A E R I A L A P P L I C A T I O N
A S S O C I A T I O N O F A U S T R A L I A L T D.

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AAAA Submission – APVMA Stakeholder Engagement Framework

Introduction

Please find following the Aerial Application Association of Australia submission on the APVMA stakeholder engagement and consultation processes.

AAAA congratulates APVMA for the long overdue step of asking stakeholders how the APVMA can engage and consult better since the last opportunity in March 2012 when AAAA last made a submission on this topic.

No observable improvements in consultation have been made over that timeframe.

Unfortunately, the proposed draft APVMA Stakeholder Engagement Framework and Activities appear to offer little new or innovative and will perpetuate the problems identified in this submission.

AAAA rejects the drafts as inadequate and has provided a more comprehensive approach in our 'Recommendations' in this submission.

Unless there is a stronger commitment to a more open, transparent and engaged APVMA, backed by a stronger consultative framework and systems, it is likely that this consultation on consultation will follow the same path as the 2012 process – with no improvements resulting.

AAAA is the peak body representing aerial application companies and pilots in Australia and represents over 90% of all aerial application conducted in Australia. AAAA provides a wide range of representative, educational, training, accreditation and related program services to members. AAAA has been working closely with APVMA since its inception in providing valuable advice and practical ways forward across a wide range of issues, including chemical reviews. AAAA is also an executive member of the National Working Party on Pesticide Application.

The Problem

The most critical issue is that APVMA still has no coherent system in place for consultation initiated by APVMA, and especially for groups that have a critical role in the safe application of chemicals but who sit outside the closed registrant/regulator relationship.

It is this lack of a system-based, framework supported and consistent approach to involving a wide range of stakeholders in APVMA processes and decision making that remains the core problem.

The state of health of the APVMA commitment to consultation was no more evident when APVMA published its request for submissions for this process just before Christmas 2019, with submissions closing on 24 January.

Clearly this signals little internal interest in genuine consultation - or a culture of meaningful engagement - when this cynical timeframe is considered.

The extension of submission time by an additional month was belated recognition that the negative response from stakeholders indicated that even on this threshold issue, the APVMA continues to get consultation and engagement very wrong.

Genuine commitment to consultation would warrant a range of formal and informal systems and structures that would encourage openness and transparency with stakeholders.

Only then can the APVMA earn the trust of industry that it will not only seek input, but will listen, engage, discuss and make changes based on stakeholder input within its legislative responsibilities.

Legislation and Better Practice

There is both a clear head of power for consultation and a responsibility to consult under Section 8 of the *Agricultural and Veterinary Chemicals (Administration) Act 1992* – the APVMA's establishment legislation.

These powers and responsibilities should be informing and driving a consultation system within APVMA.

The lack of coherent consultation systems is not acceptable from any regulator aspiring to comply with the Department of Prime Minister and Cabinet recommendations – as outlined by the Commonwealth PMC Office of Best Practice Regulation *Guidance Note on Best Practice Consultation* (see https://www.pmc.gov.au/sites/default/files/publications/best-practice-consultation.pdf).

Even compared to other Commonwealth regulators/agencies the APVMA has no overarching consultative structures or systems in place that might deliver better outcomes.

For example, the Civil Aviation Safety Authority (CASA) has established its Aviation Safety Advisory Panel and Technical Working Groups structure to ensure engagement with industry on regulatory reform and to access expertise drawn from across industry. In a highly technical area, this provides CASA with access to expert practitioners while also ensuring consultation across the industry.

This system also addresses the issue of potential 'capture' of a regulator through transparency, clear scoping, coherent policy underpinning consultation, and a strong risk management basis to all discussions.

While not perfect, the CASA system at least provides a coherent framework for consultation and engagement.

Current APVMA Practice

While the positive relationship between APVMA and the National Working Party on Pesticide Application (of which AAAA is an Executive Member) is welcome, after years of work it was resulted in only very modest positive change – with the significant reforms of the agreed Phase 2 Drift Management Policy Reforms still not implemented.

It must also be noted that the NWPPA was established as a direct result of industry concerns with the lack of engagement of APVMA with user groups and others over critical issues including the APVMA Drift Management Policy.

The positive approach of the NWPPA to APVMA over many years has underscored the value of consultation and engagement – ranging from better policy to resolution of technical issues and the adoption of innovation – but the NWPPA should not be considered a replacement for the APVMA's own consultation system and framework. It should be seen as supporting that framework - which currently does not exist.

The positive, welcome, but limited arrangement with NWPPA stands in strong contrast to the lack of consultation over strategic direction or priorities, particular chemical reviews (eg 24D suspension and permits), the lack of standing technical committees that would provide significantly improved access to expertise and practical user-based knowledge to APVMA (such as for aerial application), and the general lack of systems that would support APVMA staff keeping up to date with industry developments and innovation.

In particular, APVMA does not take a problem-solving approach in cooperation with industry – perhaps partly due to the restrictions of legislation around registrations and the understandable need for protection of commercially sensitive information provided by registrants.

However, not all issues or problems are in this sensitive context and many could be resolved through a better understanding by APVMA of modern industry practices, or even the development of improved practices to remedy concerns identified. It is not possible, however, to remedy a problem that is not raised with industry because there is no consultative mechanism.

Innovation in APVMA consultation, engagement structures and information flows would be welcomed by industry and should be developed in close consultation with industry.

Transparency and Problem-Solving

One thing that has not significantly changed over the last 20 years is the ongoing inability of APVMA to work with industry cooperatively to identify, research and prepare better solutions in a transparent and timely manner.

Industry – both registrants and AAAA – have consistently proven their willingness over extended periods of chemical reviews (eg 16 years for 24D and counting) to provide relevant information, undertake further research at its own expense and to work cooperatively to improve outcomes – when given the opportunity by APVMA.

The recent 24D suspension and subsequent permits are a good example of specialised knowledge from end-users being critical to better outcomes across a number of drift management, environmental and WHS goals. The lack of consultation on the suspension left APVMA open to criticism on a number of fronts by a number of severely affected industries – which was then resolved through urgent consultation and information from industry regarding use patterns.

The question must be asked – why would APVMA ***not*** have a consultative system in place for better outcomes that in the end it adopted anyway?

While the 2018 24D suspension process took place with zero consultation with AAAA or anyone in the aerial application industry, the ***subsequent*** permit work between AAAA and APVMA staff clearly demonstrated the utility of APVMA being more open and cooperative with industry to explore better solutions – which eventually ended up on permits to the benefit of the pasture, forestry and sugar cane industries in particular.

While this outcome was made possible by the goodwill of particular APVMA staff and their willingness to engage with AAAA, this only came *after* the failure of the initial non-consultative approach and a subsequent strong negative response from industry.

It may be instructive for APVMA to consider its performance in this instance in terms of better managing future engagement with industry - especially applicators and users as distinct from registrants only.

Intentional isolation from end-users, an over-reliance on internal processes not aimed at contributing to a better overall outcome and an unwillingness to implement systems and policy focussed on problem solving, innovation and continuous improvement are just some of the considerations APVMA should address.

APVMA could have simply avoided the embarrassment and the last-minute scramble to get 24D permits right by engaging more openly with industry over the challenges it had identified *before* the suspension was made.

The improvements finally made in the 24D permits also highlight the validity and utility of the proposed approach for the Stage 2 Drift Management reforms which are again delayed due to APVMA wanting to revisit earlier discussions and understandings.

APVMA Lack of Supporting Systems for Staff

The lack of consultation across a number of areas with industry also demonstrates how little experience APVMA staff, ***with a few notable exceptions,*** have in considering modern aerial application industry practices - ranging from nozzle design and availability through to aircraft operation and the potential of enclosed mixing systems to reduce worker exposure to name only a few areas.

This is not a criticism of any individuals – it is an identification of a lack of supporting systems to ensure APVMA staff can stay up to date with industry practices and potential solutions to problems through continuous learning

For example, the 24D permit experience – largely replicated now in the review findings – is that by enabling the recognition of the 'normal' use of lower (but still highly effective) rates rather than the maximum label rate, buffers can be safely reduced for drift management and exposure levels of workers more accurately modelled.

Without industry input, collation of real 'use' patterns and knowledge of best practice (facilitated by peak bodies such as AAAA), APVMA potentially locks-in 'worst-practice', stifles innovation and misses the opportunity to build win-win scenarios.

Without either this in-house knowledge, a system to empower continuous learning, or a system to harness the knowledge, experience and innovation of industry, APVMA will continue to perform sub-optimally and deliver poor outcomes for the Australian agricultural community.

Improving Access to Expert Advice and End Users (applicators)

The APVM should address the current weaknesses arising from the closed relationship between APVMA and registrants which is leading to poor label outcomes due to the lack of expert advice from applicators being included in the registration and review processes.

AAAA believes that APVMA should at least establish a technical application expertise working group, with a principle first aim of establishing the parameters for useful information to be included on label – and also identifying what should be recommended to *not* put on labels.

Many labels illustrate a very poor understanding of, for example, the functioning of ASAE S572 and how it should be used on label for spray quality. In a number of examples on current labels, the label is clearly contradictory by requiring a spray quality and then a piece of equipment that cannot deliver that spray quality. If using the spray quality standard, any prescriptive mention of equipment is simply not required and counterproductive. In many examples, it is simply wrong and likely to result in poor outcomes and uncontrolled drift.

An Application Technical Working Group could address many of these issues, if participants were given access to the issue at an early enough stage of label development and if there was an agreed set of label statements addressing these issues.

Recommendations

APVMA should immediately establish a relatively small Consultation Advisory Group including representation from Croplife and AAAA in addition to senior APVMA staff to develop a consultation framework and systems.

The Consultation Advisory Group should consider:

1. The current APVMA Stakeholder Engagement Framework and Activities

2. The PMC Best Practice Consultation Guide

3. Establishment of a permanent higher-level strategic industry consultative group to facilitate policy discussions, continuous improvement and identify potential initiatives to support positive APVMA outcomes

4. The strategic industry consultative group establishing a workplan/prioritisation of issues brought forward by industry and the NWPPA

5. Establishment under the strategic industry consultative group single-issue consultation groups as required potentially including:
    a. Permit System Review (to consider an improved permit system)
    b. Label Simplification
    c. Chemical User Education and Training
    d. Drift Management

6. Establishment of a permanent Chemical Users Advisory Group or potentially, smaller groups for ground and aerial application issues

7. Formalisation of the relationship between the APVMA and the NWPPA as part of the APVMA consultation framework

8. Formalising the role of the Technical Advisory Group of NWPPA and APVMA

9. Identifying any other structures or systems to improve the support of APVMA's staff in establishing and maintaining relevant knowledge of industry practices, perhaps including:
    a. an industry interchange program
    b. regular site visits in cooperation with industry peak bodies, or
    c. a regular (or even annual) series of seminars and/or field days for APVMA staff on current practices and innovation

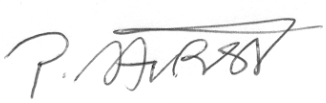
10. If APVMA has appropriate structures and practices in place to ensure State and Territories control of use regulators are consulted in relevant policy discussions such as the proposed Phase 2 Drift Management policy reforms

11. The role of APVMA as a leader, in cooperation with industry, the States and Territories and the Commonwealth Dept of Agriculture, in the consideration of long-term issues of concern brought forward by industry and the NWPPA including those in 4) above

Further Information

If you require any further information on this submission or anything to do with aerial application, please do not hesitate to contact AAAA's CEO Phil Hurst on 02 6241 2100 or email: *ceo@aaaa.org.au* Alternatively, our website is *www.aaaa.org.au*

Yours sincerely



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