



SUBMISSION IN RESPONSE TO

**PRODUCT STEWARDSHIP VOLUNTARY
ACCREDITATION FRAMEWORK**

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INTRODUCTION

CropLife Australia (CropLife) is the peak industry organisation representing the agricultural chemical and biotechnology (plant science) sector in Australia. CropLife represents the innovators, developers, manufacturers, formulators and registrants of crop protection and agro-biotechnology products. The plant science industry provides products to protect crops against pests, weeds and diseases, as well as developing crop biotechnologies that are key to the nation's agricultural productivity, sustainability and food security. The plant science industry is worth more than \$1.5 billion a year to the Australian economy and directly employs thousands of people across the country.

CropLife member companies spend more than \$13 million a year on stewardship activities to ensure the safe and responsible use of their products. Our members are committed to ensuring that their products present no unacceptable risk to the environment or to human health. CropLife ensures the responsible use of these products through its industry code of conduct and has set a benchmark for industry stewardship through programs such as **drumMUSTER**, ChemClear® and Agsafe Accreditation and Training.

CropLife is keen to ensure that these programs maintain their success and remain viable mechanisms to manage agricultural chemical product disposal.

Our comments with respect to voluntary accreditation of schemes under the *Product Stewardship Act 2011* are designed to ensure that the benefits sought by the proposed stewardship framework do not unintentionally diminish the success, effectiveness and efficiency of the existing programs.

CropLife, along with other agricultural and veterinary chemical manufacturers and together with other affected stakeholders have established AgStewardship Australia to manage the strategic direction of our stewardship programs. As a result, CropLife agrees with, and supports, the issues raised by AgStewardship Australia. This submission should be read in conjunction with that provided by AgStewardship Australia.

ISSUES

CropLife Australia (CropLife) considers that a successful scheme for accrediting product stewardship arrangements should provide sufficient incentive to encourage existing, successful schemes to participate in the program. CropLife is concerned that the proposed structure and assessment processes for voluntary accreditation do not achieve this aim. Instead, schemes that may seek voluntary accreditation may be subject to an assessment process that substantially duplicates other areas of government regulation, is unnecessarily expensive and inflexible. Collectively, these measures would result in a significant disincentive for both current and new stewardship schemes to seek voluntary accreditation.

CropLife has identified a series of issues and made recommendations for changes to ensure that the incentive for stewardship schemes to seek accreditation is maximised.

Existing and new product stewardship schemes can be encouraged to participate in voluntary accreditation by minimising the costs and maximising the benefits associated with participation under the scheme. If the benefits of participation can outweigh the costs, product stewardship schemes will naturally volunteer to participate in the framework.

Despite the voluntary nature of product stewardship accreditation, the current proposals would benefit from ensuring uniformity with best practice regulatory principles of consistency, efficiency and effectiveness. The current discussion paper does contain several areas of potential duplication that without further clarification, potentially increase risks of inconsistency and cost to the Department of Sustainability, Environment, Water, Population and Communities (DSEWPAC) and applicants seeking accreditation.

Costs could be minimised by:

- *Minimising duplication with other areas of Commonwealth regulation*

CropLife is most concerned that assessment of potential product stewardship schemes for accreditation would include assessments by the product stewardship regulator that are both unnecessary and duplicative of other government functions. These include:

- Governance

Applications for accreditation of a product stewardship scheme can only be made by an incorporated entity. Incorporated entities are already subject to a range of responsibilities and duties under the *Corporations Act 2001* and regulated by the Australian Securities and Investment Commission (ASIC). This regulatory framework outlines the duties and responsibilities of companies and their officers to ensure good governance practice. The legislation outlines the standards expected for the responsible management of companies.

While CropLife understands that it is the intention of DSEWPAC not to duplicate the functions of the *Corporation Act* or ASIC, it remains unclear what additional elements of governance assessment would be conducted by DSEWPAC. CropLife is particularly concerned should DSEWPAC seek to undertake an assessment that it has neither the expertise, capacity nor experience to conduct effectively.

While potential assessments by DSEWPAC are not intended to duplicate other areas of corporate regulation, there is little information contained within the discussion paper to delineate the regulatory gap in governance that will be filled by DSEWPAC.

CROPLIFE RECOMMENDS that in the interests of minimising regulatory costs, the fact that a stewardship scheme is managed by an incorporated entity should be sufficient to satisfy DSEWPAC that an applicant has acceptable governance arrangements.

- Environmental impact

CropLife notes that the objectives of the *Product Stewardship Act 2011* include ensuring that the impact of products (or substances contained in products) on the environment is reduced. However, where existing stewardship schemes contain more than one participant, it is highly likely that any scheme would be subject to the anti-competitive conduct provisions under the *Competition and Consumer Act 2011*. Authorisation by the Australian Competition and Consumer Commission (ACCC) considers many of the aspects that would be of interest to DSEWPAC, including the environmental impact for those stewardship programs that have management of environmental impacts as an objective.

CropLife considers that it will be important to carefully manage this potential area of duplication to minimise the cost burden on applicants and resources required by DSEWPAC. Indeed, where an applicant has obtained an authorisation from the ACCC for a product stewardship scheme that includes an assessment of the environmental benefits of that scheme, then this should be recognised as adequate for the purposes of the *Product Stewardship Act 2011*.

CROPLIFE RECOMMENDS that environmental impact should only be considered where no ACCC authorisation exists that covers environmental or public benefits. This would permit DSEWPAC to focus on those applications that have not been subjected to scrutiny of any claimed environmental benefit.

- Health and Safety impact

CropLife is concerned that DSEWPAC would consider health and safety impacts when considering the capacity for accreditation under the Act. Again, CropLife remains concerned that this substantially duplicates the functions of other Commonwealth regulators. Concerns about the safety of consumer products are properly dealt with by the ACCC. Concerns about the safety of products in workplaces are properly the responsibility of the Safe Work Australia.

All producers of products and workplaces have existing legislated responsibilities with respect to health and safety. Seeking to duplicate or assure these health and safety provisions in the context of a voluntary accreditation arrangement is unnecessary, and potentially leads to inconsistent messages from government.

CROPLIFE RECOMMENDS that DSEWPAC prepare guidance on precisely what will be assessed when considering an application for voluntary accreditation. This guidance material must clarify the difference between the assessments conducted by existing regulators and those proposed by DSEWPAC. Any element of assessment that goes beyond existing health, workplace safety, consumer protection or anti-competitive conduct legislative provisions must be supported by clear policy justifications.

This guidance will provide potential applicants with a greater degree of certainty when considering whether to apply for voluntary accreditation by providing certainty about the assessment that will be conducted by DSEWPAC.

- *Ensuring that accreditation is flexible enough to facilitate participation by a range of product stewardship schemes*

Accreditation of product stewardship arrangements must be able to accommodate the variety of stewardship schemes that could potentially seek accreditation. Administrative requirements that are overly restrictive may operate as a significant disincentive for potential schemes seeking accreditation.

Due to the variety of potential schemes that could be considered for accreditation, it will be important for any requirements to be able to accommodate different structures and approaches to product stewardship. For example, the administrative, governance and reporting functions for CropLife's stewardship schemes are set up to minimise the cost of the system to participants and farmers, and to minimise any anti-competitive effect. A principal objective of these schemes is to provide a safe and environmentally responsible service to dispose of agricultural chemical waste. This may mean that the focus of the program is on service provision at the expense of collection rates. Accreditation must not preclude programs where objectives are better targeted to the needs of industries and users than government policies.

- *Alignment with, and recognition of, other Government regulatory processes*

Many product stewardship schemes will require an authorisation from the ACCC due their anti-competitive qualities. These authorisations are granted by the Commission in circumstances where the public benefit generated by the stewardship scheme exceeds its anti-competitive impact.

Public benefits considered by the ACCC expressly include environmental benefits. An assessment by the ACCC ensures that there are significant environmental benefits associated with an ACCC-authorised scheme. This authorisation should be recognised by DSEWPAC. Recognition would allow potential schemes and DSEWPAC to streamline functions and prevent duplication of other regulatory functions. However, where a stewardship scheme does not require an ACCC accreditation, DSEWPAC should maintain the capacity to assess schemes for environmental benefit.

Reporting and other administrative arrangements must be flexible and aligned with existing reporting arrangements for stewardship schemes under other regulatory systems. Consistent reporting requirements minimise compliance and administrative costs for stewardship schemes, facilitating easier processes for participation in voluntary accreditation.

- *Providing certainty with respect to the accreditation process*

Participation in voluntary accreditation arrangements would be encouraged by a comprehensive guidance document that includes detailed information and guidance with respect to:

- Criteria for accreditation,
- Steps in the assessment process,
- Information required by DSEWPAC, and
- Obligations of accredited schemes.

A comprehensive guidance document outlining each step of the assessment process, and the means to meet them will enhance the accountability and transparency of DSEWPAC's assessment process and provide confidence to schemes that may be considering accreditation that DSEWPAC assessment is not duplicating other regulatory functions.

CropLife's experience from other regulatory schemes is that the existence of comprehensive guidance material is critical to ensuring that applications for accreditation are high quality and can be rapidly assessed by DSEWPAC.

Benefits could be maximised by:

- *Providing greater flexibility for the use of product stewardship logos on participating products;*

CropLife notes that under the proposed arrangements for voluntary product stewardship, participating products would not be able to display the Australian Government's product stewardship logo. This removes the primary communication mechanism for users and consumers to make informed product choices. If one of the primary objectives of product stewardship is to address 'green-wash' then removing key messages that facilitate consumers' decisions will undermine that objective.

Further, labels should not be *required* to be added to participating products, however, where participants in a product stewardship scheme choose to use the accreditation logo, this should be permitted.

- *Promoting the value of accredited schemes;*

Some targeted investment in promoting the authorised product stewardship logo, including what it means for consumers, would both provide appropriate signals to the consumer market and demonstrate the benefits of stewardship to schemes that are considering accreditation.

CONCLUSIONS

CropLife recognises that a voluntary approach does allow schemes like **drumMUSTER** and ChemClear® to 'opt out' and avoid the costs associated with voluntary accreditation. However, for the voluntary stewardship schemes to be considered successful and sustainable, participation and engagement by established and well-recognised national stewardship programs will provide benefits for the new voluntary arrangements. Established programs will only participate if the benefits of participation outweigh the costs. At this stage, the additional costs and potential for duplication operate as a significant disincentive for participation by CropLife members.