this, TSA also has an ability to negatively influence industry investment. As outlined in the points below, the appetite for industry-based investment risks being curtailed when ELT tyre outcomes are proactively presented in a manner that casts doubt on the performance, and future operation of, Australia's tyre recycling industry. As such, Tyrecycle acknowledges the responsibility TSA has to recyclers who have invested heavily in the infrastructure Australia needs to recycle ELT by presenting data in an open, transparent and consistent manner.

Given this important role of TSA within the sector, Tyrecycle is supportive of the Scheme re-authorisation, upon the conditions that are discussed further in this correspondence.

Conditions of Re-accreditation

Use of Recycler's Data

Tyrecycle provides data to TSA in fulfilling its obligation to report industry performance on behalf of the sector for the handling and management of ELT in an environmentally sound manner.

It is Tyrecycle's view that data collated by TSA from Scheme participants must be disseminated and communicated in an open, transparent and consistent manner. As such, Tyrecycle has been disappointed to note recently observed inconsistencies in the way in which ELT data has been communicated by TSA.

In late 2023, TSA presented data in a manner which can be considered to negatively portray the performance of businesses like Tyrecycle, diminishing market confidence in the services we provide.

An inability to access consistently presented data on behalf of the sector removes a valid industry data source from the public record, diminishing business planning and market assessment activities.

TSA has a role to play in fairly and equitably reporting the information tyre recyclers provide. Recent reporting has portrayed legitimate business activities that are permitted by the Scheme (legal landfilling – albeit not an undertaking of Tyrecycle) as being tantamount to dumping.

This aggregation of data reduces consumer and investor confidence, portrays the sector negatively and reflects badly upon our highly sophisticated business operations. Furthermore, by conflating landfilling with stockpiling and illegal disposal pathways, industry and policy decision-makers are poorly placed to give due consideration to all the opportunities to further improve ELT outcomes.

Given this recent change in reporting method and approach, Tyrecycle request that consideration be given to any public record clarifications in the event data has been misrepresented.



TSA Reporting Obligations

The recent observation of changes to TSA data presentation has identified a potential lack of prescribed reporting obligations on TSA. Tyrecycle is of the view that the transparent and consistent approach to the provision of data from Scheme participants to TSA should extend to a transparent and consistent approach to TSA's publication of data. Tyrecycle contests that confidence in the Scheme is likely to improve with the knowledge that data provided to TSA in good faith will be published using an industry-agreed prescribed format that ensures consistent and transparent reporting. As such, Tyrecycle requests that consideration be given to establishing industry-agreed prescribed reporting formats for TSA data publications.

Landfilling of Whole Tyres

As identified previously, the Scheme permits the legal landfilling of tyres (subject to certain conditions such as no viable alternative being available and subject to applicable legislation), and that Tyrecycle has observed TSA has recently advocated against activity.

With exception to residual material as a result of a legitimate recycling activities, Tyrecycle supports the outright banning of ELT being disposed of to landfill. Tyrecycle thereby requests ACCC give consideration to the ongoing need for the landfilling exemption in the Scheme Guidelines, and report on whether TSA's recent advocacy against landfilling is consistent with the Guidelines of the Scheme.

Composition of the TSA Board

In the ACCC 2018 Determination, the ACCC acknowledged 'concerns raised by interested parties in relation to the effectiveness of the Scheme, including in respect of industry engagement and compliance. For example, interested parties submit that there were issues relating to:

- insufficient industry representation on the TSA Board, particularly in relation to the tyre recycling sector
- accreditation, under the Scheme, of businesses who were not compliant with Scheme obligations and
- insufficient oversight of end-of-life tyres exported overseas'¹.

Tyrecycle supports the observations made by the ACCC in 2018 and believes that the Scheme would be improved if a tyre recycling position was made conditional upon re-authorisation of the Scheme.

While requiring further development, refinement and strengthening, Australia has some of the strongest and most diverse markets in the world thanks to innovative businesses such as Tyrecycle.

This innovative and competitive market-based model has stimulated growing and diverse end markets in roads, with locally consumed tyre derived fuel likely to be online soon. This market development and associated asset investment should not be taken for granted, rather supported inclusively with TSA as we explore further development of ELT management programs in Australia.

As such, Tyrecycle requests that the ACCC ensure a tyre recycler on the TSA board be a condition of authorisation.

¹ <https://www.tyrestewardship.org.au/wp-content/uploads/2020/04/ACCC-determination.pdf>

End Market Development

The Objectives of the Scheme Guidelines identify it is to develop Australia's tyre recycling industry and markets for tyre derived products. Tyrecycle notes that although the Scheme Guidelines have provision for 'Market development and research funding', the Scheme Guidelines do not articulate specific and measurable market development targets within the 'Performance measures and aspirational targets' section.

Measurable targets that genuinely develop markets beyond the mere promotion of tyre derived products within Australia are required in order to adequately focus TSA's energy into creating meaningful market demand for products. Current performance measures and aspirational targets are significantly skewed toward a product stewardship scheme focused on product supply (into the scheme) rather than market demand (pull through demand of tyre derived product).

The current emphasis on measurable targets focusing primarily on Scheme participation and volume of ELT going to 'environmentally sound uses' (which, as detailed previously in this submission includes certain landfilling activities) can be enhanced by including more specific and measurable product demand generation targets.

Conclusions

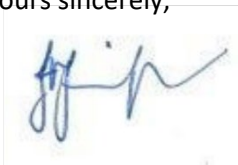
Australia has developed a recycling industry over many decades that is important to a vibrant, cost-effective, and innovative approach to tyre management that is specifically tailored to the needs of this country.

It is important that the significant investment undertaken by government and recyclers is respected and supported. On this basis, Tyrecycle requests that a renewed Scheme authorisation ensures:

1. all tyre manufacturers, importers, and retailers are contributing to improved environmental outcomes for ELT;
2. there are more comprehensive data reporting requirements for TSA;
3. it is more inclusive of representation of tyre recyclers in the governance framework;
4. there are enhanced end market development targets included in the Scheme guidelines.

We welcome the opportunity to submit this response and extend our availability to participate in further engagement opportunities with the ACCC.

Yours sincerely,



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Appendix 1: About Tyrecycle

Tyrecycle is the only producer of tyre derived products nationally that can guarantee a full chain of custody from cradle-to-grave for domestic and off-shore customers; ensuring that all manufactured products are utilised in an environmentally sound way.

Tyrecycle has commenced a number of major capital expansion programs throughout Australia, most recently in Port Hedland and Rockingham in WA and Erskine Park in NSW. Both Port Hedland in WA and Newcastle in NSW have been identified as important areas for future investment to capture the OTR recycling market.

As part of Tyrecycle's national operations, over the past five years have invested heavily (\$38,000,000) in a number of significant upgrade and capital improvement projects. There are also a number of new facilities in the pipeline that will further expand our footprint and benefit the industry.

Committed/completed/projects to be commenced.

New South Wales

- Erskine Park/ Newcastle - 1.5 inch / Steel Cleaning / OTR Processing - \$8,222,000

South Australia

- 2in Chipper CM - clean cut chip - \$2,710,000

Western Australia

- Port Headland Australia OTR Processing - \$9,824,000
- Perth crumbing plant - \$15,648,000

Tasmania

- 2 in Chipper CM - clean cut chip - \$2,533,000

Tyrecycle holds the necessary environmental regulator licences and permits as well as advanced management systems comprising inspection and auditing, training and competencies, risk and hazard management and other legal requirements. Tyrecycle is certified across the 45001:2018 Health and Safety, ISO 14001 (Environmental Management) systems and ISO 9001 (Quality Management).

