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Mr Peter Brisbane
Stewardship Regulator Section
Department of the Environment
GPO Box 787
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Dear Mr Brisbane

NATIONAL COMPUTER AND TELEVISION RECYCLING SCHEME (NCTRS) OPERATIONAL REVIEW

The Australian Industry Group welcomes the opportunity to provide input on the future of the NCTRS, which is both an important experiment in Australian product stewardship and a significant source of costs for businesses that manufacture or import computer equipment and televisions. Improvements to the scheme are urgently needed, and the proposed changes to scheme targets – which would increase industry costs in the near term, despite potential longer term savings – are of intense interest to the many affected businesses represented by Ai Group. This submission provides our initial feedback on the proposals in the Operational Review. We look forward to further discussions with the Department and the Government before these issues are resolved.

Targets

While the Department's paper makes a number of findings and recommendations, for our members the most important issues by far relate to the level of targets under the scheme.

The proposed corrections to the calculation of liabilities, through revision of product weightings and the scaling factor, are welcome and industry is cooperating to ensure they can be made. Further improvements will be needed as soon as possible, including new tariff codes and ultimately an option to report real weights. We recognise that these improvements will take time.

However, the paper also proposes an immediate increase in the scheme targets in order to reduce the risk of instability in the e-waste recycling industry, particularly the risk of social impacts through loss of employment at social enterprises. We note that the increases would be followed by a slower rise to the long term 80% recycling target than is currently planned. It is very important to note that the *Product Stewardship Act 2011*, under which the NCTRS operates, has clearly stated objectives: to reduce the impact that products have on the

environment by encouraging or requiring supply chain participants to take responsibility for them. Social policy concerns related to employment and social enterprises may be worthy subjects of other government action, but they are not part of the purposes of the Act. Pursuing such purposes through the Act is questionable and potentially opens the door to the arbitrary alteration of this and other schemes for a wide range of irrelevant purposes.

The identified risk of environmental incidents related to stockpiling of recyclable materials is more clearly within the objects of the Act. However, increases to the target are not the only way to manage these risks. Local and State governments have a strong role to play, and indeed are responsible for the portion of waste arising that is outside the current recycling targets. They should be gathering and disclosing more information about their e-waste recycling activities. Substantial sums are collected, including through State landfill levies, for the management and reduction of waste, and these funds can and should be used by governments to address any instability in the recycling sector. This could be done through government funding of additional recycling activities, or through tightly targeted conditional assistance for individual distressed recyclers should they be in danger of disruptive collapse.

State, local and Commonwealth environmental regulation should also be used to manage any dangerous stockpiling.

In short, the merits of target increases versus these other options remain to be demonstrated. Doubts have been expressed, within industry and by others, whether target increases would be an effective remedy to problems fundamentally attributable to individual businesses' contracting and management decisions.

It is also unclear whether overcollection in 2013-14 genuinely indicates that community demand will remain well above anticipated levels, or whether it is a short term phenomenon driven by the phase-out of CRT televisions or the tactics of individual co-regulatory arrangements.

The imposition of target increases effective from 1 July 2015 would also significantly impact liable businesses' internal budgets, which in many cases run either on a calendar year or on a different fiscal year basis. Businesses have set their budgets and made pricing decisions, and would be thrown into turmoil by a large and rapid increase in the target. Our calculations suggest that even if the proposed improvements to the product weightings and scaling factor are made, and more accurate targets are consequently around 10% lower in absolute terms than otherwise, each of the proposed target increase options would impose substantial new costs on industry as set out below.

Table i - additional annual industry costs of target options (\$m)

	2015	2016	2017
Option 1	8.60	10.15	3.87
Option 2	13.59	15.53	9.67
Option 3	18.58	18.21	9.67

While the proposed slowdown in the later rate of target growth would reduce costs in the long term, this is highly uncertain for industry given the major review in 2016 and the speed and frequency with which substantial scheme changes have been proposed or enacted so far.

To summarise, industry does not support an immediate increase in the NCTRS recycling targets above the trajectory already established. The costs to industry would be significant, the purposes of an intervention are insufficiently related to the aims of the underlying legislation, and multiple more appropriate tools are available to pursue the Government's concerns about the e-waste recycling sector.

Calculating liabilities

Ai Group strongly supports the continuation and rapid completion of work to update the scheme's product codes and conversion factors, and to substitute a more accurate scaling factor for the current figure. These changes would not weaken the scheme, but would instead ensure that liable entities' targets are based on a more accurate calculation of waste arising.

With respect to product codes and weightings, industry is currently providing the information requested to ensure these are more accurate. While 1 July 2015 is a challenging deadline for all concerned, industry is willing to do all it can to make this practical. The average weight of many relevant product types is declining and further annual updates will be necessary to keep the system close to accuracy. In the longer term, we would like to see the introduction of an option to report the actual weight of products imported, rather than constructing a figure from averages and proxies. An actual weights option would not suit all companies equally, depending on their existing internal systems. But for many it would enable the simple provision of existing data, much of it publicly available, on the weight of specific products and the quantity of each product produced or imported each year. We recognise that this option will not be able to be implemented in the current review, but hope that preparatory work can commence ahead of the wider 2016 review.

On the question of the scaling factor, we support the substitution of one or more factors lower than the current 0.9 with respect to computers and peripherals. Our members indicate that a significant proportion of such equipment continues to be re-exported for use outside Australia, though increasingly this is done by third parties. We encourage the Department to continue to work directly with suppliers of computers and related equipment to finalise these factors.

Other issues

It is very important that industry and the public be confident that e-waste sent for recycling is properly managed. Individual cases of poor waste management are troubling. We support the uptake of the new Australian Standard for e-waste management, AS5377. Strong adherence to the standard is also a more direct method of dealing with the environmental incident concerns cited in relation to proposed target increases. Industry would therefore support regulatory amendment to prevent co-regulatory arrangements from working with recyclers that have not been accredited to AS5377 (Recommendation 2). This requirement should be phased in as quickly as practicable. We do not expect that this measure will impose substantial net regulatory burdens.

The paper makes several recommendations on 'Underpinning sustainable recycling capacity'. Industry supports the provision by co-regulatory arrangements of additional notice of planned changes and additional information to the market for planning purposes (Recommendations 4 and 5).

A regulated settlement date for target data each year would be acceptable, so long as errors or

other data issues that miss the annual cutoff can be addressed through the process of setting the following year's targets (Recommendation 6).

Industry also supports the option to smooth recycling rates between financial years by allowing recycling undertaken in July and August to count towards the previous financial year, where a co-regulatory arrangement elects to do so (Recommendation 7).

More problematic is the proposal to require co-regulatory arrangements to report on their engagement of social and disability enterprises via their annual reports. We do not expect that such reporting will impose significant additional administrative costs. However this proposed requirement is fundamentally unrelated to the purposes of the *Product Stewardship Act 2011*. It is questionable whether the Act should be used to impose it. Industry would be disturbed if such a change were to prefigure a more serious creep in the scope and purposes of the Act without fuller debate and legislative amendment.

For any further information in relation to this submission, please contact our adviser Tennant Reed (03 9867 0145, tennant.reed@aigroup.com.au).

Yours sincerely,



Peter Burn
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