



29 June 2018

**Attention: The Director**

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**Submission to Australian Government Review of the Product Stewardship Act 2011,  
including the National Television and Computer Recycling Scheme**

Paintback Ltd appreciates the opportunity provide input into the Review of the Product Stewardship Act 2011, including the National Television and Computer Recycling Scheme.

About two years ago, then Minister for Environment the Hon Greg Hunt MP, launched Paintback®, the Australian paint industry's voluntary initiative to provide a responsible way to divert unwanted paint and packaging from landfill and find innovative ways to repurpose the inherent valuable materials higher up the resource hierarchy.

In that time the continued collaboration between *Paintback's* participating companies, all levels of Government, the supply chain and the community has seen this initiative go from strength to strength.

*Paintback's* founding members are DuluxGroup, Haymes Paint, PPG, Valspar and Resene.

After being joined by Rust-Oleum Australia, *Paintback's* members represent 30 leading brands in Australia covering more than 95% of the nation's architectural and decorative paint market by volume.

*Paintback* and its members are actively supporting consumers and trade painters with a responsible disposal path for their unwanted paint and packaging. It is a tangible example of a priority-listed product moving to a functioning product stewardship scheme.

Our experience provides the Australian Government and Jurisdictions valuable insights into the future of the Product Stewardship Act (the Act), as well as product stewardship more broadly and at the State and Territory level.

*Paintback* is now operating in all States and Territories of Australia. There are some 90 permanent collection points, which residents and commercial painters can access to responsibly drop-off their paint and packaging waste for free. Some 17 million people live within 20km of these sites and more are planned.

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Supplementing these sites, *Paintback* has embarked on its first national mobile collection event campaign held at selected paint retail, local government and community group locations. In addition to providing a service in areas where a permanent *Paintback* site is yet to be established, these events also enabled a first-hand experience for the community in using *Paintback* and educated them on their role in managing the lifecycle of paint products. About 8 million people live within 20km of these events.

Combined, *Paintback* has already exceeded its target of providing a service to 85% of the Australian population.

This is translating to a direct benefit in collection volumes, with more than 6 million kilograms of paint and packaging being returned to the scheme since it began two years ago. That equates to approximately 5kg of paint waste per minute.

Treatment solutions currently available in Australia enable much of this waste to be diverted from landfill. However, in terms of the resource recovery hierarchy, much more can be achieved.

To this end, another pillar of *Paintback's* purpose is to invest in research to find innovative solutions to improve the circularity of the materials found in unwanted paint and packaging.

### **General comments about product stewardship**

*Paintback* is evidence that product stewardship can be an effective means to engage manufacturers, brand owners and their supply chain to reduce the environmental impacts of products through their lifecycle.

*Paintback* is living proof that industry can take leadership and establish programs that enhance how people manage products and packaging that they have purchased and used. That it can be done in an efficient manner that reduces community costs.

Product stewardship when applied comprehensively across a product or material lifecycle has the potential to eliminate or significantly reduce a range of environmental impacts and harm to human health. While every industry is different in its resource use, waste generation and management, product stewardship can be a catalyst for innovation and improvement across the supply chain.

Product stewardship in its genuine form requires all players across the supply chain, including consumers and retailers, to play their part in responsible product manufacture, use and disposal.

In Australia this also includes multiple levels of Government where collaboration is needed, for example, to align scheme activities, facilitate appropriate regulatory settings, enable participation and provide access to collection points and services.

This also raises the general issue of who is best placed to initiate and influence product stewardship. The Department should be mindful of which stakeholder groups are best placed to drive stewardship policies and programs.

In this regard, it is noted that narrowly focused interests should be closely scrutinised to ensure that vested commercial interests are not overly determining policy and regulatory outcomes.

This is most apparent at present with the waste industry comments on product stewardship<sup>1</sup>. This sector is a service provider, largely characterised by vertical integration to landfill, that are *paid* by some schemes to support only one part of the stewardship approach: end-of-pipe management.

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<sup>1</sup> Source: <https://www.nwric.com.au/commonwealth-action-on-waste-and-recycling-welcome/> Accessed 27/06/18

The waste industry's calls for mandatory product stewardship are out of touch with the status of product stewardship in Australia. Product stewardship is not the sole jurisdiction of the Commonwealth, as evidenced by container deposit schemes and single-use plastic bag bans.

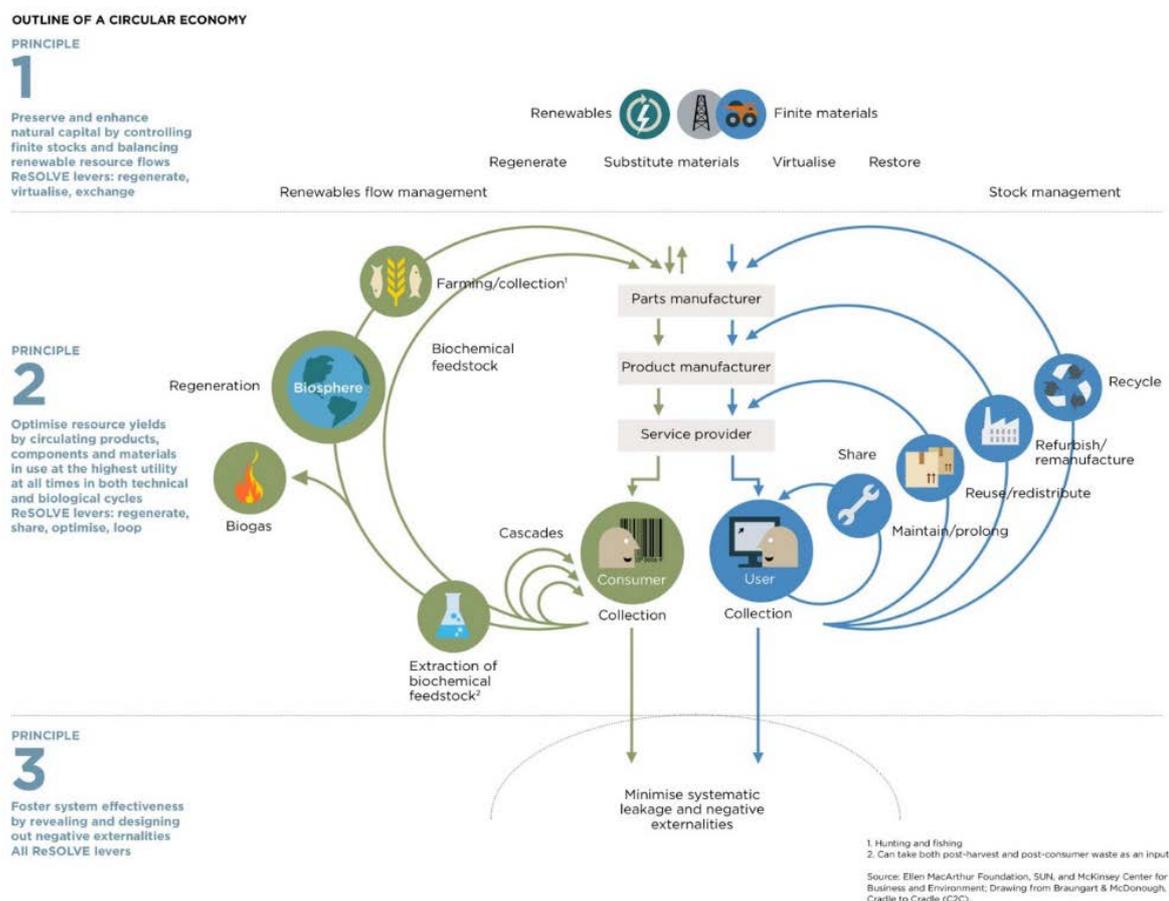
Of the six material streams the waste industry seeks to regulate, already one is regulated under its own legislation, one is co-regulated under the Act and three are industry-operated voluntary schemes. Except for *Paintback*, two of the voluntary schemes have been operating for between 5 and almost 20 years. *Paintback* has been operating for over two years. All three voluntary schemes are funded by ACCC approved levies. This reflects policy support for this funding mechanism as an economically efficient way to fund the environmental benefits the schemes accrue.

Such calls are rent-seeking: they are an attempt to secure subsidies funded by product stewardship, which would increase waste company profits, without adding any further social value.

There has been increasing policy interest in the circular economy concept, such as the April 2018 statement from the Meeting of Environment Ministers that endorsed the lifecycle or circular economy approach.

Whether the terminology employed is circular economy, whole of lifecycle, industrial ecology or bio-mimicry, the concepts are broadly the same.

Circular economy should be defined and understood as a system wide approach. The system-wide diagram produced by the Ellen MacArthur Foundation shown below demonstrates the approach's key principles and biological and technical cycles.



Source: <https://www.ellenmacarthurfoundation.org/circular-economy/interactive-diagram> Accessed 8/5/2018

As the European Commission states in *Closing the loop: An EU action plan for the Circular Economy: "Achieving a circular economy demands a coherent approach that is system-wide. There is no single policy or regulatory instrument that can deliver circular outcomes in isolation. In other words, regulatory support needs to be system-wide in order to also facilitate the creation of markets that demonstrate Circular Economy principles."*<sup>2</sup>

This statement neatly summarises that a piecemeal approach, which assumes that the Act or any other single law or scheme can alone deliver a circular economy outcome, is unlikely to succeed.

Rather, many fit-for-purpose tools across diverse industries, sectors and communities are required, and regulation alone would be inadequate. This system-wide approach requires a highly coordinated effort across all levels of government and the private sector.

*Paintback* adheres to product stewardship principles and supports a whole of lifecycle approach. It seeks to ensure its activities and management of eligible product enhances material movements through the productive economy. Thus, this experience demonstrates that the Act does not impede circular economy outcomes for paint related materials, because the sector has been able to design a scheme that addresses its specific resource use. This is unlike other regulatory measures, which take a one-size-fits-all approach to diverse industry sectors, and are prone to producing ineffective outcomes where the measure does not fit.

Following are *Paintback* Ltd.'s specific comments on the Consultation Paper Terms of Reference:

**1. The extent to which the objects of the Act are being met and whether they remain appropriate.**

The Act in Section 4 establishes very broad objectives, primarily to reduce the environment and human health impacts of products through their lifecycle.

The objects are being met insofar as the Act's practical application and outcomes to date, being:

1. The co-regulated National Television and Computer Recycling Scheme (NCRS);
2. Listed priority products architectural and decorative paint and passenger vehicle tyres have resulted in schemes *Paintback* and Tyre Stewardship Australia;
3. Existing product stewardship schemes, MobileMuster and FluoroCycle, have been accredited.

*Paintback* and Tyre Stewardship Australia are proof that the Act can facilitate, enable and encourage development of genuine whole-of-lifecycle product stewardship schemes. They are voluntary and industry-led schemes that enshrine the principles of the Act, are implemented consistent with the Act and are pursuing the Act's whole of lifecycle objectives.

While other schemes have chosen to implement programs with an end-of-pipe orientation, *Paintback* and Tyre Stewardship Australia have embedded research and development, market development and materials efficiency in their core responsibilities.

Section 4 of the Act currently establishes a wide range of objectives covering the whole lifecycle of a product. This includes avoidance of waste generation, material elimination, product re-use and the like. The opportunity exists for the Act, directly or indirectly, to influence further along the supply chain.

Consistent with the earlier general comments about circular economy and system-wide approaches, the full achievement of the Act's objectives would benefit from engagement beyond the lens of

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<sup>2</sup> Source: [http://ec.europa.eu/environment/circular-economy/index\\_en.html](http://ec.europa.eu/environment/circular-economy/index_en.html) Accessed 8/5/2018

environment policy. Consideration should be given to articulating the role for circular economy policy in areas such as industry, science, trade and innovation.

## **2. The effectiveness of the accreditation of voluntary product stewardship schemes and the Minister's annual product list in supporting product stewardship outcomes.**

The discussion paper states that Australian Government accreditation of a voluntary product stewardship arrangements provides an avenue for recognition and assurance of schemes.

*Paintback* remains open minded about Government accreditation.

*Paintback* is a living example of a voluntary scheme that can be developed and implemented with governance and accountability and achieve meaningful and tangible outcomes without any external accreditation.

*Paintback* has been able to navigate operational and State-based regulatory hurdles and establish an expanding network of collection facilities, an appropriate collection and processing system and a research and development program – all with financial rigour and appropriate accountability and transparency but without Government accreditation.

It is noted that some voluntary schemes have benefited from significant facilitation and resourcing by governments. The Australian Government and State Governments have supported research and development of products and materials as well as assisting stakeholders to develop legal and operational scheme structures.

*Paintback* now has 90 collection points, and approximately 17 million people live within 20km of these existing sites, with six million kilograms of paint and packaging returned over 24 months, which equates to managing 5kg of paint waste per minute.

What has yet to become clear is what does the Government intend it can or will provide to a scheme operator in return for accreditation.

If an accreditation is intended to be a mark of quality, then the mark has value only if consumers and the general community know its meaning.

*Paintback* appreciates and understands that there may be an inherent value in Australian Government endorsement. However, for an assurance to have meaning it should be communicated, especially in its infancy where there is little profile in the community. Therefore, any continued application of Government accreditation needs to be marketed and communicated so that people know what accreditation stands for, and so an accredited scheme can therefore be recognised for its accreditation and receive a reputational benefit.

The onus seems to be weighted to the scheme operator to spend time and money for the accreditation process and any on-going benefits. *Paintback* considers the following areas need to be clarified to justify the time and resources required to obtain accreditation.

The Government and Department needs to articulate the overall marketing and outreach plan associated with voluntary accreditation and how there will be active promotion of voluntary accredited programs to the community, industry and government.

The accreditation process as it is currently structured is not easily understood and may also be construed as regulatory over-reach. For example, the current accreditation process requires provision of detailed financial information that is assessed by the Department and the process for determining conditions is potentially complex and final outcomes uncertain from a scheme's perspective.

It is understood that checking financial stability was originally to ensure the Department was not endorsing an activity that may be unsustainable. However, financial compliance and stability is not the provenance of the Department and any legal entity in Australia must abide with State and National commercial and corporate regulations. Being required to undergo some form of financial and governance re-assessment for voluntary product stewardship accreditation is therefore duplication and is inefficient, and makes the accreditation process less attractive.

Further, the objective of the Act, and product stewardship more generally, is environmental, health and safety protection and improvement. The accreditation process should therefore be focussed on whether a scheme can and is achieving such outcomes.

Government may also explore other ways of embedding value in accreditation. For example, the Department could ensure that Government procurement processes (at all levels of Government) support product stewardship scheme arrangements by offering preferred supplier status to schemes and their participating companies, and that could be further enhanced with greater weighting given to accredited schemes.

This procurement issue may also be addressed through the proposed review of the National Waste Policy. It is noted that a number of States have also recently raised the issue in current waste and recycling policy announcements.

Another value adding benefit is offering protection to accredited schemes from other regulatory measures that can duplicate the Act. This is discussed in Terms of Reference 4 below.

### **3. The operation and scope of the National Television and Computer Recycling Scheme.**

No comment.

### **4. The interaction of the Act with other Commonwealth, state and territory and local government legislation, policy and programs.**

There is a need to harmonise interactions and outcomes between all levels of government regarding product stewardship, the Act and other legislation, policy and programs.

The current lack of coordination, consistency, proliferation of State-based schemes and duplication of national approaches impedes product stewardship gaining greater traction in Australia.

Current lack of harmonisation is manifest in a number of ways; (i) individual jurisdictions enacting State and Territory based product stewardship schemes; (ii) national schemes having to operate differently in different locations and (iii) national schemes being subject to over-regulation and duplication.

#### **(i) Individual jurisdictions enacting State and Territory based product stewardship schemes.**

There is an obvious creation of inefficiencies when jurisdictions enact local product stewardship approaches that are not complementary with existing and national product stewardship arrangements.

For example, the new Container Deposit Schemes in NSW, QLD and ACT (as well as the mature schemes in SA and NT) are what would be generally considered product stewardship schemes as they mandate that producers (brand owners) undertake specific actions to facilitate improved environmental outcomes for their product packaging at end-of-life.

Such schemes duplicate core components of existing schemes and programs, including the Australian Packaging Covenant (APC).

It would seem logical in such instances that State sovereignty to enact such arrangements is paramount and therefore harmonisation may entail commensurate reduction in the scope and requirements under other existing schemes, in this case being a reduced obligation for interested parties under the APC and any associated compliance with the National Environmental Protection measure (Used Packaging) (Packaging NEPM).

(ii) National schemes having to operate differently in different locations

*Paintback* as a national scheme has navigated different local environmental definitions and licensing conditions in different jurisdictions. It is understood that this lack of harmonisation is part of a larger issue with respect to consistency in environmental regulations and definitions, but nonetheless the effect is potential inefficiency for product stewardship arrangements and regulators.

For example, *Paintback* has in some jurisdictions required extensive cost and administration to address standards that do not exist elsewhere. For example, while it is currently under the review, the Western Australia Controlled Waste Regulations have been inconsistent with other jurisdictions and created barriers.

In summary, the WA regulations have made it harder to *Paintback* to provide the same services it has provided in other States with respect to temporary collection events, and in effect the WA community and WA trade painters have had less access to *Paintback* than their interstate counterparts.

This has not only added time and cost, but as impacted the roll out of services. In this instance it means that the community in some parts of Australia has not had the same timely access to a product stewardship arrangement and free drop-off service that others have enjoyed – with no demonstrable difference in environmental protections or other beneficial outcomes.

While it is not a regulatory impediment, another example is *Paintback's* site roll-out in NSW, which is well behind schedule. Currently there are ten *Paintback* collection points in NSW, compared to thirty in Queensland and over twenty in Victoria.

Ironically, this appears to be due to the State Government's Waste Less, Recycle More policy initiative to establish Community Recycling Centres across the state. While the NSW Government is to be commended for this positive investment in material recovery infrastructure, to date it has not found the operational capacity to integrate an industry funded paint collection program at these centres.

This means that commercial painters in this state have not received the same level of access to responsible paint disposal through *Paintback* as the rest of Australia.

(iii) National schemes being subject to over-regulation and duplication.

This is perhaps the most obvious area where product stewardship approaches can be harmonised and immediate improvements can be made.

For *Paintback* and its members over-regulation and duplication is a reality as some of the core objectives, purpose and outcomes of *Paintback*, which are aligned with the Act, are being also being covered by the Australian Packaging Covenant (APC) and NEPM.

*Paintback* explicitly targets improved environmental management of end-of-life paint and packaging for its members and the broader industry. Members are also working on product and packaging developments and *Paintback* has established a further research and development program in support of packaging issues.

Nonetheless, *Paintback* members are still required to be signatories to the APC and expend the time and money that APC participation entails. We are informed that if companies are not APC signatories they are potentially subject to the NEPM and State-based regulatory enforcement.

This duplication of regulatory oversight does not generate any demonstrable environmental, human health or community benefit. Rather it is a distraction and inefficient use of organisational resources because these signatories do not significantly contribute to the used packaging waste stream, either from a consumer or distribution packaging perspective.

Through on-going APC fees and compliance costs, paint company signatories effectively cross-subsidise signatories that are larger contributors to the waste stream.

Paint brand owners through their product stewardship commitment and the national system *Paintback* has established to address paint packaging represents an outcome equivalent to the APC. It does so in a manner that is shifting the cost away from Government and the community to a user-pays system that better reflects the full social cost of unwanted paint and packaging.

*Paintback* is of the view that its participating companies should be exempted from the APC, which is our preferred approach because it is the most efficient and immediate way of removing this form of over-regulation and duplication.

Another option, as mentioned earlier, is for accreditation under the Act to provide protection from regulations that duplicate stewardship outcomes. This combined with removing the issues explained earlier about the application process and the Commonwealth marketing the program, accreditation's cost-benefit proposition would be greatly enhanced. It also would provide a useful incentive to encourage companies to join and stay in product stewardship schemes, helping to address free-rider companies that avoid voluntary schemes. In the case of used consumer packaging, companies that do not join an accredited scheme under the Act would be subject to the compulsory APC or the NEPM.

##### **5. International and domestic experience in the use of product stewardship to deliver enhanced environmental, social and economic outcomes through product design, dissemination of new technologies and research and development.**

*Paintback* notes and supports the Australian Paint Manufacturers' Federation's submission to this Review and its discussion of international paint product stewardship programs.

In addition to this industry-specific international experience, our earlier discussion of the European Commission's Circular Economy Package (the Package) can usefully inform Australian policy. That in pursuing improved circular flow of resources through the productive economy, product stewardship can contribute but needs to part of "...a coherent approach that is system-wide". It is evident from the Package initiatives that there "...is no single policy or regulatory instrument that can deliver circular outcomes in isolation".

This is also relevant for the review of the National Waste Policy as noted in the Meeting of Environment Ministers statement from April 2018.

## Conclusion

*Paintback* is eager to help government formulate and implement a practical regulatory framework that is effective in leveraging collaboration between key stakeholders to deliver measurable product stewardship outcomes. We believe that voluntary approaches and programs such as *Paintback* enable the efficient use of resources by all parties involved, including regulators, producers, retailers and consumers.

*Paintback* and its activities are an exemplar of how, through a solid foundation, producers can share the responsibility of delivering a program that adds value to the overall product and packaging and expands consumer convenience and upstream engagement.

*Paintback* encourages the Department and the Australian Government to support the on-going development of product stewardship through policy that models the broader definition and context of product stewardship. Potential duplication with the Act should be removed and there are obvious and simple measures that would enable this today. The Act should continue to support environment, health and safety improvement across the lifecycle of a product.

Yours sincerely



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