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By email

Dear Sir/Madam

OxoPak Pty Ltd – Certification Trade Mark Application Nos. 1852559 & 1852561-63 – Interested party consultation

The Australian Competition and Consumer Commission (ACCC) has received applications from OxoPak Pty Ltd (OxoPak) to register Certification Trade Mark Nos. 1852559, 1852561 1852562 and 1852563 (the CTMs).

I am writing to you as a party who may be interested in commenting on one or more of the applications. In particular, we invite your views as to whether consumers are likely to be misled by the CTMs.

Certification trade marks

A certification trade mark (CTM) certifies that a good or service is of a particular standard – for example, with regard to quality, origin, material or mode of manufacture.

Registering a CTM under the *Trade Marks Act 1995* (Cth) gives its owner the exclusive right to use the CTM and to allow other people to use it. Each CTM has rules that govern the use of the CTM and include the standards that goods or services must meet to bear the CTM and the processes the CTM owner uses to decide whether these standards have been met.

The ACCC's role involves assessing and approving rules for the use of CTMs. In general terms, the ACCC is required to assess whether a CTM raises consumer protection, competition or associated concerns. In addition, the ACCC will assess the requirements 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](#).

OxoPak's CTMs

Oxopak has applied to register four CTMs. The marks bear the words 'Food Fresh Food Safe Certified Solution', 'Marine Life Safe Certified Solution', 'PlanetOxoPositive – Certified Oxo-Biodegradable Plastic' and 'Land Zero Waste Certified Solution'. The marks are illustrated below.



CTM 1852559



CTM 1852561



CTM 1852562



CTM 1852563

OxoPak's website states that its purpose is to promote the use of oxo-biodegradation for the degradation of plastics, and raise awareness about the impacts of pollution and waste on the environment. OxoPak promotes the process of oxo-biodegradation as being beneficial for the environment.

CTM Rules

There is a single set of rules governing all four of Oxopak's CTMs. A copy of the CTM rules is available through the ACCC's Online Consultation Hub at <http://consultation.accc.gov.au/>.

The CTM rules state that OxoPak will use the CTMs to indicate that the approved product meets 'higher standards of Degradability, Biodegradability, and Eco-toxicity than other products within the same product category'.

The CTM rules set out packaging requirements and various standards of oxo-biodegradation that applicants for the trade mark must meet in order to be certified.

To use the mark, OxoPak will require applicants to demonstrate the ability to comply with the rules, OxoPak's Marketing Guidelines and any other OxoPak policies that it deems relevant.

Invitation to comment

The ACCC invites you to comment on the applications before it issues an initial assessment. In particular, we invite your views as to whether consumers are likely to be misled by the CTMs.

If you wish to comment, please do so by **Monday, 18 June 2018**.

Submissions should be emailed to adjudication@acc.gov.au with the subject "CTMs 1852559 & 1852561-63 – OxoPak Pty Ltd - Submission". Please indicate whether your comments relate to specific application/s or whether they are generally applicable to the series of applications.

Submissions will be placed on the ACCC's Online Consultation Hub, subject to any request for exclusion. **Please indicate clearly in your submission whether you are content for the ACCC to place it on our Online Consultation Hub, or are requesting exclusion (with brief reasons for exclusion).**

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

The ACCC will release an initial assessment of the applications, which will be open to further public comment, and will then issue a final assessment.

Please advise if you do not wish to make a comment at this time, but would like to be informed of the outcome of the ACCC's initial and/or final assessment. If you are able to, 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 Miriam Kolacz on (03) 9658 6476 or by email to ctms@acc.gov.au.

Yours sincerely



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