

Interim Authorisation Decision AA1000627 – Condition 2, Progress Report 27 February 2023 from Participant Supermarkets

We refer to Condition 2 of the Interim Authorisation granted by the ACCC on 25 November 2022 (**Interim Authorisation**) and provide the following report in relation to progress made towards identifying and implementing potential Short-Term Solutions for storing, transporting, processing, recycling or otherwise managing collected soft plastics (**Short-Term Solutions**).

This report is submitted jointly by the Participants.

1 Overview

Since the Interim Authorisation was granted, the Soft Plastics Taskforce (the **Taskforce**) has met regularly to identify and evaluate Short-Term Solutions in light of the suspension of REDcycle's soft plastics recovery program.

The Taskforce comprises representatives of Coles Group Limited (**Coles**), Woolworths Group Limited (**Woolworths**), ALDI Stores (A Limited Partnership) (**Aldi**) (collectively, the **Participants**) together with the Department of Climate Change, Energy, the Environment and Water (the **Department**).

Since its first meeting on 9 December 2022, and as detailed in the Minutes provided to the ACCC after each meeting, the Taskforce and its members have worked intensively and systematically through a Taskforce workplan. This workplan has focused primarily on the following activities:

- (a) **Information gathering**: undertaking detailed factual investigations into existing and future capabilities in Australia to recycle soft plastics, including with the assistance of government representatives who were able to share data and insights with the Taskforce. The input and guidance of Federal and State governments has been highly valued by the Participants;
- (b) **Evaluation of Short-Term Solutions**: investigating and evaluating a range of Short-Term Solutions (being solutions intended to be implemented within 12 months of the date of a final Authorisation decision by the ACCC) including export options, existing local processing capabilities, developing or accelerating new local processing facilities and the establishment of a new stewardship program. As part of this exercise, the Taskforce and/or its members met with a number of local recyclers and processors¹ to understand and corroborate their current and projected domestic soft plastic recycling capability. The Taskforce also consulted a number of international recyclers on chemical recycling options that could potentially form part of a Short-Term Solution to recommence a recycling program, to complement domestic recycling capabilities, until domestic recycling capacity reaches sufficient maturity to process material. Evaluation of Short-Term Solutions is discussed in more detail in Section 2 below. The Taskforce has also spent considerable time fielding a significant number of general enquiries relating to unproven and underdeveloped soft plastics capabilities;
- (c) **Meeting with industry stakeholders**: meeting with industry stakeholders such as the Australian Packaging Covenant Organisation (**APCO**) and the Australian Food and Grocery Council (**AFGC**) to understand the status of work on longer term solutions that were already underway when the REDcycle program was suspended to assess whether

¹ The Participants have not at this stage named the recyclers and processors with whom they are engaging due to the Non-Disclosure Agreements in place.

existing analysis and/or planning could inform or be leveraged for the purposes of developing a Short-Term Solution as soon as possible;

- (d) **Environmental Regulators:** receiving briefings from the Victorian and New South Wales Environmental Protection Agencies on the extent and location of the stockpiles and risks associated with existing soft plastics stockpiles that were collected by REDcycle and stored improperly across various locations across several states. The supermarket members of the Taskforce are working collaboratively with the EPAs in relevant states on a plan that aims to avoid REDcycle's stockpiled soft plastics unnecessarily going to landfill;
- (e) **Roadmap:** developing a "Roadmap to Recovery" for the resumption of soft plastic collection, processing and recycling in Australia, including the minimum requirements and safeguards that would be required to ensure that there is no single-point of dependency for recovery and processing of soft plastics, as well as determining the collection and transport logistics required to support a sustainable model, which will likely require consultation with waste service and transport providers. Within this process, the Taskforce is conscious that any new soft plastics recovery program should be robust, viable, transparent and meets public expectations; and
- (f) **Stockpile Management:** in accordance with the Interim Authorisation, Coles and Woolworths made an offer to REDcycle to take control of its stockpiled soft plastic and provide safe storage of the material while recycling solutions are explored. This offer was welcomed by federal and state governments. REDcycle has accepted the offer and Coles and Woolworths are commencing work on a safe storage and stockpile management plan.

Had the Interim Authorisation not been in place, it is unlikely that such a substantial work program could have been completed in this time frame. This is because the Interim Authorisation:

- facilitated frank and open discussions among Taskforce participants in a manner that would not otherwise have occurred;
- enabled the Participants to develop and implement a comprehensive workplan with the benefit of their collective experience, expertise and resources; and
- by facilitating the establishment of the Taskforce, facilitated the creation of a centralised forum at which government representatives, environmental regulators and other stakeholders could provide briefings and updates on matters relevant to the development of Short-Term Solutions in an efficient manner.

The Participants remain committed to evaluating and progressing Short-Term Solutions through the Soft Plastics Taskforce with a view to facilitating, as soon as possible (taking into account the immediate work required on the stockpile management plan), a restart to post-consumer soft plastics recovery in Australia. However, the Taskforce notes that Australia's domestic post-consumer soft plastics recovery industry is still in its infancy. While Commonwealth, State and Territory Governments have jointly invested in local capabilities, this processing capacity will only become operational at staggered intervals over the next 5 years. This is a central issue that factors into the Taskforce's ability to identify a Short-Term Solution, together with a number of complex regulatory considerations.

2 Evaluation of Short-Term Solutions

The Taskforce is continuing to evaluate potential Short-Term Solutions and is open to considering all viable recycling partners and models to establish a new soft plastics recycling program. To date, the potential Short-Term Solutions identified and considered by the Participants include:

- (a) REDcycle processing some of the stockpiled material [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] Therefore, Woolworths and Coles' made an offer and commitment to take control of REDcycle's stockpiled soft plastics and provide safe storage of the material while recycling solutions are explored. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] On 27 February 2023 the NSW Supreme Court ordered REDcycle be wound up and an administrator appointed;
- (b) exporting the material overseas has been identified as a potential avenue among others, particularly if it enables soft plastics recovery to commence at an earlier stage than would otherwise be possible using local processing only. However, for newly collected material, the export option will only be considered alongside local processing options, as a complementary solution. In this respect, Woolworths has recently updated the Taskforce that there are opportunities in both Asia and the USA that are willing to recycle the materials with identified off-takers of the recycled product, subject to receiving appropriate export approvals and confirmation of material quality (which may require some initial reprocessing in Australia);
- (c) local facilities which may be capable of processing soft plastics in the short, medium or long term, for example:
- (i) short term options - may include use as alternative fuel for cement kilns (this would require licence amendments at existing facilities and community consultation and is not a preferred outcome for the material);
 - (ii) medium term options – may include the material being used as a feedstock in the creation of products by processing partners (for example, construction industry aggregate, plasterboard substitutes, outdoor furniture, remanufacture into plastic bags); and
 - (iii) longer term options – through the use of a combination of mechanical and chemical recycling to turn the material into feedstock for a range of applications (including recycled PE for creation of food grade recycled content). Longer term options were considered in terms of how they may be able to contribute to outcomes for the existing material in storage.
- The Taskforce agrees that any processing partners must be able to demonstrate a viable business model, including credible ongoing commercial offtake from their products and a commitment to minimising storage of collected soft plastics to reasonable levels and always in compliance with relevant environmental laws;
- (d) an effective logistics solution to transport collected soft plastics from Participants' stores or distribution centres to recycling processors; and

- (e) consideration of the role that any new stewardship program may play in managing feedstock in the event of re commencement of a collection scheme.

While the Taskforce remains open to all viable partners and models, the Participants have agreed that landfilling is not a desirable solution for the management of the existing stockpiles, and should be avoided where this is achievable. Storage of the material in the short to medium term is acceptable provided it is stored safely to allow the development and execution of a clear plan to have the material processed and recycled where possible. There will be a need to agree downstream outlets for stored materials in an achievable timeframe in line with the re-establishment of recycling capacity and Coles' and Woolworths' stockpile management activity.

2.2 Roadmap to Recovery

The Taskforce is in the process of collaborating on a Roadmap to Recovery, which will be shared with the ACCC and released to the public within the next fortnight, and outlines, amongst other things:

- (a) proposed requirements for a recommencement of supermarket soft plastic collections, to restore public confidence in the recovery and recycling process;
- (b) important safeguards and thresholds in relation to future processing capacity and arrangements to ensure robust and viable models are implemented;
- (c) a recommended strategy for the re-commencement of in-store collection and processing; and
- (d) a roadmap and timeline for the steps that are necessary to recommence instore collections.

In particular, the Taskforce has identified the following steps and proposed timelines for the recommencement of in-store collections and processing. Notably, the Taskforce is proposing a staggered restart to a soft plastic recycling scheme to assess and demonstrate the robustness of the recommenced processes. This timeframe necessarily recognises that the attention of the Taskforce has been recently diverted to consider the existing stockpiles identified by the Victorian and New South Wales Environmental Protection Agencies.

Step	Proposed Timeframe
Processor engagement and site visits	██████████ 2023 and ongoing
Finalisation of a stockpile remediation action plan which will include safety risk assessments, safe storage and development of processing options	██████████ 2023
Implementation of stockpile remediation action plan including management of storage arrangements and processing of stockpiles	██████████ ongoing to at least end 2023
Completion of domestic and offshore capacity assessment, preparation of a preferred solution shortlist including processing capacities by geography and expected timeframes	██████████ 2023

Development of contract terms and establishment of service level agreements, audit process	██████████ 2023
Ongoing development of a launch strategy based on expected geographic and volume metrics. Finalising collection and end to end management approach in readiness for pilot	██████████ 2023 (subject to sufficient progress in managing stockpiles and available processing capacity)
Development of high level principles cost-sharing model with brands and other retailers	██████████ 2023 and ongoing
Negotiate contracts for arrangements with processor and logistics partners	██████████ 2023 (subject to sufficient progress in managing stockpiles and available processing capacity)
First pilot launch for recommencement of soft plastic collection and processing	██████████ 2024 (or earlier if stockpile management progress and available processing capacity allows)
Expansion of program from pilot area	██████████ 2024 and ongoing (or earlier if stockpile management progress and available processing capacity allows)

The Participants expect that the content and proposed timelines for each step in the Roadmap may evolve over time, and are conscious that any ongoing collaboration will need to take into account the terms of the ACCC's Interim Authorisation and any final determination.

3 Public benefits from industry collaboration

In light of the above and the proposed Roadmap, the Participants submit that collaboration to date under the Interim Authorisation has resulted in (and will continue to result in) material public benefits.

In particular, the challenges relating to soft plastics recycling are complex, multi-faceted and cannot be solved by any Participant acting alone. The Interim Authorisation has enabled the Participants to work closely with government and other stakeholders to understand existing processing capabilities in Australia and to identify and commence evaluation of a range of potential Short-Term Solutions.

Ongoing collaboration under the Interim Authorisation will enable the Participants to continue to develop and implement the Roadmap, including the response to the legacy issues related to stockpiled material, community safety issues, reducing environmental harm and remediation of materials and recommencement of soft plastic collection and recycling in a collaborative manner, sooner than would otherwise be possible. The implementation of a robust Short-Term Solution and the stockpile remediation action plan more rapidly than would occur unilaterally also carries with it the significant environmental benefit of diverting soft plastic waste from landfill as well as alleviating public concern following the suspension of the REDcycle program. As previously acknowledged by the ACCC, the absence of authorisation may discourage some Participants from participating in the Taskforce or reduce engagement, which would likely delay the development and implementation of Short-Term Solutions.

The Participants submit that the Interim Authorisation has not resulted in any public detriment, as the collaboration is short-term in nature, and any identified Short-Term Solutions will be limited

temporarily. The authorisation does not affect competition between the Participants in relation to their respective retail businesses and collaboration is subject to Government oversight through the Department's participation in the Taskforce and regular reporting to the ACCC. Further the authorised conduct is not compulsory and Participants remain free to explore and develop their own soft plastics recycling solutions in addition to or in place of any collaborative solution.