



WASTE CONTRACTORS &  
RECYCLERS ASSOCIATION  
OF N.S.W

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1<sup>st</sup> March 2021

Ms Danielle Staltari  
Director, Competition Exemptions  
ACCC

By e mail as a PDF file to [danielle.staltari@acc.gov.au](mailto:danielle.staltari@acc.gov.au)

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### **Re Collective Bargaining Notification CB1000478 by Charitable Recycling Australia**

Dear Ms Staltari,

We refer to your letter dated 8<sup>th</sup> February 2021, your reference CB1000478.

By way of background, our Association is registered under both the Fair Work (Registered Organisations) Act and the NSW Industrial Relations Act. We have represented waste and recycling employers since May 1948 and we currently have 208 Members across NSW and the ACT.

The following comments are based on our consultation with Members.

#### **General comments sent to the Association by Members**

- The mixed general waste which is the subject of the application by Charitable Recycling Australia is most likely collected by waste contractors on a 'milk-run' basis. These runs will include waste from some charities, along with the bulk of the waste from many general business and commercial sites.
- Currently under the Regulation, waste claimed under the NSW POEO exemption must be transported by the applicant, not by the contractor.
- If each of the charities reached an agreement with the NSW EPA and utilised the services of a waste contractor (a contractor with National Measurement Institute approved collection and weighing equipment), each charity could still benefit from the charitable waste levy exemptions contained in the NSW POEO Regulations 2014.
- If that is the case, on arrival at a waste facility, the waste contractor would identify the weight of the waste collected from charities. That portion of the load would be declared waste levy exempt and the charities receive the benefit of the waste levy exemption as per the NSW POEO Regulations.
- Therefore, our Members do not understand the rationale for this ACCC application or the need for such a tender.
- This style of collective tender contravenes the NSW Government's Small and Medium Enterprise (SME's) and Regional Procurement Policy.

WCRA to ACCC ref. no CB1000478

1 March 2021

- Public competitive tendering protocols clearly set out the requirements of Government in engaging the services of SME's and Regional business with the objective to increase the participation of SME's and regional business in supplying services to Governments and associated bodies.
- If approved by the ACCC, this style of aggregated tender will have a negative economic impact on SME waste and recycling contractors, while significantly and disproportionately impacting smaller contractors, particularly those in regional NSW.
- The ACCC needs to recognise the very likely long-term adverse implications on competition in the waste management sector by allowing the awarding of large contracts to one or two contractors.
- In essence, large contracts of this nature merely allow the appointed contractor, the opportunity of market domination, and even more so in regional and rural areas.
- If we are to have a fair, competitive and sustainable marketplace, then each of the members of Charitable Recycling Australia Limited should be encouraged to advertise and negotiate their own work. If that were the case, and each of Anglicare, Lifeline Direct, Lifeline Macarthur, St Vincent de Paul Society NSW, St Vincent de Paul Society ACT, Save the Children, Ted Noffs Foundation and the Salvation Army advertised and negotiated, it would result in a far more competitive marketplace.
- The number of players in the waste industry is currently in a period of retraction, resulting in the loss of competition including recent and future proposed acquisitions. This reduction in competition will only be further exacerbated by collective bargaining arrangements. This will particularly reduce the ability for SME's and regional operators to compete in an open competitive market
- It should also be noted that if this tender is to seek the charitable waste levy exemptions contained in the NSW POEO Regulations 2014, then why is St Vincent de Paul Society ACT included in this ACCC application?
- Charities which are seeking government concessions have a duty of care to pursue similar business practices to those promoted by the Government.

#### **Comments to the Association from a medium sized waste & recycling contractor**

EXTRACT from e mail

- We are against this application and all similar proposals, as it reduces commercial opportunities, especially for small and medium enterprises.
- It therefore reduces competition.
- It also discriminates and provides unfair advantage against businesses (many who have supported these charities with discounted services over many years).
- The loss of 'in kind' and local community arrangements has the potential for the service to be more expensive for the charities than prior to a collaborative arrangement.
- Expansion for smaller companies comes through incremental steady growth via contracts of a size that are considered lower risk and straightforward to manage. Additionally, this steady growth often comes through local innovation with smaller companies unable to 'scale up' for tenders of this sort, therefore solidifying market concentrations and being a deterrent to broad participation.
- Our vision is for an open competitive market.
- Tenders of the sort proposed by the collaborative parties result in market concentrations and reduced competition due to the scale and investment required.
- This application is therefore not in the public interest.

#### **Comments to the Association from a large waste & recycling contractor**

EXTRACT from e mail

- Apart from the logistics challenges and the difficulties of getting so many charity groups aligned there should be no material objections to this.
- A number of local providers provide discounted or in-kind services so a bulk tender such as this will leave it open to the majors and they may lose that connection with the local community arrangements. That will come to light during the tender but shouldn't be a reason for objections.

**Comments to the Association from a large waste & recycling contractor**

QUOTE from telephone conversation

- For many years, several charities serviced by us have been provided with free collection services.
- These free services are in fact reverse sponsorships.
- If the ACCC approves this application for collective bargaining, then these charities will more than likely start paying for waste disposal services.

Should you require any additional information and/or clarification, please contact the undersigned.

We look forward to your review and advice,

Yours faithfully,



Tony Khoury  
Executive Director