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Mr Tom Whitby
Australian Competition & Consumer Commission (ACCC)
23 Marcus Clarke Street
CANBERRA ACT 2601
Email: exemptions@acc.gov.au

By email

Dear Mr Whitby

Thank you for the opportunity to comment on Paintback Ltd's application for re-authorisation of the Paintback scheme (AA1000536).

The NSW Environment Protection Authority (EPA) supports a 10-year authorisation period with periodic reviews, and calls on the ACCC to strengthen requirements on Paintback Ltd (PBL) to take on the full cost of waste paint recovery in NSW; to provide detailed state by state reporting; to expand the scope of the scheme to include aerosols and other paint products; and to publish research findings into improved environmental outcomes.

The Paintback scheme has reduced the burden on the NSW government of the cost of paint disposal in NSW.

The EPA has been working closely with PBL to establish Paintback collection sites in NSW and integrate the scheme into the NSW Community Recycling Centre (CRC) and Household Chemical CleanOut (CleanOut) programs.

The Paintback scheme however does not cover the full costs of recovery of waste paint in NSW. The EPA currently pays all staging costs (set up, collection and transport) of CleanOut events, which receive paint, with PBL covering only the disposal costs of water-based and oil-based paint. Out of the state's 94 CRCs, only 24 are Paintback sites. The EPA continues to pay the full cost of paint recovery from the remaining 70 sites. PBL's contribution covered 59% of the paint processing cost for paint collected in NSW in 2019/20.

On a per capita basis, PBL's servicing of each state is highly variable, with NSW and the Northern Territory receiving the lowest contributions. As of February 2021, PBL has yet to take on any significant additional CRC collection sites in NSW and consequently its projections to increase the volumes collected in NSW by 36 percent (660 tonnes) in 2020/21 appear optimistic.

In the scheme's current form, the EPA will also need to continue to fund the disposal of non-eligible paint related waste (bycatch) plus subsidise the recovery of eligible items (architectural and design paint, known as A&D paint). The EPA would like the scope of the scheme to be broadened. High volumes of aerosols and other paint related bycatch continue to be received at NSW CRCs and CleanOut events. These volumes are increasing, demonstrating merit for inclusion in the Paintback scheme.

Phone 131 555
Phone +61 2 9995 5555
(from outside NSW)

TTY 133 677
ABN 43 692 285 758

Locked Bag 5022
Parramatta
NSW 2124 Australia

4 Parramatta Square
12 Darcy St, Parramatta
NSW 2150 Australia

info@epa.nsw.gov.au
www.epa.nsw.gov.au

Greater transparency of funds collected and invested by state is required

PBL's inability to take on the full costs of waste paint recovery in NSW four years into the scheme, stating financial constraints, might suggest that the current 15c levy is not adequate, or that there is an imbalance in spending between various aspects of the scheme, or between different states. However, as there is currently no transparency around the income received from paint sales in NSW and the corresponding expenditure on paint recovery in NSW, it is hard for the EPA to ascertain if the levy amount or the administration of Paintback itself is the challenge. It is assumed that the amount of investment in recovering paint state by state should be proportional to the revenue from paint sales state by state, but as the scheme operates a confidential audit process PBL does not disclose this information. The EPA would like to ensure that NSW taxpayers are getting a fair deal and the benefits from the paint levy are equitable, and therefore requests that more detailed state by state reporting is made a requirement of the scheme.

Better reporting of research and trials into improved environmental outcomes for waste paint is required

The EPA acknowledges the effort PBL has made in looking for better resource recovery outcomes for paint packaging. The EPA awarded grant funding to Astron Plastics to develop their plant to enable sorting and processing of waste plastic. PBL and the NSW EPA are working together on this project to source feedstock, in the form of paint containers, from CRCs and CleanOut.

Little detail has been provided on other initiatives. The EPA requests that PBL publishes summaries and findings of all research projects.

NSW supports a 10-year authorisation period, with periodic reviews and conditions

PBL is seeking a 10-year authorisation, double the length of the current authorisation. In principal the EPA supports this as it provides long-term certainty for the scheme. It will be important to verify that the levy provides adequate funds for PBL to meet its forecast collection volumes. The EPA would like to see a series of conditions placed on the authorisation, as well as a requirement for periodic reviews to provide a mechanism for refinements and to keep the scheme operators accountable.

The EPA would like to see conditions placed on the authorisation for renewal of the Paintback Scheme, to provide for:

- 1) Transparency in paint levy income and expenditure including requirements to publicly report a breakdown of:
 - a) Income and expenditure for each state
 - b) Expenditure on paint recovery and disposal
 - c) Expenditure on research and development
 - d) Expenditure on education, awareness and promotional activities
 - e) Administration costs
- 2) Transparency on the processing/disposal outcomes achieved with the paint
- 3) Transparency on the outcomes of research and development work, including publicly reporting summaries and findings of all research projects
- 4) Requirements for additional ACCC approval in the event the levy costs are not covering the full paint recovery and disposal costs of each state.
- 5) The scheme to cover a wider range of paint products including aerosols and other paint related waste within the next two years
- 6) Support and development for recovered paint to be developed into new paint products.

Should you have any queries or require any further information, please contact Megan Webb, Unit Head, Community Recycling at [REDACTED] or [REDACTED].

Yours sincerely



TRACY MACKEY
Chief Executive Officer

16.2.21