

Our Ref WJC:LK:SHR00758/074609

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14 October 2014

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Dear Ms Rudolph

RESPONSE TO THE SUBMISSION MADE BY TASMAN AGAINST SHIRO

We have noted the objections regarding the distinction between Shriro's Supertub range and the GUC. We believe that these objections are largely unsubstantiated or unjustified. We present the following reasons for the Commission's consideration.

1. The 'primary function' of the GUC and the Supertub range is different

First, Tasman has premised most of their response by looking only to the primary function of the GUC and comparing it to the primary function of the Supertub range. We submit that there is a clear and wide distinction between the GUC, whose *only* function is "collecting and draining a controlled volume of water in a manner consistent with plumbing standards" and the products in the Supertub range which also have storage functions and extensive washing functions.

We submit that while the products in the Supertub range share the sink function of the GUC, there is no basis to conclude that this function is the *primary* or *essential* function of the products in light of the other extensive functions of the Supertub range. In fact, while every product in the Supertub range includes a sink, every product also includes flexible water hoses, washing machine hose tap connections, side apertures for washing machine hoses, satin finish powder-coated galvanised steel cabinets and adjustable rubber feet, suggesting that the sink function is not the essential characteristic of the products but rather one of a range of functions in a fully assembled laundry unit. In addition, 10 of the 12 Supertub models contain two 3-way ball valves, which are an essential component that is an integral part of how the units work, and the features the Supertubs offer. These ball valves allow a consumer to take only one set of water supply pipes to the washing machine water inlets, and to the tap on the Supertub.

2. There is no basis to conclude that the other inbuilt features of the Supertub range are 'accessories'

For similar reasons to our first submission, we submit that the Commission reject the characterisation of the other inbuilt features of the Supertub range as "accessories". The argument raised by Tasman depends on the narrow view that the essential characteristic of

the Supertub range is its sink function, with the other functions being additional extras, or accessories. As noted above, this characterisation of the Supertub range is incorrect and the features asserted to be accessories are in fact integral elements of each fully assembled laundry unit.

As an example, the side apertures for washing machine hoses allow for the washing machine waste water hose to be securely connected to the Supertub in order for the waste water from the washing machine to flow directly into the waste water system. This is a key function of the Supertub range; without a plumber setting up new plumbing and pipe work, the only way the GUC could perform the same function would be for the waste water hose from the washing machine to be directed into the sink itself (which in itself would be a challenge as the waste pipe would not be able to be secured to the sink). For the GUC to function in this way, however, it would not be able to perform its essential function as identified by Tasman in their objection. Essentially, a key feature of the Supertub is that the sink can perform the function of “collecting and draining a controlled volume of water in a manner consistent with plumbing standards” at the same time as the washing machine empties a load of waste water.

3. The naming of the product range is not a sufficient justification for the classification of the functions of the Supertub range

Further, we request that the Commission reject the submission that the naming of the product range as “Supertub” indicates that the primary function of the products is their sink function. The name of a product range is not a particularly helpful or persuasive means of classifying the functions of a product when the actual nature and features of the product tend against the inference asserted by Tasman.

4. Summary of response to Tasman’s objections

Essentially, Tasman has submitted that the Supertub range should not be excluded from the ADC ruling because the primary function of the products in the range is the same function as the GUC, and any additional functions are accessories. Other than drawing an inference from the name of the product range, Tasman has not provided any substantive reasons for *why* the essential or primary characteristic of the Supertub range is the sink function shared with the GUC. Tasman’s submissions regarding accessories is not a basis for concluding that the primary function of the Supertub range is the sink function; rather, these submissions are the corollary of a finding that the primary function is the sink function, and therefore the validity of these submissions is dependent on the validity of the (flawed) submission regarding the primary function of the Supertub range.

5. Facts substantiating Shiro’s original submission

In contrast, there is a logical basis for our submission that the products in the Supertub range are fully assembled laundry units with multiple key functions. Namely, the fact that every product in the range includes features with sink functions, storage functions and washing functions. Essentially, the Supertub range performs the function of being a complete fresh and waste water management system in the laundry, between the incoming water pipes, and the washing machine and laundry tap, along with managing the waste water from the washing machine back to the waste water system.

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As such, the classification of the Supertub range as laundry units is substantiated as is the submission that the laundry units have multiple important functions, only one of which is the sink function.

For these reasons we submit that the Commission reject the response made by Tasman to Shriro's initial submission.

Yours faithfully
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