

Draft Submission on *AgStewardship Australia Limited* application for revocation of authorisation A91382 and substitution of new authorisation AA1000429 – interested party consultation

September 2018

Opening

Local Government NSW (LGNSW) is the peak body for local government in NSW, representing all NSW general purpose councils and related entities. LGNSW facilitates the development of an effective community based system of local government in the State.

LGNSW welcomes the opportunity to comment on *AgStewardship Australia Limited application for revocation of authorisation A91382 and substitution of new authorisation AA1000429 – interested party consultation*.

This is a draft submission awaiting review by LGNSW's Board. Any amendments will be forwarded in due course.

Purpose

The Australian Competition and Consumer Commission (the ACCC) is currently conducting a consultation process on an application for re-authorisation (application for revocation and substitution) received from AgStewardship on 21 August 2018. The application relates to the operation of AgStewardship's drumMUSTER and ChemClear programs, which provide for the collection of used, unwanted, empty agricultural and veterinary chemical containers and chemicals, funded by a voluntary levy on manufacturers and suppliers of the chemicals.

AgStewardship seeks to increase the levy, which has been 4 cents per litre/kg since it was first introduced in 1999, to 6 cents per litre/kg. No further changes are proposed to the authorised conduct. The re-authorisation is for a further five years.

The ACCC has invited LGNSW to make a submission on the likely public benefits and effect on competition, or any other public detriment, from the proposed arrangements.

Background

The drumMUSTER program involves collection and recycling of used containers for crop production and on-farm animal health chemicals (agvet chemicals). The ChemClear program involves collection and disposal of unwanted agvet chemicals. The ACCC first authorised the drumMUSTER program in September 1998. The program was funded by a 4 cent per litre/kilogram levy on the sale of agvet chemicals. Chemclear began operating in July 2004, funded by the same levy. The current authorisation was granted authorisation on 29 January 2014 until 19 February 2019. A draft determination is expected by October 2018 with public consultation on the draft determination in October/November and final determination in November/December 2018.

Response

LGNSW welcomes the opportunity to comment on the *Application for revocation of ACCC authorisation A91382 and substitution of a replacement authorisation* by AgStewardship Australia Limited. NSW councils support the ChemClear and drumMUSTER programs and recognise the protection of the environment that they deliver. LGNSW supports the producer responsibility model of product stewardship.

LGNSW supports the application for re-authorisation and the 6 cents per litre/kg increase in the levy to improve collection rates and the collection system (reach, capacity and infrastructure) as well as to manage the current challenges of recycling plastic.

We note that the proportion of collected containers to eligible containers sold into the market, whilst remaining relatively static since 2011, is trending slowly downwards at current levy rate (2011- 55%, 2018 - 47%).

LGNSW would like to see all agvet containers included in the scheme as they all pose risk to human health and the environment, particularly as the sale of intermediate bulk containers (IBCs) is increasing. However we note that there now are some proprietary return programs for IBCs.

We are concerned that increasing the levy to the rate proposed will only allow a 10% increase in containers collected (compared to eligible containers sold, based on 2017-18 baseline). We therefore suggest that annual publicly reported targets be built into the programs to ensure that the proposed upward trend in collection (towards and beyond 2011 levels) is achieved.

It is unclear how the proposed application of the levy will fund the necessary improvements to the scheme (such as improved infrastructure (eg cages at collection points), better servicing of remote areas and training of those who run collection points). It is important that costs of infrastructure improvements and expansion are separated from ongoing running costs.

Councils have also raised concerns that there are still legacy containers in the environment that pose a risk to human and environmental health and that the scheme should consider mechanisms and incentives for collecting legacy containers.

Further promotion and marketing of the programs is needed, particularly emphasising the programs' environmental and health benefits. Promotion based on numbers of containers collected needs to be baselined against numbers of containers sold to avoid greenwashing about the effectiveness of the scheme.

Rural and regional NSW councils are important partners in the delivery of these programs and in the past annually received data on the number of containers collected in their area. They request that this reporting be reinstated.

Conclusion

LGNSW supports the application for re-authorisation and the 6 cents per litre/kg increase in the levy. However the increased funding should be used strategically to improve the scheme as outlined in this submission and to meet publicly reported targets of increased collection. We would like to be informed of the progress of the application at the draft and final determination stages.

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