



Review of the *Product Stewardship Act 2011*,
including the National Television and Computer Recycling Scheme

Draft submission

June 2018

Councils please note your feedback is welcome on any and all aspects of this submission. We rely on your feedback!

Please send all comments / suggestions to cdunn@mav.asn.au by COB 26 June.

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Introduction

The Municipal Association of Victoria (MAV) welcomes the opportunity to provide a response to the 'Review of the *Product Stewardship Act 2011*, including the National Television and Computer Recycling Scheme' consultation paper. The MAV is the peak body for local government in Victoria. Formed in 1879, we have a long and proud history of supporting councils to provide good government to their communities.

As acknowledged in the consultation paper, local government plays a critical role in our waste and resource recovery system and as such should be considered a key stakeholder for this review. Victorian councils are very supportive of the principles of product stewardship and extended producer responsibility and strongly support the strengthening and expansion of existing schemes and the exploration and introduction of new schemes.

While China's decision to restrict the importation of certain categories of waste products has placed urgent pressures on our domestic recycling system, it's also served to highlight numerous opportunities to improve and strengthen the system.

Our current waste and resource recovery system provides little or no incentive for manufacturers, importers, distributors and consumers of products to take responsibility for the environmental impacts of products throughout their lifecycle, from design to disposal. Instead, for most municipal waste and resource recovery services, ratepayers bear the cost regardless of their individual consumption choices. This is neither fair nor efficient, and certainly does not accord with the polluter-pays principle. Product stewardship schemes can and do offer a better alternative. By internalising the environmental costs involved in managing products throughout their lifecycle, producers and consumers are incentivised to use resources more efficiently.

At the 27 April meeting of Commonwealth and State and Territory Environment Ministers, the Ministers endorsed a target of 100 percent of Australian packaging being recyclable, compostable or reusable by 2025 or earlier. Governments will work with the Australian Packaging Covenant Organisation (APCO) to deliver this target. Ministers also endorsed the development of targets for the use of recycled content in packaging, and committed to including circular economy principles in an updated waste strategy by the end of the year. Consideration needs to be given to how these commitments should be reflected in the *Product Stewardship Act*.

This submission seeks to address each of the five points raised in the review terms of reference. The MAV and Victorian councils would welcome the opportunity to work more closely with the Department as the review progresses.

1. The extent to which the objects of the Act are being met and whether they remain appropriate.

Section 4 of the Act reads as follows:

Object—reducing impact of products

- (1) It is an object of this Act to reduce the impact:
 - (a) that products have on the environment, throughout their lives; and
 - (b) that substances contained in products have on the environment, and on the health and safety of human beings, throughout the lives of those products.
- (2) It is Parliament's intention that this object be achieved by encouraging or requiring manufacturers, importers, distributors and other persons to take responsibility for those products, including by taking action that relates to the following:
 - (a) avoiding generating waste from products;
 - (b) reducing or eliminating the amount of waste from products to be disposed of;
 - (c) reducing or eliminating hazardous substances in products and in waste from products;
 - (d) managing waste from products as a resource;
 - (e) ensuring that products and waste from products are reused, recycled, recovered, treated and disposed of in a safe, scientific and environmentally sound way.

Other objects

- (3) The following are also objects of this Act:
 - (a) to contribute to Australia meeting its international obligations concerning the impacts referred to in subsection (1);
 - (b) to contribute to reducing the amount of greenhouse gases emitted, energy used and water consumed in connection with products and waste from products.

In our view, the objectives section of the Act could be improved by:

- Explicitly referencing the design stage to clarify that a product's lifecycle begins before the product is manufactured and by including 'enhanced product design' as an objective
- Removing reference to 'other persons' and replacing it with specific persons, eg. 'consumers' and 'end users'
- Including the following as objectives:
 - increased resource efficiency
 - increased resource recovery
 - facilitating and supporting the establishment and ongoing operation of efficient and effective product stewardship schemes
 - supporting the transition to a circular economy

Despite the Act being in operation since 2011, Australia still does not have any mandatory product stewardship schemes and only has one approved co-regulatory scheme and two

accredited voluntary schemes. With so few schemes established under the Act, it's clear that the existing objectives of the Act are not being met. It's not clear however whether this lack of scheme development results from the content of the Act itself or from lack of implementation of the Act.

Lack of political interest in product stewardship, and in waste and resource recovery more generally, from successive Commonwealth governments has surely played a major role in stymieing the expansion of product stewardship in Australia. It seems this in turn has led to inadequate resources within the Department to actively promote and realise the objectives of the Act.

In light of the range of challenges now confronting recycling in Australia, it is critical that the Department is provided with the necessary resources to implement any recommendations that come out of this review and to support product stewardship more broadly.

2. The effectiveness of the accreditation of voluntary product stewardship schemes and the Minister's annual product list in supporting product stewardship outcomes.

Accreditation process

The consultation paper notes that the first round of applications for accreditation of voluntary product stewardship arrangements was held in 2013. The second, and only other round, opened on 26 March 2018 and closes on 31 August 2018. In the absence of an explanation as to why no rounds were offered between 2013 and 2018, it doesn't seem unreasonable to assume that the abovementioned lack of political will and lack of resources within the Department are to blame.

In our view, in order to facilitate greater uptake of accreditation by voluntary arrangements, it is essential that there are regular opportunities to apply for accreditation. At a minimum the Department should run annual rounds or, alternatively, allow applications to be made at any time. It is also essential that the Department has the resources required to process applications in a timely way. It seems likely that at least some, if not all, of this resourcing could be secured via fees for service for scheme participants. We would encourage the Department to look into this.

The paper notes that in 2017, in response to feedback from administrators and participants in existing accredited and voluntary schemes, the Department streamlined the application process for accreditation. Concerns had been raised that the fee and process involved in making an application possibly act as a deterrent to wider uptake of accreditation. We look forward to seeing whether the changes made to the application process result in more applications being made for accreditation under the Act, including in the round currently underway.

Benefits of accreditation

In order to attract industry to voluntarily seek accreditation of an arrangement it's obviously essential that the benefits of accreditation outweigh the costs and difficulty of applying.

According to the consultation paper, accreditation of a voluntary product stewardship scheme provides:

- An avenue for recognising and encouraging excellence in product stewardship;
- A level of accountability and oversight of administrators of voluntary arrangements; and
- A level of credibility to the scheme by communicating to the public that the arrangement has been independently assessed

At a recent forum held by the Department in Melbourne, a number of industry representatives questioned the benefits for industry of going through the accreditation process as opposed to operating a purely voluntary, unaccredited scheme. If industry players who are motivated to attend a forum about product stewardship aren't convinced of the benefits of accreditation, it seems doubtful that the same touted benefits could be used to entice other industry players to join a scheme.

In principle, we agree that accreditation strengthens voluntary product stewardship arrangements by offering a level of accountability, oversight and credibility. The ability for accreditation to really achieve any of these benefits however depends on political backing, the provision of sufficient resourcing within the Department to administer and enforce the Act and associated requirements, and the delivery of a strong and ongoing public education campaign.

The public profile of product stewardship accreditation and the associated product stewardship logo is so low in Australia we think it's doubtful that it offers any wide-scale benefit in terms of boosting the credibility of a scheme. The Department and the Commonwealth government clearly has some work to do to improve public awareness, not least regarding the relative strengths of an accredited scheme as opposed to an unaccredited scheme. State and local governments would be obvious partners to help spread this message, as would industry participants.

Annual product list and future schemes

While the terms of reference invite feedback on the effectiveness of the Minister's annual product list in supporting product stewardship outcomes, Victorian councils are keen to take this opportunity to identify product categories for which they'd like to see product stewardship approaches adopted.

In addition to the products currently on the Minister's priority list – namely: plastic microbeads and products containing them, batteries, photovoltaic systems, electrical and electronic products, and plastic oil containers – councils support exploration and development of product stewardship arrangements for the following product classes:

- single-use plastics
- expanded polystyrene
- disposable nappies (inclusive of collection from the household)

- mattresses and mattress bases

Councils - these suggestions came from one council - do you support these products being part of a product stewardship scheme? What other products would you like to see included?

Please keep in mind the current criteria for inclusion:

- The products are in a national market; and
- At least one of the following applies:
 - The product contains hazardous material
 - there is the potential to significantly increase the conservation of materials used in the products, or the recovery of resources (including materials and energy) from waste from the products
 - there is the potential to significantly reduce the impact that that products have on the environment, or that substances in the products have on the environment, or on the health or safety of human beings

And please let the MAV know if you have any suggestions re improving these criteria.

3. The operation and scope of the NTCRS

The consultation paper includes as an appendix a summary of findings and recommendations from the Australian Continuous Improvement Group's evaluation of the NTCRS. Based on feedback received from councils we concur with many of the points raised in the summary, including:

- The scheme has demonstrably reduced waste to landfill, especially the hazardous materials found in e-waste. However, collection services in rural, regional and remote locations need to be improved as a matter of priority.
- The co-regulatory approach has been effective. A voluntary or self-regulatory scheme is unlikely to achieve the same high rates of compliance by industry participants
- As key stakeholders in the scheme, strong engagement and regular consultation and communication with local government is essential. The MAV and Victorian councils have had little contact with the Department and would welcome the opportunity to work more closely both in relation to this scheme and other schemes.
- There must be sufficient government resources provided to ensure effective administration and enforcement of the scheme, including health checks on co-regulatory arrangements and the effective oversight of downstream recycling.
- Communication about the scheme, and each agency's role in that regard, needs to be clarified so that the public receive strong and consistent messaging.

In relation to expanding the scheme to include other types of e-waste, the MAV would support expansion to cover the same e-waste to which Victoria's incoming e-waste landfill

ban will apply. In addition to helping ensure the costs of responsible environmental management for these products are borne by those consuming the goods, alignment with the Victorian ban would also help avoid further confusion about what e-waste can and can't be recycled.

Councils – any other comments you want to raise here re the NTCRS? If you disagree with any of the above let the MAV know.

4. The interaction of the Act with other Commonwealth, state and territory and local government legislation, policy and programs.

In our view, the lack of Commonwealth government leadership on environmental issues, including waste and resource recovery, has left environmentally-minded state and local governments with little option but to pursue and implement their own policies and programs. Whilst, as a general rule, we prefer national approaches because of the clear efficiency and consistency benefits, the MAV and Victorian councils have welcomed Victorian Government leadership on a range of environmental initiatives, particularly over the last few years.

Container deposit schemes and plastic bag bans are two obvious environmental management approaches that could most appropriately be implemented at the national level. For various reasons, not least lack of Commonwealth government leadership, it has been left to individual states and territories to develop and implement their own policies, which a number have now done.

The Victorian Government has committed to introducing a ban of single-use plastic bags and is under growing pressure, including from local government, to introduce a container deposit scheme. Community awareness about the environmental impacts of single use plastics more broadly, including plastic drinking straws, is growing and seem a likely target for near future action.

As already noted above, we strongly support expansion of the NTCRS to cover the same e-waste that will be covered by the incoming Victorian e-waste landfill ban. The Victorian ban covers all e-waste, which we understand will be defined as 'waste equipment which is dependent on electric currents or electromagnetic fields in order to work properly and waste equipment for the generation, transfer and measurement of such currents and fields, or materials or parts from such equipment'. We would encourage the Department to work with the Victorian Government Department of Environment, Land, Water and Planning to investigate how the Victorian ban can be supported by product stewardship. It is critical that the Victorian ban does not undermine or detract from current and future opportunities to improve national product stewardship schemes.

Finally, the Victorian Government's "Detox your Home" program, which facilitates the safe disposal of toxic, unwanted household chemicals such as solvents, poisons and cleaning

products is another program that could possibly be rolled out across Australia through a product stewardship approach.

In summary, we believe opportunities to drive national action through the *Product Stewardship Act* should be proactively explored by the Department in partnership with state and territory governments and local government. The MAV would welcome the opportunity to be part of these discussions.

Councils – any other comments you want to raise here? If you disagree with any of the above or if I've missed things let the MAV know.

- 5. International and domestic experience in the use of product stewardship to deliver enhanced environmental, social and economic outcomes through product design, dissemination of new technologies and research and development.**

Councils – The MAV may not respond to this ToR unless there's anything particular you want to raise?