



Our ref: DOC22/1052721

Ms Naomi Menon
Director Competition Exemptions
Australian Competition & Consumer Commission
23 Marcus Clarke Street
CANBERRA ACT 2601

By email: exemptions@accc.gov.au

Dear Ms Menon

Coles Group Limited and other participating supermarkets application for authorisation AA1000627 – interim authorisation and interested party consultation.

Thank you for your email regarding consultation on the urgent, interim authorisation granted to the Soft Plastics Taskforce to explore solutions to address the immediate effects of the suspension of the REDcycle recovery and recycling program. I appreciate you bringing the consultation and assessment process to my attention.

The NSW Environment Protection Authority (EPA) supports collaboration between packaging manufacturers, brand owners of consumer products, recyclers and other relevant industry participants to find alternatives and solutions to soft plastics recycling. The EPA therefore supports, in principle, the proposed conduct for the reasons set out below.

1. The interim authorisation, including whether the Authorised Conduct should be further narrowed and/or your experience of the impact of that conduct over the coming weeks and months

The EPA considers that participants may not be limited to only considering solutions that involve taking physical or financial responsibility for managing the environmental impact of their products and/or packaging at the post-consumer state of their life cycle.

For the collection and recycling of soft plastics to be successful in the long-term, these items must also be designed, created and produced with the intention that they can be used and reused efficiently, as high-quality, well-sorted recyclable materials.

To adequately address the issues surrounding the suspension of the REDcycle program, a whole-of-lifecycle approach is needed, that involves producers taking responsibility for the full life cycle of soft plastics, including the development, design, creation, production, assembly, supply, use (or re-use), recovery, recycling and remanufacturing of soft plastics.

Through the Australian Packaging Covenant Organisation (APCO), over 1,500 leading Australian businesses (including the Soft Plastics Taskforce participants) have voluntarily committed to the 2025 National Packaging Targets – which include ensuring that 100 per cent of packaging is recyclable, reusable or compostable by 2025 and that 70 per cent of plastic packaging is being recycled or composted by 2025. The NSW Government is working with the Australian Government and APCO to ensure these national packaging targets are met. While there have been some success stories, we want to see more, and the NSW Government has committed to reviewing progress towards the national targets by 2024. If industry has not taken sufficient action, the NSW Government will consider mandating targets or establishing design standards to address packaging issues at any point in time ahead of 2024.

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2. The application and the length of the period sought for authorisation, being 12 months from the date of the ACCC's final determination

The EPA notes that the Participants define an interim solution as one that can be implemented within 12 months from the date of final determination by the ACCC. An interim solution for the responsible management of soft plastics is essential, as continuing to collect and store soft plastics without a recovery solution can lead to additional risks of fire at storage facilities. To avoid this risk, the community are currently being advised to place their soft plastics in their landfill waste bin until this issue can be resolved, which is detrimental to consumer confidence in broader recycling and circular economy initiatives. Therefore, interim term solutions, that are more immediate (less than 12 months), will be required by Participants to address the immediate management of existing stockpiles in NSW including the cost of warehouse and storage.

The EPA notes that the interim solution may include joint acquisition of facilities to recycle, process and remanufacture soft plastics. Co-investment from manufacturers, collectors, and recyclers can lead to positive outcomes, as demonstrated by the joint venture between Asahi Beverages, Pact Group Holdings Ltd and Cleanaway Waste Management Ltd to recycle PET beverage containers collected through the NSW Return and Earn Scheme.

3. The likely public benefits and detriments of the proposed conduct.

The proposed conduct will ensure a nationally consistent and collaborative approach by the major supermarkets in addressing the issue of soft plastics recycling. Programs like REDcycle play an important part in the collective effort to reduce plastic waste in NSW and to help achieve the NSW Government's target to tripling plastic recycling by 2030. This target is part of the Government's ongoing efforts to reduce plastic waste under the NSW Plastics Action Plan (Plastics Plan), which outlines a comprehensive suite of actions to address plastic at all stages of its lifecycle – from production and consumption through to disposal, recovery and recycling.

Objectives for an industry-led solution should include the solution being funded by industry, from collection through to recycling, as well as a high level of consumer awareness, knowledge, and access to the system. The system should be set up to be capable of and with the intention to deliver high rates of recovery and recycling. The system should demonstrably help to achieve NSW and industry (APCO) targets for waste avoidance and resource recovery. Further, the system should deliver circular economy outcomes for sustainable packaging design and use of recycled content in plastic packaging.

Finally, there should be a high level of transparency for any solutions developed by industry – including a high level of reporting on the proposed or actual performance of the system at all levels, including the volume of soft plastics supplied, collected, stored, recycled and processed by the scheme, as well as community awareness knowledge and participation in the scheme.

I know the community wants to see further action on reducing plastic waste and I acknowledge there is still work to do as we as a community move towards a circular economy for plastics.

If you have any further questions about this issue, please contact Mr Alex Young, Director Container Deposit Scheme, Engagement, Education and Programs, on [REDACTED] or at [REDACTED].

Yours sincerely

[REDACTED]
NANCY CHANG
Acting Chief Executive Officer

16 December 2022