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10 January 2018

Investigations 3
Anti-Dumping Commission
Level 35, 55 Collins Street
MELBOURNE VIC

By Email: investigations3@adcommission.gov.au

Dear Mr King,

RCR International Pty Ltd
Investigation into the alleged dumping of certain aluminium extrusions exported to Australia from the People's Republic of China by Guangdong Jiangsheng Aluminium Co., Ltd and Guangdong Zhongya Aluminium Company Ltd; and the Kingdom of Thailand

We refer to Capral's submission to the Anti-Dumping Commission dated 7 December 2017 and RCR's submission dated 27 November 2017.

We are instructed to make the following submission in response to the Capral Submission.

For the purpose of this Submission all defined terms have the meaning set out in the attached Schedule of Definitions.

1 Like Goods

1.1 Capral states in the Capral Submission that the Australian market produces standard geometric shapes that are alike to the goods imported by RCR and that RCR's claims in respect of physical, commercial, functional and production likeness of the RCR Goods are irrelevant to the issue that the Australian industry manufactures and supplies standard geometric shapes that are alike to the goods imported by RCR.

1.2 RCR respectfully rejects this claim for the reasons set out below.

Commercial Likeness

1.3 Capral states that RCR's claims in the RCR Submission, at subparagraphs 3.4(c)(viii), (ix) and (x), are not sufficiently summarised in a non-confidential manner for interested parties to be adequately informed of the substance of the claims.

1.4 RCR submits that the claims in subparagraphs 3.4(c)(vii), (ix) and (x) are commercially sensitive and proprietary in nature. Further detail cannot be provided to summarise those claims in a confidential manner. RCR considers that its summary of

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those claims falls within the "How to Make a Submission" guidance published by the ADC on 7 February 2013 accessible at <http://www.adcommission.gov.au/cases/documents/HowtoMakeaSubmissionFeb2013.pdf>.

- 1.5 In the Capral Submission, Capral refers to the ACN as a competitor of retail hardware stores. However, Capral does not refer to the ACN in its Application and does not focus its attention on the retail hardware sector in that Application. In the Application, Capral describes its business as follows:

"The distribution business supplies aluminium extrusion products and related components to residential and commercial construction markets, as well as to industrial fabrication and manufacturing markets."

Capral makes no specific mention of the niche DIY and DIFM markets suggesting that those markets are not of significant concern to Capral.

- 1.6 Capral claims that it supplies standard geometric sections to the Australian market and that its standard geometric sections are most commonly stocked through the ACN. Capral claims that goods sold through the ACN compete with goods sold through retail hardware stores.
- 1.7 RCR respectfully rejects Capral's claim that the ACN competes with goods sold through retail hardware stores on the following grounds:
- (a) The ACN does not appear to be in direct competition with retail hardware stores due to its business practices. Specifically, opening hours of 8.00am to 4.00pm Monday to Friday, closure on weekends and a recent closure period of 21 December 2017 to 8 January 2018 indicates that the ACN is not targeted at the small consumers who make up the DIY and the DIFM markets. Retail hardware stores which are targeted at these markets are, in general, open across the Christmas holiday period, on weekends and after ordinary business hours as this allows access to the stores by individuals and small consumers.
 - (b) RCR only supplies cut-to-length goods to retail hardware stores. The RCR Goods are cut to standard lengths of less than one metre, one metre, two metres and three metres. RCR does not provide goods which are cut to custom lengths. The RCR Goods are specifically offered as cut-to-length due to the demand in RCR's target market for generic pre-cut short lengths.
 - (c) While some ACN locations may offer a cut-to-length service this is not the central aspect of Capral's business model as a supplier to larger commercial clients in "residential and commercial construction markets and industrial fabrication and manufacturing markets" who, in general, require customised goods for specific projects.
- 1.8 RCR is wholly focussed on the DIY and DIFM markets and has no role in the large industrial market to which Capral supplies. Any involvement Capral may have in the DIY and DIFM markets is minimal and not a key aspect of Capral's business.

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- 1.8 RCR is wholly focussed on the DIY and DIFM markets and has no role in the large industrial market to which Capral supplies. Any involvement Capral may have in the DIY and DIFM markets is minimal and not a key aspect of Capral's business.
- 1.9 The Goods sold through the ACN do not compete with RCR Goods sold through hardware stores and do not share a commercial likeness with the Goods.
- 1.10 Further, if the Goods are found to be in competition with goods sold in retail hardware stores RCR submits that the RCR Goods are not causing price suppression. A comparison of RCR's wholesale pricing, Capral's online retail pricing and [REDACTED] [INFORMATION RELATING TO HARDWARE STORE RETAILER AND CONTENTS OF CONFIDENTIAL ATTACHMENT RCR-1] demonstrates that RCR Goods are not causing price suppression in respect of the Goods. Please refer to confidential attachment marked **RCR-1**.
- 1.11 We refer the ADC to the submission made by Darley Aluminium on 19 December 2017 in respect of the Investigation, with which we concur. In particular we would draw the ADC's attention to subparagraph A(2) in which Darley submits that data presented in the Consideration Report indicates that there has been no price suppression in the Australian Industry at all.

Physical Likeness

- 1.12 Capral states that many of its sites offer a cut-to-length service and that it also "sells in bulk cut-to-length direct from mill".
- 1.13 Capral refers to its "Little Green Book" and states that "*the Little Green Book details the most commonly stocked (but not all) industrial/standard geometric sections primarily in the ACN*". The Little Green Book indicates that hollow rectangular, square and round tubes are available in lengths ranging from 4 to 6.5 metres.
- 1.14 As discussed above, the RCR Goods are cut to lengths of less than one metre, one metre, two metres and three metres. RCR does not supply the longer lengths supplied by Capral.

2 Australian Market

- 2.1 Capral states that in no way can RCR's imports be considered minimal or inconsequential.
- 2.2 RCR respectfully rejects this assertion as, as stated in the RCR Submission, RCR's market share for the supply of aluminium extrusions generally has remained consistent at [REDACTED] [RCR PERCENTAGE OF MARKET SHARE].
- 2.3 We refer to the submission made in respect of the Investigation by Darley Aluminium on 19 December 2017. Darley notes at paragraph A of its submission that Capral has
"...consistently accounted for around 45% of the total market share held by the Australian Industry overall. In that light the Commission must carefully examine

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whether the data provided by Capral is truly reflective or representative of the Australian industry.”

- 2.4 Darley also states, in reference to domestic competition in the Australian market, at subparagraph C(2) of its submissions:

Indeed, amongst all sources of imports, Zhongya and Jiangsheng appear to pose the least threat or price competition to Capral. The same can be said for imports from Thailand, which would also have had very limited impact on Capral given their small volume.”

We concur with the submissions made by Darley, extracted above, and emphasise that RCR’s presence in the Australian market can only be considered to be negligible, particularly in light of strong domestic competition amongst aluminium extruders and the small volume of overall imports from Thailand.

- 2.5 Further, at no point in Capral’s Application did it refer to a hardware retail area of its business. The end use of the Goods is described at A-4(1) of the Application as:

“...a wide variety of applications, including commercial and residential buildings for windows and door frame systems, prefabricated houses/building structures, roofing and exterior cladding, curtain walling shop fronts, fencing, airframes, road and rail vehicles, marine, electrical and general engineering.”

- 2.6 This description does not appear to specifically include the hardware retail area and DIY and DIFM markets to which RCR exclusively supplies and suggests that any hardware retail area of Capral’s business is likely to be minor.

- 2.7 We reiterate that RCR has been importing the RCR Goods from [REDACTED] [THAI SUPPLIER] for 18 years during which time there has been no suggestion or complaint by Capral that RCR’s behaviour has been in any way injurious to it.

- 2.8 Further, RCR’s behaviour in respect of the RCR Goods has not altered in the 18 years during which it has imported the RCR Goods from [REDACTED] [THAI SUPPLIER]. As such, it cannot be said that RCR has conducted its business opportunistically in respect of the RCR Goods.

- 2.9 Given RCR’s minimal market share as compared to Capral, the small volume of Thai imports generally and the growth in the Australian market, RCR’s behaviours in the Australian Market are inconsequential.

- 2.10 On this basis, we reiterate our submission that the Investigation should be terminated as against RCR as far as it relates to the RCR Goods.

3 Conclusion

- 3.1 In conclusion, we reject Capral’s submission that the RCR Goods are like goods and that RCR’s presence is not minimal on the following grounds:

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- (a) Capral's business practices through the ACN indicate that Capral does not compete with retail hardware stores of the kind RCR supplies.
- (b) The goods available through the ACN do not compete with the RCR Goods as RCR does not supply the longer lengths supplied by Capral.
- (c) The RCR Goods bear no commercial, physical, functional or production likeness to the Goods.
- (d) RCR's presence in the Australian market is minimal as compared to Capral's presence in the market.
- (e) RCR has not behaved opportunistically in respect of the RCR Goods during the 18 years which it has been importing the RCR Goods from [REDACTED] [THAI SUPPLIER].

We reiterate our submission that, if measures are imposed, an exemption should be granted for the RCR Goods as the RCR Goods are not "like goods" and are not directly competitive with the Goods.

Our client looks forward to continuing to assist the ADC throughout the Investigation and we would welcome the opportunity to discuss any issues raised in this Submission further at the ADC's request.

Yours faithfully,



Andrew Hudson
Partner