

EXECUTIVE COMMITTEE SPECIAL MEETING NOTES

DATE	February 5th, 2019	TIME	9:30 – 11:30
VENUE	Sustainability Victoria Level 28, 50 Lonsdale St. Melbourne Vic 3000		
ONLINE	Weblink:	https://global.gotomeeting.com/join/632948573	
	Phone:	+61 2 8355 1038	Access Code: 632-948-573

1. Welcome and attendance (Ben)

Name	Organisation	Ph	Email	Attendance
Andrew Mackenzie	EnviroStream (President)	0404 184 649	andrew@envirostream.com.au	✓
Ben Pritchard	Enirgi (Vice President)	0400 830 270	bpritchard@enirgi.com	✓
Warren Overton	ANZRP (Treasurer)	0407 274 823	warren.overton@anzrp.com.au	✓
Libby Chaplin	ABRI (CEO)	0467 515 260	libby@batteryrecycling.org.au	✓
Mario Alba	Supercharge Batteries	0448 016 027	mialba@ramcar.com	Apologies
Tanya Bradley	Sims Recycling Solutions	0400 839 605	tanya.bradley@simsmm.com	✓
Adrian Griffin	Lithium Australia	0418 927 658	adrian.griffin@lithium-au.com	Apologies
Mike Vaisey	Lithium Australia	0419 916 022	mike.vaisey@lithium-au.com	✓
Kylie Hughes	DEHP	0479 838 164	kylie.hughes@ehp.qld.gov.au	✓
Andy Jackson	Lex Environmental	0406 752 533	andy@lexenviro.com	✓
Will LeMessurier	MRI	0419 302 682	will@mri.com.au	✓
Janet Leslie	Canon Australia Pty Ltd	0407 069 928	janet.leslie@canon.com.au	✓ Online
Daryl Moyle	CMA Ecocycle	0432 732 735	daryl.moyle@cmaecocycle.net	✓

2. Review of Competition & Consumer Act 2010 Compliance Statement (Ben)

- See Attachment 1

3. Purpose of the meeting (Ben)

- To determine if there is a need to investigate whether there has been a breach of the Code of Conduct in regard to:
 - EnviroStream, PlanetArk, ANZRP and CESA approached the federal government to:
 - Ask for support for a Batteries4PlanetArk collection program
 - Request funding for collection containers
 - Consider potential undermining of the Battery Stewardship Council project
- Important considerations
 - This has presented us with an opportunity for learning and improving ABRI processes
 - The BSC project has successfully received funding even though the BSC Program was seriously questioned due to the situation we are about to discuss

4. Ground rules (Libby)

- We agreed to:
 - Focus on the issue at hand
 - Strive for constructive communication
 - Use active listening – allowing others to speak without interruption
 - Listen respectfully and sincerely to understand the events
 - Following presentations, ask questions for the purposes of gaining clarity
 - To ensure that any next steps or outcomes strengthen ABRI's long term position

5. Review of Rules & Code of Conduct & Procedures (Libby)

- A hard copy of the Code and the Rules were distributed. Members were asked to bring these to future meetings.
- The key elements of the Code were reviewed including the expectation that members
 - Work for the good of ABRI and actively support and promote its purposes as set out in the Rules
 - Provide leadership for all sectors of the battery recycling industry to foster high ethical standards
 - Act to enhance the profile of the ABRI and the resource recovery sector
 - Act with honesty and integrity
 - Foster openness and transparency in the decision making of the Association
 - Act with courtesy and respect to fellow members, CEO, stakeholders and the resource recovery industry
 - Use their best endeavours to attend and contribute to as many meetings as possible.
- The Complaints and dispute procedures were also reviewed:
 - Any person may refer a complaint against a signatory to this Code to the Code Administrator.
 - The complaint shall be in writing and be addressed to the Code Administrator.
 - The Code Administrator will seek resolution of any complaint. If the complaint is not resolved in a manner acceptable to the Complainant, the Code Administrator shall:
 - Refer the complaint to the Executive Committee of ABRI with a summary of the nature of the complaint and, where appropriate, general reasons for that outcome.
 - Inform the Complainant that the matter has been referred to ExCo and advise generally of the procedure that will follow in accordance with the rules of the Association.
 - All complaints will be reported by the Code Administrator to ExCo and be available to all signatories on request.
- It was noted that at this stage no complaint been lodged

6. Identification of issue (Will)

- Will outlined two primary concerns with regard to an 'application' to the federal government for funding for a parallel battery stewardship scheme which he became aware of through a third party.
- Concerned about governance process
 - Non-disclosure of conflict of interest: Under the Rules, committee members are required to inform the committee if there is any potential for conflict of interest. At no time had there been disclosure of a conflict of interest by Envirostream or ANZRP
 - Governance: The ABRI CEO and the Vice President and Kylie Hughes discussed the matter at the time of the event, but the issue was not brought to the attention of the Executive Committee. It was his belief that the CEO should have raised this issue with the Executive Committee, the matter resolved, and the CEO tasked with implementation of the agreed outcomes.
 - Concern that there was a lack of good procedure around governance.
 - Intention is not to lodge a complaint, but to ensure we have good governance and disclosure

7. Discussion (all)

- Andrew responded that there was no application for funding made.
- EnviroStream and ANZRP did meet with government outside of ABRI to present a collection program to be offered by PlanetArk with EnviroStream as the recycler and ANZRP as the call center.
 - The purpose of the meeting was to clarify if that collection program was established, how would it sit under the BSC.
 - An outcome of the meeting was that this program was a good initiative that could support the work of the BSC as it will provide collection infrastructure.
- Warren indicated that as soon as they realised that there was a concern, they called a meeting to rectify the situation.
- Warren noted that all the recyclers on the Executive apply for funding at different times.
- Libby responded to describe her perspective on the events (See attachment)
- Will asked for clarification about the timeline which included:
 - Nov 8th ExCo meeting where it was confirmed that the BSC / ABRI need to separate
 - 19th Nov: Meeting between Carl Warbuton, Ian Macalister, Andrew, Warren, Paul Klemenco
 - 19th Nov: Kylie talked with Libby about her concern
 - 20th Nov: Meeting between Carl Warbuton, Gerry Morvell, Ian Macalister, Andrew, Warren, Paul Klemenco from Planet Ark, Kylie Hughes, Kim Farrant, Kerryn Freeman
 - 4th Dec ABRI General Meeting at which Gerry presented the progress of the BSC. Noted that if there was a conflict between the program and the scheme, Gerry would have indicated that at this meeting, but he did not because the issue was resolved.
 - 19th Dec: Special meeting was scheduled in response to Will's request

8. Review of ABRI Governance Process

- The matters were discussed. Executive members agreed that:
 - The relationship between ABRI and the BSC made the perception of COI more complicated. It is time for ABRI to step back from an operational role within the BSC
 - There was no problem with for Executive Members to engage in discussions about collection programs with government
 - The problem would arise if an alternative scheme was being proposed by an Executive member, without prior disclosure
 - The procedures around the Code and governance need clarification

9. Conclusion of review

- A vote was called on whether the Code of Conduct procedure was followed or whether there was a breach of governance in the process
 - There was unanimous agreement that there was no breach and no further investigation was required
- Ben asked the Committee members to take a vote as to whether there had been a breach of the Code of Conduct in regard to a conflict of interest
 - There was unanimous agreement that there was no conflict.

10. Next steps

Actions arising:	Who	When
<ul style="list-style-type: none"> ▪ Conduct an Executive survey using the AICD Principles 	Libby	March 15 th
<ul style="list-style-type: none"> ▪ Conduct training on Governance at the First Executive Meeting after the AGM if new membership – 	Libby/All	May EXCO Meeting
<ul style="list-style-type: none"> ▪ Obtain a quote from the Associations Forum and AICD to provide training and a review of the Rules and the Code, particularly with regard to: <ul style="list-style-type: none"> ▪ Clarification of Executive roles & responsibilities ▪ Disclosures ▪ Support/risk assessment process for ABRI Projects ▪ Communication process ▪ Complaints process 	Libby	Feb 28 th
<ul style="list-style-type: none"> ▪ Review the document control process and training to ensure that documents are well controlled, for example <ul style="list-style-type: none"> ▪ Older 5 years, archived or updated ▪ Seek funding for document review process ▪ Clarify BSC/ABRI process ▪ Confirm with MacIntype that we have data on who downloaded documents when 	Libby	May ExCo Meeting

Attachment 1. Competition & Consumer Act 2010 Compliance Statement

The Australian Battery Recycling Initiative (ABRI) is committed to compliance with the Competition and Consumer Act 2010 (the Act) and seeks to minimise the risk of a breach of the Act arising from its meetings and activities, particularly where members competing in the same market are involved.

The Competition and Consumer Act 2010 Act

The Act prohibits anti-competitive & restrictive trade practices. Specific prohibitions include:

- Sharing of information in relation to prices and the mechanisms for setting of prices
- Agreements not to deal with a particular business or class of business
- Collective negotiations that have an anti-competitive effect
- Attempts to influence competitors or supplier or customer behaviour in an anti-competitive behaviour.

Anti-competitive agreements do not need to be in writing. An understanding or arrangement to take or refrain from taking a course of action may be prohibited. Representatives of ABRI, directors, members and guests taking part in ABRI meetings must take care not to do anything which may result in a breach of the Act. A breach may lead to financial or criminal penalties for individuals, the organisation they represent or ABRI. The above explanation of the Act is not intended to be exhaustive and legal advice should be sought if uncertain about the obligations imposed by the Act.

Compliance at the Meeting

Participants are reminded that matters discussed at the meeting may be sensitive from a Competition and Consumer Act 2010 Act compliance perspective. Participants should be mindful of compliance with the Act and seek legal advice should they be unsure whether a practice breaches the Act.

Attachment 2 CEO Description of Events

- Kylie called me on 19th November and expressed concern about whether to proceed with the BSC submission for funding to the Meeting of Environment Ministers (MEMs) in-light of a conversation with John Polhill that indicated that an alternate scheme was being proposed.
- I spoke to Andrew on Nov 19th who said it was not a scheme, but a collection program so could not see any issue.
- A meeting was called for Nov 22nd by Carl Warbuton & Kylie Hughes to include the Batteries for PlanetArk team (EnviroStream, ANZRP, PlanetArk, CESA, Gerry & myself. I was unable to attend due to planned vacation.
- I communicated my concerns to Andrew & Warren & suggested we call an emergency ExCo meeting.
- Andrew indicated that he did not think it necessary given that it was not an alternative scheme but a collection program.
- Andrew forwarded an email to Gerry cc'd to me that suggested that he had requested support from the Federal government for an alternative scheme and criticising the BSC scheme design and consultation process.
- I sent an email on Nov 22nd to Warren and Andrew my 3 goals for the meeting and also responded the criticisms raised in the email. The three goals being:
 1. To maintain ABRI's credibility with the QLD and Federal government
 2. To ensure that the recommendations approved by SOG with regard to scope go forward to MEMs
 3. To ensure that the recommendations from SOG with regard to the work program and budget go forward to MEMs
- The meeting in Canberra occurred on November 26th. It was attended by Carl Warbuton, Gerry Morvell, Ian Macalister, Andrew, Warren, Paul Klemenco from Planet Ark, Kylie Hughes, Kim Farrant, Kerry Freeman, three people from the ACCC.
- When I returned from leave on the 28th I heard from both Andrew and Gerry that the meeting had been constructive, and the high-level outcome was that it was agreed that the BSC Scheme was the scheme and that the Batter4PlantetArk and others would be collection programs under the BSC Scheme.
- Two industry players indicated to me that they had been approached to support the alternative program, but both had declined to participate.
- Dec 3rd I briefed the newly appointed Vice President on the events and showed him copies of all the emails. We agreed that it would be discussed at the next ExCo meeting.
- Dec 19th Will requested a meeting to discuss if there was a need to investigate a potential breach in the Code of Conduct.
- Kylie indicated to me that the BSC submission proceeded to MEMs as originally written and that the response from MEMs was positive outcome.
- The process was made more difficult because:
 - The ABRI Governance procedures are not very clear
 - There was a perception that the President and Treasurer were representing ABRI even if in reality they were representing own business interests
 - There alternative program included criticism of a program for which ABRI had received funding
 - Language - Issue was not related to the B4PA collection program, the issue was that it was called "an alternative scheme" in correspondence
 - Timing was unfortunate - just as we were going to MEMs and this had the potential to derail the BSC submission