

11 March 2021

Mr Luke Griffin
Assistant Director
Competition Exemptions

Attention: Collective Bargaining Notification [SEC=OFFICIAL] [ACCC-ACCCANDAER.FID2789745]

Thank you for your letter regarding Charitable Recycling Australia - Collective Bargaining Notification [SEC=OFFICIAL] [ACCC-ACCCANDAER.FID2789745].

I have responded to each of the issues raised by WCRA in their letter of 1 March 2021 below.

Key points from the General Comments:

1. *Waste from charities is currently collected in combination with other waste from general businesses and commercial sites whereas under the regulations in NSW to be eligible for an exemption the waste must be transported by the applicant and not by a contractor.*
 - a. Response. Agreed. That is why the move to weight-based scales on trucks with weight-based billing allows a contractor to service charities AND obtain the exemption. The weight of charity waste is able to be disaggregated from the waste from other sources and claim the exemption. That is the key purpose of the tender.

2. *If each charity reached an agreement with the NSW EPA and used a contractor with NMI scales each charity could benefit (as above) so long as the waste could be identified.*
 - a. Response. Agreed. The author is distinguishing the levy exemption from the bulk tendering. Such an approach would firstly require each charity to develop their own WBB tender and contract process. They do not have the resources to do that. The NSW EPA has funded this project for exactly that reason. Secondly, each charity may choose their own preferred supplier from this tender process. They will each be signing their own contract with the supplier of their choice. Thirdly, there would be fewer economies of scale and a weaker competitive tender process if each charity went alone. Charities would benefit from levy exemption but not from strong market competition driven by a larger tender process. The tender of the 280 charity sites (maximum potential) is an insignificant percentage of the available commercial sites in NSW.

3. *The collective tender contravenes the NSW Government's Regional Procurement policy.*
 - a. Response. The charities are not representing government and are not government bodies.

4. *Aggregated tenders will have a negative impact on SME waste and recycling contractors.*
 - a. Response. The ACCC in its Council Solutions determination clearly identified the benefits of combined tenders in terms of providing services, economies of scale, consolidated reporting and information to clients. More importantly this tender requires specialist weight-based scales to be installed on trucks servicing charity sites. This is relatively new technology to the Australian Commercial market and certainly new to the charity sector. For that reason, the charities see benefits in operating a common contract so that learnings, reporting, contract management etc are standardised. More importantly the interface with the levy exemption team in the EPA will be a common process as instructed by the common contract. There may be more than one waste contractor, but they will all report to the EPA using a common agreed methodology.

5. *Market domination*
 - a. Response. The charities represent a small percentage of the market, as set out in the initial notification.

6. *Why is St Vincent De Paul Society ACT is included?*
 - a. Response. There are three aspects to this tender. 1. Weight based scales on trucks to disaggregate charity waste from other 2. Reporting to the NSW EPA via an agreed method to obtain that levy exemption and 3. Economies of scale to obtain a competitive price for charities. St Vincent De Paul Society ACT benefits from the latter. Further, St Vincent ACT operate a number of sites in NSW.

Comments from a Medium sized contractor

7. *It reduces competition*
 - a. Response. It does not necessarily lessen competition. Unfortunately, contractors have not provided weight-based scales on trucks to charities and therefore the charities are currently paying over \$1m in government taxes unnecessarily. At any time, any existing contractor could have provided that option to the charities. It has arisen because Charitable Recycling Australia understood the opportunity of weight-based scales on trucks and brought the many parties together. The NSW EPA wants to exempt the charities from the tax but up until now has had no practical mechanism for doing so. Scales on trucks and standardised reporting are pre-requisites for the exemption. This tender is the first part of that process. It is unlikely to lessen competition because of the small percentage of the market represented by charities and the fact that there will be no collective decision to engage a single contractor. Even if there was some

minor lessening of competition (but it is hard to see how) the benefits to the community and society greatly outweigh that cost. Charities provide support to the community, including some of its most vulnerable members. Saving money on levy and collection/disposal costs will ensure more funds are available to fund the charities' community programs.

Comments from a Large sized contractor

8. *Apart from the logistics challenges and the difficulties of getting so many charity groups aligned there should be no material objections to this tender process.*
 - a. Agreed. It remains the case that each charity may select its preferred contractor and each charity may decide to include or not include individual sites. That will be specifically stated in the tender documents.

9. *Some charities receive free collection services (as a reverse sponsorship). If this process is approved, then some charities will more than likely start to pay for waste disposal services*
 - a. Understood. Each charity will make its decision on which sites are included or not in the tender. Charities in the levy paying area are more likely to proceed with the levy exemption mechanisms whereas those in the non-levy areas of NSW may not. Clearly if a site is receiving waste services for free, they are likely to remain with the current arrangements. The contract provides for that outcome.

In essence this process will not result in any significant impact on competition since the charity sector is a small percentage of the NSW commercial sites. Each charity retains the discretion to remain with their current provider if they so choose and the discretion to not proceed with the contract at all.

The benefit to the charities and society is that the charities gain an exemption from the NSW EPA landfill tax (worth an estimated \$1m/yr) and gain some efficiencies in reporting and contract management via a common contract and common contract management as well as predicted price reductions through economies of scale (though this is by no means certain given the uncertainty around weight-based scale operations and reporting obligations). The EPA gains from having an agreed protocol for reporting and compliance with the obligations under the levy exemption statutes.

I trust the above meets your needs.

Yours sincerely



Mike Ritchie
Managing Director