The Senate Economics Committee

1. About CSR Limited

CSR Limited has been operating in Australia for 153 years. The company is a leading diversified manufacturing company with operations throughout Australia, New Zealand, China and South East Asia and employs over 6000 people. In 2008 trading revenues were $3.2b with capital expenditure of $394m. The company essentially operates three manufacturing divisions, comprising Building Products, Aluminium smelting, through our shareholding in the Tomago aluminium smelter, and Sugar.

Our Building Products' Division is a leading supplier to the residential and commercial construction industry - supported by a nationwide distribution network. It manufactures well known brands such as Bradford ™ Gold glass wool insulation, Viridian™ flat glass and downstream products, Gyprock™ plasterboard, Cemintel™ cement sheeting, Monier™ and Wunderlich™roof tiles, PGH™bricks through 35 wholly-owned or majority owned manufacturing plants in Australia and operations in New Zealand and Asia.

CSR Sugar is the 6th largest sugar company in the world and the largest raw sugar producer in Australia, operating 7 mills in northern Queensland. Australia exports 85% of the raw sugar production and CSR through its joint venture with Mackay Sugar Limited exports about 30% of our refined sugar production. The company is the sixth largest generator of RECS under MRET. CSR Ethanol is centred on production in Sarina, Queensland and mainly produces fuel grade bio-ethanol for the Australian market.

The Tomago Aluminium smelter, of which CSR has an effective interest of 25%, is the second largest employer in the Hunter Valley with 1200 direct employees and generates $1.5b pa in sales of which 85% are exported. It is the 10th largest smelter in the world. The facility consumes around 900MW of power supplied by Macquarie generation

2. Purpose of CSR's submission on the Scheme

CSR has consistently supported a preference for a broad-based emissions trading scheme, with an early introduction to provide business certainty surrounding future investment decisions. The timing should be set by that which is required to ensure the scheme is workable, effective and efficient. We have also supported the Government's policy that trade exposed industry's international competitiveness should not be compromised by the introduction of emissions trading. We encourage the Government to move forward with the legislation by resolving the serious outstanding issues and complexities.

The character of CSR's businesses vary considerably. A number are heavily trade exposed whereas others are not. Some of those that are trade exposed are, by policy definition, energy intensive, whilst some are not. Moreover. there are businesses that are not, by policy definition energy intensive, but are clearly trade exposed. For example a number of our smaller factories would fail the policy definitions if they were stand-alone businesses and not under a corporate umbrella like CSR. (Critically, we suspect that many such small operations would most likely not even be aware of the implications of this legislation.) Many regional food producers, customers for refined sugar, for instance would be in this category. Given that CSR and our

CSR

customers are significant employers, we can see as a consequence situations arising whereby Australian employment could be lost to nations which do not subscribe to a similar ETS measure, with potentially no benefit to the objectives of the legislation – lower global emissions.

This legislation is one of the most profound pieces of environmental and financial legislation in Australia for many years. It is complex and far reaching. And yet there has not been sufficient time to conduct internal functional and business reviews, or consult genuinely and in detail with Government to clarify shortcomings in the draft bills, to provide a fully meaningful response to this committee. There is an enormous amount of work to be covered in regulation which will not be available until after the bills have been presented to Parliament. We can only highlight the main areas of concern in this submission as we see them at this early stage of consultation.

3. Main shortcomings based on assessment of the Draft Bills

a) There is no prescribed methodology to balance the national allocation of permits between households and industry. Consequently the balance to trade exposed industry on the basis of emission intensity bears no relationship to loss of international competitiveness. The emission intensity hurdles are arbitrary. Segments which are almost 100% trade exposed and just below the arbitrary cut off will receive no assistance.

b) The treatment of trade exposed industry is a critical instrument of this legislation to hold Australian industry competitive, avoiding premature closures and encouraging ongoing investment and modernisation, so keeping jobs in Australia. This section of the bill is inadequate and the regulatory detail may not be available at the time the bill is debated. This is one of the most important aspects of the legislative arrangements in protecting the Australian economy, while working towards lower global emissions.

c) Elements of the trade exposed treatment dealing with value add provisions if carried to regulation are inequitable with those energy intensive trade exposed facilities treated on a revenue basis.

d) The impact on small and regional trade exposed industry has not been investigated. The Climate Change Adjustment Fund is not a solution for these businesses, although it may help re-equip small business in some cases. However it is not an adequate measure to hold companies even on trade exposure. CCAF grants are likely to be taxable and so the full benefit does not flow through to recipients. There are no details in the bills in relation to CCAF and how it might work and the qualification process and what exclusions will be included. This is a key part of the package.

e) There are no provisions for closure with industry on transitional assistance and as the process is not a regulatory process there are no grounds for appeal.

f) The Productivity tax of 1.3% serves no function than a tax transfer to government. Industry is still incentivised to act regardless of the decay factor and it should be removed.

g) The Bill offers no incentive to develop a biofuels industry with liquid fuel exemptions for motorists, which under regulations still to be developed, are indefinite – the cent for cent basis applies for the initial three years and can be continued on. The scheme was premised on maximum coverage and all liquid petroleum fuels for motorists should be included.
Syn gas is included as an eligible fuel – however syn gas can be made from renewable feedstock and this should be excluded from the eligible fuel list for instance.

h) Issues remain with tax treatment, GST and state stamp duties applicable to these transactions. No government should gain a windfall arising from this scheme and the Federal Government must ensure the states don't levy stamp duty on carbon permit transactions or penalise them if they do.

i) All legal international permits should be allowable under the scheme to ensure the lowest carbon price and least cost form of abatement.

j) Industry is required to undergo rigorous auditing of data as part of the process of formal assessment. International benchmarking, if used, does not have to undergo a similar process. Any data which is not of the same rigour as Australian data should be discounted. There are no legislative provisions for equity in these matters.

k) CSR is of the view that the scheme needs to be supported by complementary measures such as RET and Energy Efficiency measures. Other measures such as EEO should be repealed as this scheme is introduced.

l) NGERs revisions must be reviewed as part of this legislative package. It is not sufficient to align this bill with NGERs. NGERs shortcomings must also be addressed. NGERs is unnecessarily onerous. Specific areas to examine are the burdensome and unnecessary contractor reporting requirements, the impending obligation to report substantive elements of data in three different ways for EITE's and myriads of complexity around operational control under NGERs, assignment under CPRS and so on. Audits should not be compulsory every year. While the bills attempt to align CPRS with NGERs, similar effort needs to be made to cross align NGERs with CPRS. Failure to align first will lead to confusion and unnecessary burden.

m) The Bill does not deal with agriculture and nor was it intended to do so. However the data for certain sectors such as sugar are not extensively available and nor are research schedules in place to obtain the required data to make informed decisions about coverage. Due to crop cycles it can take years to obtain these data. On the one hand agriculture can't claim trade exposed status if it is not covered and yet farming will bear the costs of the scheme. There are limited mitigation strategies available for agriculture and R&D programs need to be accelerated to find options for farmers.

Key areas of action to improve the draft legislation

a) The OTN provisions are confusing and in some case unworkable. The ability of a fuel provider to refuse a voluntary OTN places the balance of power in a commercial relationship even more strongly in the hands of a fuel provider where carbon costs can be passed through non transparently. The mandatory provisions are too limited and will cause administrative complexity for large energy users with a mixture of facilities which trip and some which don't – even where the transaction occurs through the same pipeline or through the same contract. This is administratively complex and discourages companies from taking on their own liabilities – a far superior outcome than an uncertain carbon cost being passed through upstream suppliers. Furthermore, the refusal right on voluntary opt-in also encourages a response to leave everything to the upstream fuel providers. Emitters don't have choice if fuel providers don't provide it – fuel providers have all the power. The legislation is neither mandatory nor voluntary and the policy outcomes sought are not clear.
   Furthermore the structure of the OTN encourages the import of finished chemical products which will circumvent the eligible fuels test over Australian production. Obligations on suppliers to police OTN's on behalf of Government are unreasonable, stand in the way of commerce are an administrative burden and hidden cost on the scheme. Measures such as this were repealed under the old sales tax regime and should not be re-introduced in this legislation.
   Solutions to these issues must be developed, but the inherent complexity will take considerable time and resources of government and industry to resolve if this feature of the scheme is to be effective.

b) Back dating of avoidance measures is inequitable. There are circumstances where operational control has been determined in a certain way, but which under a CPRS legal framework would have been constructed differently. Entities could be accused of avoidance by altering a fact of history.

c) Sometimes in association with avoidance issues, assets in one entity causes that entity to trip. However those assets may be used solely for the purposes of a third party and had they been associated with the third party the original entity would not have tripped. Entities with these assets now inadvertently have a liability, which if setting up under a CPRS environment would be established differently, and would not have such liability for these emissions. Where the primary emissions cause such an entity to trip, provision should be made for exemption.

d) Removal of transitional assistance should not be solely based on the status of our major trading partners, but should be heavily weighted towards those nations which compete with the activities receiving assistance. This may or may not include major trading nations.

e) Terms of reference for the review committee are inadequate. CSR would prefer the review be undertaken by the Productivity Commission, not an "expert" review panel.

f) The appointment provisions for the expert review panel prevent persons with actual current industry knowledge participating.

g) Ministerial obligations would appear to be broader than the Objects of the Act.

CSR

h) Objects of the Act should include other provisions such as:
   - To impose a price on emissions
   - To offset competitive disadvantage for trade exposed industry
   - To replace existing measures such as EEO and cross alignment with NGERs

i) Requirements for financial license to deal in permits by liable parties is unduly onerous. Simpler means for liable parties to buy and sell permits must be found.

j) It appears that transfer certificates are for life. The bill needs to recognise changes in corporate structures – mergers, acquisitions, operational control, so transfer certificates should be transferable. There may be a problem with bill structure with liability by controlling corporation overriding transfer certificate liability – existing clauses may be in conflict.

k) Measures to address accuracy of emission are not covered in the Bill.

l) CSR is concerned about competitive information issues and how these will be reported.

There will be considerably more detail provided to the Department of Climate Change in relation to specific issues with the bills once CSR has completed internal reviews. It may be that with further genuine consultation with the Department that some matters will be clarified further. This is our best assessment of the major issues at this stage of internal review.

Martin Jones

General Manager,

Government Relations