AUSTRALIAN INDUSTRY GROUP

AUSTRALIAN INDUSTRY GROUP SUBMISSION to

Department of Sustainability, Environment, Water, Population and Communities

Discussion Paper on Proposed Amendments to the National Television and Computer Recycling Scheme

7 May 2013

EXECUTIVE SUMMARY

The Australian Industry Group (Ai Group) welcomes the opportunity to provide a submission to the Department of Sustainability, Environment, Water, Populations and Communities (SEWPAC)'s *Discussion Paper on Proposed Amendments to the National Television and Computer Recycling Scheme* (the Discussion Paper).

Ai Group is a peak industry association in Australia which along with its affiliates represents the interests of more than 60,000 businesses in an expanding range of sectors. Ai Group represents a number of members affected by the Scheme, including liable importers of television and computer products and companies from the recycling sector.

Ai Group and our members have worked closely with SEWPAC to ensure the smooth implementation of the National Television and Computer Recycling Scheme (the Scheme). There have been many challenges in the Scheme's first year, in particular establishing the administrative, operational and infrastructure capacity to support the new national recycling arrangement and a doubling of recycling rates compared to 2010. Industry members have appreciated SEWPAC's swift and pragmatic approach to resolving concerns which has greatly assisted the transition to the new arrangements.

There are, however, some outstanding issues impacting on the Scheme's ability to meet its stated outcomes in a cost-effective manner. These issues need to be urgently addressed to place the Scheme on a sustainable footing for the future. Ai Group commends the Government for releasing the Discussion Paper and suggesting proposals to address these issues.

Ai Group appreciates that there is a short window of time to amend the *Product Stewardship (Televisions and Computers) Regulations 2011* (the regulations) before 1 July 2013 when the next year of the Scheme commences and this has necessitated a deadline of 7 May 2013 for comments on the Phase One proposals. While this submission includes brief comments on the Phase Two proposals, we intend to make a second and more detailed submission later.

Comments on Proposals

Phase One: Short-term reforms

1. **Updating the Scheme's product codes and conversion factors to more accurately reflect covered products**

Ai Group welcomes the changes to product codes and conversion factors proposed in the discussion paper. A number of Ai Group members have expressed concerns that the current product codes included in the regulations are not detailed enough and do not reflect actual categories of products imported. This has led to some conversion factors being set too high, inflating the calculation of the weight-based targets under the Scheme and the costs to liable parties.

The amended product codes and conversion factors provide a more accurate categorisation of products in the market. In particular, Ai Group members welcome the greater range of tariff code categories and greater accuracy in the conversion factors for televisions, particularly those with lower screen sizes. This will make a significant difference to the costs imposed by the scheme without impacting on its environmental objectives.

2. **Allocating a liable party's import and manufacture share to a co-regulatory arrangement's target on a pro-rata basis where the liable party is not a member of the arrangement for the full financial year;**

Ai Group supports this proposal in circumstances where a liable party ceases to trade or is expelled for non-payment of fees, as it is clearly unreasonable that the PSO should maintain liability for the ex-member's outstanding obligations in such cases.

We recommend some caution before extending it more generally to ensure it does not create instability for PSOs and their members, for example, if it leads to greater entry and exits by liable parties within a reporting year which may disrupt planning for and meeting liabilities.

Ai Group would also appreciate clarification on whether a pro-rata arrangement would apply to the carryover of any shortfall in meeting the target. We understand that contractual arrangements may vary amongst PSOs which would affect whether members had pre-paid for all liabilities incurred in a reporting year or whether the payment would only be made once the recycling target is achieved. The latter scenario means a PSO could be held liable for portion of a member's obligations which are carried over to the next year and for which the liable party has not paid, even after the liable party has departed the Scheme. We recommend that the Government addresses this issue in its response to the Discussion Paper, taking into account the different contractual practices of PSOs.

3. **Creating one product class covering televisions, computers, printers and computer products, which will enable any of these products offered for recycling by the public to count towards the recycling target, whilst retaining the existing rules for setting each party's liability.**

Ai Group is concerned by evidence of a mismatch between the recycling targets and actual wastestreams. In particular, we note SEWPAC's advice in the public consultation on the proposals in the Discussion Paper that it appears likely there will be a shortfall against the computer target for the 2012/13 year. This situation has serious implications for the environmental aims and costs of the program and needs to be addressed quickly to put the Scheme on a sustainable footing.

Ai Group's view is that the mismatch between recycling targets and actual wastestreams is due to the Scheme's assumption that the level of imports for a product category is a proxy for consumer recycling behaviour when there are many additional factors that affect recycling levels. In the case of computer products this includes:

- A pre-existing market for reuse, remarketing and refurbishment of IT products which may be diverting up to as much as 40% of end-of-life products away from recycling. Similar levels of recycling outside of mandated product stewardship schemes occur in other markets, for example, in the Netherlands recyclers have estimated that 80% of electronic products are recycled but only 31% of that recycling occurs within producer funded schemes.
- Increasing levels of tablet and smartphone imports, which at a global level now exceed PC imports, but are a complement rather than replacement for PCs. This means that the level of imports for computer products has stayed high but there may be less demand to recycle older products. [1]
- Potential consumer reluctance to recycle computer products due to concerns about data security or failure to back-up data stored on computers.

Any mismatch between imports and recycling behaviour is a serious problem for the Scheme because of the product specific nature of the recycling targets and the ambitious level at which the

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http://www.austlii.edu.au/au/legis/cth/bill_em/psb2011252/memo_0.html[11] See for example http://www.theage.com.au/digital-life/computers/tablets-forcing-computers-to-evolve-20121213-2bb3s.html and for global figures see http://www.slideshare.net/fullscreen/kleinerperkins/2012-kpcb-internet-trends-yearend-update/1.

targets are set. This allows no leeway if imports and consumer recycling behaviour do not match. This differs from the approach taken in Europe, for example, where the European Union recycling targets are set at a lower level and apply to a broader range of electronic goods.

On balance, Ai Group supports the proposal for a single target for computers and televisions to be introduced from 1 July 2013 in preference to the current arrangement. This should alleviate some of the pressure arising from the mismatch between the targets and actual wastestream. Compared with the current approach, a single target provides:

- greater flexibility for PSOs to meet the target based on actual products returned for recycling by consumers;
- a buffer for PSOs and liable parties should outside factors lead to an increase or decrease in recycling demand for a particular product class.
- more scope to meet the scheme in a cost-effective manner.

Further, even with a single target PSOs will retain some ability to determine the mix of goods they recycle through the marketing and collection strategies they employ.

However, as set out above, there appear to be a number of factors affecting the mismatch between the targets and actual wastestreams that are unrelated to the way the targets are structured. These issues should be considered in the Phase Two consultations proposed by the Discussion Paper. Changes arising from the Phase Two reforms, such as the scaling factor and any move to extend the range of products included in the Scheme, may also have implications for the appropriate target structure.

Ai Group therefore recommends that the regulations include a review of the single target two years from the date when it comes into effect. This would allow the single target to be considered in the context of any broader changes arising from the Phase Two review.

We also recommend the Phase Two review considers different methods for encouraging a flexible and cost-effective marketplace for meeting recycling obligations, including the potential for cross-category and cross-scheme trading. Finally, we recommend that PSOs continue to report separately on recycling rates for televisions and for computer and computer products after a single target is introduced to ensure that the impact of a single target can be monitored and that information on trends in recycling for computer and television products is available to inform the Phase Two review.

4. **Allowing newly approved co-regulatory arrangements twelve months to provide reasonable access to collection services.**

Ai Group supports this proposal as it will allow new PSOs time to establish their services on a sustainable basis.

<u>Phase Two Proposals –Year long reforms</u>

Ai Group welcomes the Government's consideration of longer term changes to the Scheme's design to place it on a more sustainable footing. We have provided brief comments against each of the longer term proposals suggested by the Discussion Paper below and will provide more detailed comments in a second submission after the 7 May deadline for Phase One comments.

1. **Further refining product codes and conversion factors**

Ai Group supports further refinement of the product codes and conversion factors used by the Scheme as accurate product codes and conversion factors are essential to ensure that the costs imposed are fair. One example of where further amendments are needed is the product code 8473.30.00.70, which applies to parts and accessories for machines mentioned in item 6.1 (other) category. This product code has a conversion factor of one kilogram but incorporates many lightweight component parts which are well below this weight. It would be sensible to introduce a greater range of product codes to allow for the variation in products included in this category and to avoid imposing inappropriately high costs on liable parties.

Ai Group will provide further comments on other areas for refinement in our second submission.

2. **Refining the calculation of 'waste arising', including by reconsidering the scaling factor (currently 0.9);**

Ai Group strongly supports the proposal to refine the calculation of 'waste arising', including by reviewing the scaling factor. As the first year of the Scheme has shown, a variety of factors can impact on the level of waste arising and whether a consumer or business chooses to recycle a product. Ai Group considers that the scaling factor of 0.9 of imports assumed by regulation 3.04 is unrealistic.

While international comparisons are difficult due to differences in the way schemes are structured, Australia's targets in the forward years of the Scheme appear to be set above the level typical for similar schemes in other markets. Furthermore, the European Union has recently revised down its equivalent target after the first and more ambitious target proved unrealistic.

This issue needs to be reviewed as a priority to provide certainty to parties affected by the Scheme and to ensure the Scheme has a sustainable basis. Ai Group looks forward to working with the Department on this issue over the coming year and will provide more detail in our second submission.

- **Extending the scope of the Scheme to cover similar electronic products, such as home entertainment equipment including video cassette recorders, DVD players, set top boxes, video game consoles and stereo equipment.**

Ai Group opposes any consideration of an expansion of the products included in the Scheme until the current scheme and products are moved to a more sustainable footing. There have been many challenges in the Scheme's first year, in particular establishing the administrative, operational and infrastructure capacity to support the new national recycling arrangement and a doubling of recycling rates compared to 2010. It would be prudent to resolve these challenges before adding additional complexity and cost by the inclusion of new products.

Ai Group also recommends that any expansion to new products should follow the same process as establishing a new product stewardship scheme. This includes:

- consideration by the Product Stewardship Advisory Group,
- the provision of twelve months' notification that a product or products are being considered for some form of accreditation or regulation under the Act; and
- a regulatory impact analysis.

This is consistent with the commitment in the Explanatory Memorandum to the Product Stewardship Bill 2011 that:

> Before a decision to make regulations is made, the Australian Government's requirements for regulatory impact analysis will be met in accordance with the Best Practice Regulation Handbook. This will have regard to the following:
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> - the problem or issues that give rise to the need for action;
> - the objectives of government action;
> - the feasible alternative options to achieve these objectives;
> - the costs and benefits of the alternative options; and
> - the net benefit of each option for the community as a whole.
>
> In addition to regulatory impact analysis requirements, the Minister will have to be satisfied that the regulations meet criteria identified in the Bill and further the object of the Bill.

This process is in place to ensure that decisions to include products within a product stewardship scheme are evidence-based and take both costs and benefits into account.[2] It also enables affected liable parties time to prepare for the introduction of new requirements.

[2] http://www.environment.gov.au/wastepolicy/publications/pubs/fs-product-stewardship-act.pdf