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Date: 25 March 2024

From

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To

Mr David Hatfield  
Director Adjudication  
Australian Competition and Consumer  
Commission (ACCC)  
[david.hatfield@accc.gov.au](mailto:david.hatfield@accc.gov.au)

Dear Mr David Hatfield

**Re: Tyre Stewardship Australia (TSA) re-authorization submission**

This feedback is to the Australian Competition and Consumer Commission (ACCC) in response to the application made by the Tyre Stewardship Australia Limited (TSA) for the revocation of authorization AA1000409 pursuant of subsection 91C(1) of the Competition and Consumer ACT 2010 (Cth), which expires of the 15th of June 2024.

During the initial ACCC consultation period, a large majority of businesses involved in the tyre sector were not notified of the impending renewal, so we were unable to have their say and provide relevant feedback. Considering the TSA has the potential to financially impact businesses owners, their lively hood and the tyre industry as a whole, the ACCC should extend their consultation period so more businesses can have their say before making any decisions which will impact them.

The ACCC requires more consultation from businesses in the tyre sector who are not presently involved in the TSA scheme and recommendations should not be taken into consideration from TSA members who have received grants or other financial benefits and incentives.

The TSA should not become compulsory to join, there are a few reasons this should not happen. One would be due to conflicts of interest with industry, as some members involved in the operation of this scheme are directly involved in organizations that are direct competitors of other members and business not involved in the scheme. The reason I mention this is that I have been told that joining members are asked to provide confidential and sensitive business information, that competitors could use for their commercial advantage. This would be an abuse of market power. This type of business information should not be given to any organization.

It is also important that the ACCC and Government support a business's right to "Choose". If the TSA became compulsory and not a voluntary scheme, the ACCC and Government would be allowing the TSA to circumvent Cartel laws. If forced to join the TSA scheme, organizations and business owners would be forced to fund policy and legislative changes promoted by the TSA, which may not be in their best interests.

The TSA also needs to be audited by an independent third party, approved by the ACCC to ensure an honest and accurate assessment of the TSA's performance is reported each fiscal year. Transparency and accuracy of reporting is vital to build and maintain trust with industry, TSA members, the general public and government.

In a report submitted to the government the TSA considers any business within the tyre sector who is not a current a member to be a "Free Loader", this comment is very offensive and insulting. There are

many organizations who are not members of the TSA, who hold environmental licenses and permits, who report all movements of tyres to government and act in an environmentally responsible manner. This comment is about the TSA wanting to increase their membership base and funding by forcing businesses to join, but not providing any benefits to industry.

The TSA is also trying to duplicating services that the department of environment is already providing, regulating and enforcing. Businesses are already absorbing the high cost of compliance and don't see the need to report the same information to multiple parties. The information that is requested is commercially sensitive in nature and for privacy reasons should only be reported directly to the Department of Environment.

The funding the TSA currently receives would be better utilized by the Department of Climate Change, Energy, the Environment and Water to enforce the Recycling and Waste Reduction ACT 2020 and implement other environmental initiatives. I urge the ACCC to evaluate how much funding the TSA has received to date, then consider if those funds have been spent appropriately and in the best interest of industry, its members, the environment and the general public. We have heard through industry of an increase in tyre dumping in different states, due to the increased cost of tyre recycling. The focus should be on keeping the costs to recycle down, to discourage the dumping of end-of-life tyres.

The TSA encourages participants of the scheme to only deal exclusively with other TSA members within the tyre industry. This is effectively encouraging cartel type behavior which is not appropriate. There are many reputable businesses who operate with a high level of professionalism, who choose not to become members of the TSA for various reasons. Those organizations hold all the relevant licenses and permits required by the Australian Government to operate. Members of the TSA need to maintain their rights to choose who they deal with in business, not to have their rights taken away by the TSA.

Presently the TSA board does not represent all sectors of the tyre industry, this creates bias in their decision-making processes. There are a lot of corporate tyre importers, retailers and motoring organizations on the board but not any representation for tyre collectors, recyclers and exporters. In order to create a fair and more inclusive environment, the board needs to be more diversified.

It has been documented in several reports submitted to the ACCC by organizations within the tyre industry that misleading statements and inaccurate information has been reported in the public domain by the TSA. To restore public trust, and confidence, all media releases should be reviewed and approved by the ACCC to ensure information is accurate before being published.

Any person involved in the TSA scheme, who breaks the law, discloses confidential information, are involved in collusion type behavior, spends funding inappropriately or breaches public trust should be prosecuted to the full extent of the law. No waiver, exemption or protection should be granted by the ACCC, as no organization or its members are above the law. The ACCC needs to make sure the TSA operates within its guidelines and create a safe pathway where breaches can be reported.

We appreciate the time you have taken to read our feedback and recommendations, if you have any further questions feel free to contact us.

Sincerely,

[Redacted signature]

[Redacted name]

[Redacted title]

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