Dear Michael

Please see attached letter from Mr Neville Matthew addressed to your client Flamestop Australia Pty Ltd.

The letter outlines the ACCC’s consideration of appropriate regulation for non-aerosol fire extinguishers and notes that we will be commencing public consultation on the applicable mandatory standard very shortly.

Regards

Simon

Simon Haslock
Director | Inspections and Hazard Analysis | Consumer Product Safety Branch
Australian Competition & Consumer Commission
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I work from home on Fridays from 9am – 3.30pm.

The ACCC acknowledges the traditional owners and custodians of Country throughout Australia and recognises their continuing connection to the land, sea and community. We pay our respects to them and their cultures; and to their Elders past, present and future.
06 September 2019

Mr Michael Bacina
Partner
Piper Alderman

By email: mbacina@piperalderman.com.au

Dear Mr Bacina

ACCC consideration of appropriate regulation for non-aerosol fire extinguishers

Our previous correspondence to you on 24 May 2019 outlined our position that the Consumer Protection Notice No. 3 of 2004 (the mandatory standard) does apply to non-aerosol fire extinguishers supplied through the routine service regime. However, we noted that the Australian Competition and Consumer Commission (ACCC) was intending to conduct a public review, which would consider the efficacy and application of the mandatory standard. This review will commence very shortly and we encourage Flamestop Australia Pty Ltd (Flamestop) to participate.

In preparation for the standard review, we have conducted a detailed comparative analysis of the requirements of the mandatory standard and the voluntary Australian standard AS 1851-2012 Routine service of fire protection systems and equipment (the routine service standard). We have engaged directly with relevant workplace health and safety authorities to ensure the accuracy of this analysis.

We have concluded that the requirements as detailed in the routine service schedules of the routine service standard and the requirements as detailed in the mandatory standard lead to comparable performance objectives. This is because the objective of the routine service standard is that the affected fire extinguisher is serviced in a manner that the fire extinguisher will operate to the requirements of the mandatory standard.

We note that there is a difference in terms of marking in that the routine service standard does not require the manufacturer or distributor’s name, trade name or trademark to be displayed on the extinguisher by means of printing or durable labels or other permanent means. However, we have assessed that the record keeping and documentation requirements in the routine service standard produce an equivalent traceability outcome in the event of product defect and are satisfied that the difference between the mandatory standard and routine service standard would have no material effect on consumer safety.

We have also conducted a review of our databases and other sources to identify whether there have been any reports or consumer complaints relating to the performance of non-aerosol fire extinguishers. We have not identified any safety incidents relating to the operation of fire extinguishers supplied through the routine service regime.
As the safety outcomes of both the supply regime and service regime are comparable, and as the service regime operates within a legislative framework that is administered by statutory authorities, we have formed the view that non-aerosol extinguishers are subject to regulatory duplication. This duplication imposes an additional and unnecessary regulatory cost on industry participants that does not appear to result in a net public benefit through reductions in deaths or injuries.

Reflecting our analysis, one of the policy options we will be proposing in the standard review is that a new mandatory standard for non-aerosol fire extinguishers apply only to new fire extinguishers, which would have the effect of removing regulatory duplication with the routine service standard.

We consider that the issues raised in our investigation are best resolved through the standard review, where views from a range of industry participants can be sought to support the development of appropriate regulation. We encourage all parties, including Flamestop and Firebox Australia Pty Ltd (Firebox), to contribute their views to the consultation.

We intend to communicate the same information provided in this letter to Firebox. If you have any questions regarding this matter please contact Simon Haslock on (03) 9290 6919 or via email at simon.haslock@accc.gov.au.

Yours sincerely

\[Signature\]

Neville Matthew
General Manager
Consumer Product Safety Branch