



Contact officer: Andrew Ng
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By email

Dear Interested Party

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Certification Trade Mark Application No. 2243358 lodged by Circular Energy Holdings Pty Ltd

The Australian Competition and Consumer Commission (**ACCC**) has received an application from Circular Energy Holdings Pty Ltd to register Certification Trade Mark No. 2243358 (**the CTM**).

I am writing to you as a party who may be interested in commenting on the application.

The proposed rules provide that the CTM may be used by an organisation who developed a Commitment Plan that acceptably meets the requirements of the Sustainable Energy Commitment Criteria. Specifically, the mark can be used by an organisation that has a Commitment Plan that meets the criteria to a pass mark of 80%.¹ The CTM may also be used by an organisation who meets a score of at least 70%, if the organisation provides satisfactory reasons, accepted by the approved certifier, as to why they cannot meet the 80% threshold.²

We invite your views on any aspect of the application, including whether Circular Energy Holdings' Sustainable Energy Commitment CTM and associated rules are likely to raise any competition concerns or may result in consumers being misled. In particular, the ACCC is interested in your views on whether the standards contained in the rules would ensure that an organisation has engaged in a "sustainable energy commitment" in a way that is consistent with what Australian competitors' and consumers' may reasonably expect.

Certification trade marks

A certification trade mark (**CTM**) is an image or series of words which identifies that a good or service is of a particular standard – for example, with regard to quality, origin, material or mode of manufacture. Each CTM has rules that govern the use of the CTM and include the requirements that goods or services must meet to in order to display the CTM and the processes the CTM owner will use to decide whether these requirements have been met.

Registering a CTM under the *Trade Marks Act 1995* (Cth) (**TMA**) gives its owner the exclusive right to use the CTM and to allow other people to use it according to the rules.

The ACCC has a role to assess CTMs particularly whether they raise consumer protection, competition or associated concerns. In addition, the ACCC will assess the requirements in the rules that goods or services must meet in order to have a CTM applied to them.

More information about the process and the ACCC's role in assessing CTMs can be found in the ACCC's publication [Certification Trade Marks - the role of the ACCC](#).

¹ Page 5 of the Sustainable Energy Commitment Certification Trade Mark Rules, see Clause 3.2

² Page 5 and 6 of the Sustainable Energy Commitment Certification Trade Mark Rules, see Clause 3.3

The CTM application

Circular Energy Holdings Pty Ltd has applied to register the Sustainable Energy Commitment CTM, illustrated below. The CTM intends to certify that an organisation has made a commitment to acceptably meet the Sustainable Energy Commitment Criteria as set out in the CTM Rules.



CTM 2243358

The proposed CTM Rules are available on the [ACCC's CTM register](#).

Invitation to comment

The ACCC invites you to comment on the applications before it issues an initial assessment. In particular, the ACCC is interested in your views about whether the CTMs are consistent with the Australian regulatory requirements for making gluten free claims and whether they are likely to mislead consumers. If you wish to comment please do so by **30 September 2022**.

Submissions should be emailed to CTMs@acc.gov.au with the subject "CTM 2243358 – Circular Energy Holdings Pty Ltd - Submission".

Submissions will be placed on the ACCC's public CTM Register, subject to any request for exclusion. **Please indicate clearly in your submission whether you are willing for the ACCC to make it publicly available by placing it on our CTM Register, or are requesting that part or all of it be excluded (with brief reasons for exclusion).**

You can also forward this letter to any others who may wish to make a comment to the ACCC regarding the CTM applications.

After considering any submissions, the ACCC will release an initial assessment, which will be open to further public comment, before the ACCC issues a final assessment.

Please advise if you do not wish to make any comment at this time, but would like to be informed of the outcome of the ACCC's initial and/or final assessment. Please provide a nominated contact email address for future correspondence.

If you wish to discuss any aspect of this matter, please do not hesitate to contact Andrew Ng on 03 9290 1414 or by email to CTMs@acc.gov.au.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Kaitlin Hanrahan".

Kaitlin Hanrahan
Acting Director
Competition Exemptions