

Dr. Ross S. Becroft B.A., LL.B., M.Comm.Law. PhD

Suite 2, Level 3  
182-184 Victoria Parade  
East Melbourne, Victoria, 3002  
Australia  
Telephone: (61 3) 9866 5666  
Facsimile: (61 3) 9866 5644

Our Ref: RB:KB 3603

Your Ref:

## PUBLIC FILE VERSION

20 November 2020

The Director, Investigations 3  
GPO Box 2013  
CANBERRA ACT 2601

By email: [investigations3@adcommission.gov.au](mailto:investigations3@adcommission.gov.au)

Dear Sir/Madam,

**Re: Dumping Investigation No. 548 – Certain Kraft Paperboard Exported to Australia from the United States of America.**  
**Response by the Applicant – Visy Glama Pty Ltd (“Visy Glama”) - Like Goods**

We refer to the submission of GPI dated 3 November 2020 placed on the public record of this investigation by the Anti-Dumping Commission (Commission) on 11 November 2020.

In this submission, GPI has seen fit to criticise various aspects of the statement of Arthur Mitropoulos and the accompanying letter from Visy, both lodged on 27 October 2020. Visy wishes to respond to such criticisms and to clarify particular misconceptions that have been advanced by GPI. Accordingly, Visy responds as follows:

1. The statement of Mr. Mitropoulos and Visy’s accompanying letter were not submitted ‘over a month late’ as contended by GPI. Further, Visy rejects the proposition that it does not address the questions raised by the Commission in the Issues Paper.<sup>1</sup> Visy’s position is that it had filed two previous submissions regarding the issue of like goods prior to the publication of the Issues Paper<sup>2</sup>, in which the Commission invited further

<sup>1</sup> Refer GPI submission paragraphs 1 and 5.

<sup>2</sup> See submissions of Visy Glama dated 18 June 2020 (public file document number 9) and 4 September 2020 (public file document number 18).

submissions. The main purpose of the Issues Paper was for the Commission to ‘cast the net more widely’ and ascertain if there were other interested parties, such as packaging industry participants, who wished to provide input on this issue (and not for existing interested parties to simply repeat claims made in earlier submissions). When it came to Visy’s attention that no evidence had been provided by such industry participants (eg customers and downstream users), Visy sought evidence from Mr. Mitropoulos in order to assist the Commission by making available first-hand information about how a customer assesses the likeness of microflute and kraft paperboard when deciding upon its packaging requirements. The information provided by Mr. Mitropoulos is extremely significant because it is the only evidence supplied to date from the perspective of an Australian market participant separate from the views expressed by the applicant or the major kraft paperboard exporters. Further, not only was Mr. Mitropoulos a long-standing and senior Australian industry participant, his day to day employment actually involved assessing and making a commercial choice between microflute and imported kraft paperboard. Mr. Mitropoulos’ evidence should therefore be fully taken into account and given significant weight by the Commission.

2. GPI asserts that the statement of Mr Mitropoulos is not expert evidence.<sup>3</sup> Visy has never claimed that the matters raised in his statement constituted expert evidence. GPI has gone to considerable lengths to explain how a Court of law may define expert evidence. However, as a government investigatory body, the Commission is not bound by rules of evidence and is well-equipped to assess the weight and veracity that ought to be attributed to any information it receives from interested parties. In the case of Mr Mitropoulos, his statement speaks to his practical experience working in procurement for a global beverage company rather than merely his ‘opinion’ as an ‘expert’ within a Courtroom.
3. Visy does not accept that Mr Mitropoulos’s statement is ‘outdated and unreliable’ as GPI contends.<sup>4</sup> Despite the fact that the original Schweppes contract was entered into 16 years ago, Mr Mitropoulos, (as Supply Chain Director) was involved in at least 3 contract renewals prior to his retirement in 2017.<sup>5</sup> Mr Mitropoulos notes in his statement that Schweppes viewed the microflute and kraft paperboard packaging as interchangeable and that the major variable was cost.<sup>6</sup> In his evidence, Mr Mitropoulos states that he has direct knowledge of the ongoing administration of the Visy microflute supply contract (in the period from 2005 to 2017) and that from a quality and functionality perspective Schweppes was comfortable to stay with the microflute product.<sup>7</sup> It is accordingly inaccurate for GPI to describe Mr. Mitropoulos’s evidence as outdated and unreliable.
4. GPI criticises the fact that Mr Mitropoulos provides evidence regarding the likeness of kraft paperboard and microflute for use in beverage can multipacks.<sup>8</sup> Whilst the goods

---

<sup>3</sup> GPI submission paragraphs 7-15.

<sup>4</sup> GPI submission paragraphs 16-20.

<sup>5</sup> Statement of Arthur Mitropoulos dated 20 October 2020, page 3.

<sup>6</sup> Statement of Arthur Mitropoulos dated 20 October 2020, page 3.

<sup>7</sup> Statement of Arthur Mitropoulos dated 20 October 2020, page 3.

<sup>8</sup> GPI submission paragraphs 21-25.

under consideration are certain kraft paperboard products imported prior to conversion within Australia, the observations of Mr Mitropoulos are nonetheless valid. Both microflute and kraft paperboard packaging undergo a conversion process and a former senior representative of major customer is well placed to comment on the comparison between two end products that incorporate the imported and locally manufactured materials. Evidence from customers of the end product is important practical information that the Commission may rely upon to validate the question of likeness.

5. Contrary to GPI's assertions, the statement of Mr Mitropoulos does not support GPI's position concerning like goods.<sup>9</sup> GPI argues that the due diligence undertaken by Schweppes of up to 12 months is somehow evidence of the non-likeness of kraft paperboard and microflute.<sup>10</sup> It is standard practice for major beverage companies changing suppliers of any sort to carry out extensive due diligence. In his statement, Mr Mitropoulos confirms that, in his experience, all major procurement activities by Schweppes involved pursuing a detailed 8-step strategic sourcing process.<sup>11</sup>
6. Visy also notes that, in section 6 of GPI's submission, it has provided certain confidential end use information to the Commission in response to Visy's claims regarding like goods. GPI has redacted all information from the public file version of its submission and no summary of the information has been provided as is required by the Commission's guidelines on submissions. We therefore request that the Commission forthwith require GPI to resubmit section 6 of its submission with an appropriate summary so that Visy and other interested parties have a reasonable opportunity to understand the nature of the information that GPI has provided to the Commission. Should this not be rectified, Visy submits that none of this information provided by GPI can be relied upon the Commission.
7. GPI's submissions seem to have become increasingly shrill and irrelevant in nature, focussing on procedural and other peripheral issues that do not really assist the Commission in its practical and commercial application of Australia's anti-dumping system.<sup>12</sup> Meanwhile, it is Visy's contention that dumping is continuing and indeed escalating in the Australian market, to the detriment of local manufacturing.
8. In this context, Visy wishes to advise the Commission that [redacted] [timeframe] Visy has lost [redacted] [description of microflute supply arrangements] microflute supply [redacted] [description of microflute supply arrangements and commercial value] to imported kraft paperboard [redacted] [redacted] [location of supplier]. In order to retain [redacted] [description of microflute supply arrangements] Visy would have needed to [redacted] [details of Visy's commercial position]. This development has meant that the continued viability of Australian microflute production is under an increasing threat. In

---

<sup>9</sup> GPI submission paragraphs 26-29.

<sup>10</sup> GPI submission paragraph 27.

<sup>11</sup> Statement of Arthur Mitropoulos dated 20 October 2020, page 1.

<sup>12</sup> Visy Glama has previously made this point regarding GPI's submissions concerning like goods in its submission dated 4 September 2020 at pages 2-3 and 7 (final bullet point).

the event that dumping is allowed to continue and local production falls below critical thresholds, then plant closures are likely to follow resulting in additional job losses, particularly in regional areas of Australia. Hence, whilst Visy is prepared to cooperate with and assist the Commission in finalizing its views on like goods, Visy is concerned that it continues to suffer significant and increasing material injury, and accordingly, it is imperative that this investigation proceed as expeditiously as possible. It is noted that, based upon the new extended timetable, the Commission is not due to deliver its findings to the Minister until 7 May 2021. We urge the Commission to finalize the like goods issue and complete its verification of the dumping margins and material injury as quickly as possible.

Do not hesitate to contact the writer should the Commission require any further information or wish to discuss the matter generally.

Yours faithfully

**GROSS & BECROFT**

A handwritten signature in black ink, appearing to read 'R. Becroft', with a long horizontal flourish extending to the right.

**Dr. Ross Becroft**

Principal