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7 May 2015

Mr Peter Brisbane
Product Stewardship Regulator Section
Department of the Environment
ewaste@environment.gov.au

Dear Mr Brisbane,

We are writing regarding the Department of the Environment's consultation paper on costs for the Regulatory Impact Statement (RIS) for the Operational Review of the National Television and Computer Recycling Scheme (NTCRS), as dated 4 May 2015.

The Government's review process

Industry has been given clear indications that the Minister has already decided to seek an increase in the NTCRS recycling targets, regardless of the immediate negative impact that this will have on most of the businesses that fund e-waste recycling under the NTCRS.

While we recognise the concerns of the Commonwealth and the States and Territories over the stability of the recycling sector, we are strongly dissatisfied with the review process through which the Government has sought to meet those concerns. In particular, stakeholders have been taken aback by the short time frames and inadequate information available throughout the process. The apparent imperative to put changes in place by 1 July 2015 has pushed policy development and consultation processes to breaking point, with stakeholders unaware of the key details of the policy proposals until far too late.

The good intentions of the Department do not change the fact that stakeholders have not had adequate opportunity to assess proposals which have been developed in haste and without apparent regard to the concerns put by industry, including about the imposition of material cost and consequences for potential withdrawal from the market. The most recent development, where further significant changes to the proposed target increases were added to the consultation paper less than a week from the inflexible deadline for submissions, underlines the problems of this process. Industry's confidence in the scheme and its future development has been shaken. We request that our dissatisfaction be brought to the attention of the Office of Best Practice Regulation, and we will do so ourselves so that appropriate action can be taken to avoid a recurrence.

Liabe party issues with proposed changes to the NTCRS

Liabe parties have previously raised concerns with Government regarding the issues if the NTCRS changes were to proceed. These relevant and material concerns can be summarised as follows:

1. **Insufficient time for industry to adjust:** The review proposes that changes to the targets take effect from 1 July 2015, which is an extraordinarily short timeframe for decisions on such a significant issue. Liabe importers and manufacturers have already budgeted for 2015 on the basis of the existing targets, which means they will have very little time to prepare for any changes that may be proposed. This presents an even greater problem for many affected businesses, as many international or multinational enterprises operate on a different financial year - often a calendar year. As a result any target increases from 1 July 2015 will have a direct impact on their current operating budget.
2. **Costs of proposed target options are high and immediate:** Based on the Government's information, our calculations suggest that the proposed target increase options will impose serious and substantial costs for Australia's television and computer equipment industries over the next three years. These are businesses which have seen their margins shrink and their products become heavily commoditised in recent years.
3. **Viability of liabe parties participating in the market:** Contrary to the apparent belief that costs of the NTCRS are being passed through to consumers, the average selling price across major categories covered by the scheme has in fact declined over the past three years, which clearly suggests industry has not been able to pass along the costs of the scheme. Due to the highly competitive market place, margins are very tight. On this basis, these businesses may consider the viability of continuing their operations in the Australian market. In a weak market for products with a low consumer willingness to pay, that is likely to mean job losses in Australia for these businesses and, in some cases, may mean withdrawal from the Australian market.
4. **Alternative options have not been sufficiently explored:** Stability of the recycling industry is an important goal, and the concerns of many parties over recent developments are serious. However, there are many possible responses. It is unclear that the currently proposed changes to targets are an appropriate or effective means of stabilising the recycling sector. Improved practices and business decisions by individual recyclers are important, and industry supports the mandatory adoption of the new Australian Standard to help drive this. The States and Territories, and local government, have a responsibility to manage the proportion of e-waste arising that is not covered by industry. Well considered use of state environmental regulation and enforcement, and the waste levies collected by many states, could effectively stabilise the sector and prevent dangerous practices. Leaping rapidly to a large and immediate target increase is not justified while alternatives remain unexplored, and would set a terrible precedent which would sharply reduce industry confidence in this scheme and willingness to consider any future product stewardship arrangements for other products.
5. **Public safety issue:** With the proposed rapid and immediate increase in the target,

without proper consideration of the alternative options and impacts on industry, there is also a greater risk of introducing dangerous practices that give rise to unanticipated safety issues. This was a failure with the home insulation scheme, where implementation occurred too quickly without adequate consideration of the risks that could arise due to the short timeframe to implement changes. We would not wish for this to recur with respect to the NTCRS.

- 6. Incorrect conversion factors:** The calculation of liabilities based on product weightings and the scaling factor need to be corrected to ensure that liable entities' targets are based on a more accurate calculation of waste arising. The average weight of many relevant product types is declining and further annual updates will be necessary to keep the system close to accuracy.

Preferred option for liable parties

The consultation paper presents industry with limited and inflexible options which do not appear to take into account the expressed concerns summarised above. However, we would like to make the following points before discussing the options further.

Firstly, a three-year timeframe for determining the cost impact is more relevant to affected businesses than a 10- or 20-year outlook. Given uncertainties in the marketplace – including whether liable businesses will still be in the Australian marketplace at all in a decade's time – and the rapid succession of major policy changes to the NTCRS, longer term assessments are at risk of seeming an academic exercise to many businesses.

Secondly, whatever option is chosen needs to provide sufficient certainty to businesses in the operation of the scheme. Continual changes to the scheme would create instability in its operation. We note that a broader review of the NTCRS will occur in 2016, and there is uncertainty of the scope of this review, and whether near-term targets will be revised again.

Of the options presented in the consultation paper, Option 3, which proposes a revised target trajectory starting at 50 per cent of waste arising in the 2015-16 financial year, should not be chosen by the Government. Liable businesses are strongly opposed to this option. In addition to the previous concerns that we have raised regarding increasing the target, this option imposes an extremely disproportionate and heavy burden on industry. Even if per-tonne recycling costs drop in line with the more optimistic of the Government's assumptions, and if the impact of corrections to the tariff codes and scaling factors is as large as the Government estimates, industry would face additional costs of nearly \$10 million in 2015-16, more than \$11 million in 2016-17, and nearly \$6 million in 2017-18.

Liable businesses, unconvinced of the need for or equity of the proposed target increases, would strongly prefer that targets rise in line with the previously agreed trajectory, while the improvements to conversion factors, tariff codes and scaling factors are made effective immediately. The question of target changes could be reconsidered more fully in the broader review of the NTCRS in 2016.

However, we understand that the Government will not be considering any additional options, and further that even Option 1 is off the table. The effective choice presented to industry is

between Option 2 and Option 3. In light of the strong objections from liable businesses to Option 3, Option 2 is the less damaging alternative. Option 2 would see a revised target trajectory starting at 44% of waste arising in 2015/16. This will still have a significant cost impact on industry, but not as extreme as option 3: we estimate a cumulative cost increase for liable businesses of \$10.5 million over the next three years. We caution that this is still a significant cost to liable industry.

We would appreciate being informed by Government on its decision on the changes to the NTCRS.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Peter Burn', with a stylized, cursive script.

Peter Burn
Head of Policy and Influence