

13 August 2009

Ms Monina Gilbey
NEPC Service Corporation
Level 5, 81 Flinders Street
Adelaide SA 5000

Dear Ms Gilbey

**Television and Computer Product Stewardship Consultation Package:
Submission from Product Stewardship Australia**

Product Stewardship Australia Limited (PSA) is pleased to provide this written submission in response to the Television and Computer Product Stewardship Consultation Package. Any queries about PSA's submission should be directed to:

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We look forward to the Consultation RIS process being completed in time to enable Ministers' to make an informed decision in time for the November 2009 EPHC meeting.

As a key stakeholder that has driven the development of a permanent national Product Stewardship scheme for end-of-life TVs, we hope to see a decision in favour of the mandatory '**Import License' regulatory option**. PSA believes that with some refinement, this option will enable PSA to implement its proposed scheme and apply the millions of dollars required to successfully implement a national TV collection, recycling and community education scheme.

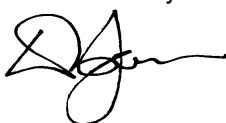
PSA has commissioned an independent analysis of the CRIS by economic consultants Marsden Jacob Associates (MJA). This report is a key appendix as part of PSA's submission. The MJA report analyses the CRIS against specific criteria and has further underscored PSA's preferred regulatory option in a rationale and objective manner.

It is particularly important for the EPHC process and all relevant Government Ministers and representatives to recognise that PSA's proposed scheme and funding (complete with ambitious targets, KPIs and reporting requirements etc), is predicated on having a Customs-based Import Control model or 'Import License requirement' (Option 8) as identified in the Consultation RIS. Any regulatory regime other Option 8, would require PSA to reconsider its entire approach and revise its current proposals and commitments. This may include total withdrawal from the EPHC process. This above point cannot be over-emphasised.

This submission outlines the range of reasons in support of PSA's preferred option as well as why alternative options are not acceptable to PSA.

Do not hesitate to contact PSA should you have any queries or require additional information.

Yours sincerely



Laurie Nolan
Chairman – Product Stewardship Australia

Summary

PSA'S Support for Option 8 – Import License Requirement

NB. MJA refers to the Marsden Jacob Associates report prepared for PSA.

Key points in support of Option 8 - Import License Requirement:

- The benefits of Option 8 are significant. This is reinforced and clearly articulated by MJA's analysis against primary and secondary assessment criteria for best practice regulation (refer to MJA report attached).
- Option 8 will directly facilitate a high level of effectiveness and positive environmental outcomes including shortest timeframe to achieve desired recycling rate. (refer MJA Table 4). Option 8 will deliver significant net benefit to the community.
- Compliance at import deals very effectively with "free riders" and eliminates competitive disadvantage (refer MJA Table 7). It is administratively simple and is a generic model, which can be adapted to other relevant electrical and electronic product categories. It is also equitable as all industry participants are equally affected from the outset.
- Option 8 is highly acceptable to the TV industry and funded by TV industry. It covers all orphan and historical product (refer MJA Table 8).
- Existence of widely supported and transparent Draft Product Stewardship Agreement for TVs provides a strong basis for Import License approach including ambitious targets, KPIs, data collection and reporting, stakeholder review etc.
- Industry-wide participation and shortest timeframe to rapid implementation to deal with analogue TV discards on the changeover to digital TV (refer MJA Tables 3 & 4)
- Is consistent with, and supports fundamental Product Stewardship principles.
- National coverage and avoids variability in state-based regulatory approaches and under-resourced enforcement (refer MJA Table 7).
- A directly relevant precedent for Import License measures involving the ACS currently exists with regard to the import of Ozone Depleting Substances and the existence of Refrigerant Reclaim Australia – a producer responsibility organisation similar in structure and purpose to PSA.
- Single point of compliance (refer MJA Table 2).
- Allows industry and commercial experience to bear on the process.
- No burden on retailers to modify business systems or require collection of funds or levies at the point of purchase i.e. consumer and retailer friendly approach.
- No point of disposal costs for consumers.
- The Import License option has significant support from stakeholders across diverse sectors including NGOs, the waste management industry and peak local government associations.
- Deals with both TVs and Computers on an equitable basis, (pages 1 and 12 MJA) and achieves economies of scale (pages 9 and 10 MJA).

OVERVIEW

The Television Industry in Australia is committed to providing a permanent national collection, recycling and community education scheme for end-of-life TVs. Product Stewardship Australia (PSA) and the Consumer Electronics Suppliers Association (CESA) have worked cooperatively to design a national scheme that delivers environmentally sound management of end-of-life TVs.

PSA is a not-for-profit company specifically formed to deal with Product Stewardship in the consumer electronics industry. Its members contribute the funds to enable it to operate and include most but not all participants in the industry. Currently members represent over 70% of TV sales as measured by GfK.

Product Stewardship Australia has commissioned an independent analysis of the CRIS by economic consultants Marsden Jacob Associates (MJA). This report is a key appendix as part of PSA's submission. The MJA report analyses the CRIS against specific criteria and has further underscored PSA's preferred regulatory option in a rationale and objective manner.

In addition to the MJA report, the following points provide relevant background and context, which justify PSA's activities and its preferred regulatory option.

- In Australia, the majority of end-of-life TVs end up in landfill with little recycling taking place. This results in potentially hazardous substances not being properly recovered and managed, and other materials in end-of-life TVs, such as plastics, glass and precious metals, not being recovered for processing and reuse in the manufacture of new products. These issues were identified and documented by the Commonwealth Environment Department in their 2001 report on Product Stewardship in electrical and electronic equipment.
- In 2001, the Commonwealth Environment Department identified TVs and computers, as a priority electronic waste in need of action through industry-based Product Stewardship schemes. As a result, CESA established PSA – a 'producer responsibility organisation' to develop and ultimately manage a national scheme.
- PSA is proposing a permanent national collection, recycling and community education scheme for post-consumer or end-of-life TVs predicated primarily on Commonwealth regulation that utilises an 'Import Control' or Import Licensing' approach.
- The scheme would be funded by PSA through financial contributions from its members i.e. TV importers/suppliers. Each importer will contribute in proportion to its volume of TVs imported and marketed for sale in Australia.

- A detailed draft Product Stewardship Agreement has been prepared with the direct and detailed involvement of PSA and Governments through the Environment Protection and Heritage Council (EPHC). This draft agreement was completed with support from PSA and CESA in 2006. It includes detailed information about goals, targets, KPIs, data collection, reporting and review mechanisms.
- As an indication of PSA's thinking and planning, the proposed PSA scheme would commence in Sydney and Melbourne, with implementation across all capital cities, regional and rural areas complete within a five-year timeframe. All capital cities will have a collection and recycling service within the first three years.
- Option 8 combined with the implementation of the Product Stewardship Agreement for TVs will clearly meet growing community expectations and desire to ensure that TVs are diverted from landfill and that resources are recovered for recycling purposes on a national basis. This is further supported by the analysis and findings in the Willingness to Pay study.
- The PSA scheme will be a free service to consumers, with no fees applied at the point of sale or point of disposal.
- PSA has made a commitment to funding a permanent national TV recycling scheme provided that the Commonwealth Government puts in place effective, efficient and acceptable regulation (i.e. Import License approach) to ensure the participation of the entire consumer electronics industry. This will ensure maximum environmental benefit as well as minimal competitive disadvantage among TV suppliers. Such national regulations or legislation are already well established for e-waste in most OECD countries.
- PSA has proposed an exceptionally effective and efficient method which utilises the Australian Customs Service to screen TV importers at the point of import and confirm whether they are party to an EPHC or Commonwealth Government-approved TV Product Stewardship scheme such as that being proposed by PSA.
- A precedent for such regulatory or Import Licensing measures involving the Australia Customs Service currently exists with regard to the import of Ozone Depleting Substances and the existence of Refrigerant Reclaim Australia – a producer responsibility organisation similar in structure and purpose to PSA.
- The projected cost of collecting and recycling TVs in Australia is significant and represents multi-million dollar funding by TV importers/suppliers. The revenue from any recovered materials is minimal and does not provide sufficient return to offset the cost of operating a national scheme.

- TV recycling is a 'cash negative' exercise which underscores the essential need for Import License regulation to prevent otherwise indifferent TV importers avoiding their Product Stewardship obligations and gaining a competitive cost advantage.
- PSA believes that Commonwealth regulation utilising the Import License approach is essential to maximise industry-wide participation and environmental benefit, while also ensuring minimal implementation costs.
- PSA has no confidence whatsoever in a State based National Environmental Protection Measure as a way of ensuring industry-wide involvement because of issues of compliance, competing pressures and effectiveness. TV collection and recycling is a national imperative and must be addressed through effective Commonwealth regulatory measures. Anything less is unacceptable to PSA.
- PSA believes that there are significant administrative, environmental and cost benefits from a single regulatory interface with the Australian Government i.e. Australian Customs Service (ACS) and the Commonwealth Department of the Environment, Water, Heritage and the Arts (DEWHA).
- The ultimate cost from a NEPM approach will be significantly higher due to administration and compliance requirements for seven different States and Territories.
- The switch to digital TV commencing in 2010 will result in a substantial increase in analogue TVs becoming redundant. As older technologies enter the waste stream in larger volumes, there is an urgent need to collect and recycle end-of-life TVs and divert them from landfill.
- As consumers adopt new digital TV products, the national recycling scheme proposed by PSA is strongly placed to ensure end-of-life TVs are recovered and recycled. The Australian Government must play a significant role in developing effective and efficient safety net regulation that will enable the TV industry's scheme to be implemented in a responsible and cost-effective manner.
- The introduction of a permanent national TV collection and recycling scheme as proposed by PSA will provide direct economic benefits from job creation in all States, including rural and regional Australia.

GENERAL ISSUES IN RELATION TO THE CRIS:

PSA's position reflects its members' desire to develop and deliver a cost effective, environmentally sound, industry-wide TV recycling scheme. The following issues guide PSA's response to the CRIS.

(a) **Free-riders**

Acceptable regulatory options are those that deal effectively with "free riders" in the industry. Any option which deals with "free-riders" in arrears, or after the product has entered the market (i.e. chasing up non-compliance) would not be acceptable to PSA. This point cannot be emphasised enough by PSA.

(b) **State-based Regulatory Options**

PSA does not favour or support State based regulatory options in any way because of:

- Regulatory variation between jurisdictions,
- Varying quality of implementation between different jurisdictions,
- Differing priorities between different jurisdictions,
- Potential conflict with other programs within the jurisdiction including small business promotion and procurement preferences.
- Risk of political interference supporting particular local interests,
- Higher priorities from time to time diverting implementation and management away from product stewardship,
- Non-compliance penalties may vary between jurisdictions, may not be proportional to the problem, are nearly always in arrears and are largely dependent on Commonwealth sources, which are confidential and only available after some time lag.
- Cost variation for participation across jurisdictions for suppliers.

(c) **Producer Responsibility Organisations (PRO)**

PSA prefers a single regulatory mechanism that covers all products and which has a single PRO. This gives greater scope for effectiveness in implementation, and for efficiency and attaining economies of scale. It is more equitable between industries and provides a better framework for additional electrical and electronic products to be included over time. Any additional e-waste product categories will need to be agreed to between Government and industry.

PSA is very willing to discuss with Government and other industry organisations the prospect of a single PRO in the context of an Import License option. It has always been PSA's position to cooperate with other stakeholders to ensure maximum environmental benefit and least cost to consumers and industry.

(d) **Flexibility**

Like the rest of the world, the electronics industry in Australia is in a state of constant change. Participants/suppliers come and go, product categories flourish and then subside, and technology advances all the time.

Connectivity and convergence is blurring the distinctions between products whose own functionality is changing as it adapts. PSA favours a regulatory approach that deals with these dynamics and which can handle the e-waste arising from products no longer sold and deal with new product categories entering the market. A single PRO would be best placed to handle this situation.

An industry PRO would benefit from the capacity in regulation to accommodate other product categories and their producers/suppliers.

(e) **Threshold**

The CRIS identifies three thresholds based on the number of (main) units imported. There is, naturally, a significant reduction in the number of importers affected as the threshold increases. The argument is that a threshold reduces the cost of administration by industry, PRO and government. PSA is opposed to thresholds because:

- it introduces a free rider element
- it is difficult to manage as government has to measure who is under and who is over the threshold constantly. Importers will drift in or out of the threshold during any measuring period. Costs of administering a threshold are quite high and the benefits of a threshold may not be as great as suggested.

SPECIFIC ISSUES IN RELATION TO THE CRIS OPTIONS

a) **Options 1 and 2**

Co-regulatory state-based EPR scheme

PSA finds Options 1 and 2 unacceptable for the reasons stated. The 'best practice' regulatory criteria applied by MJA and documented in their report underscores that such options perform very poorly across numerous criteria (refer to Table 11 in their attached report).

b) **Options 3 and 4**

Co-regulatory Commonwealth-based EPR scheme

PSA finds Options 3 and 4 unacceptable. The 'best practice' regulatory criteria applied by MJA and documented in their report underscores that such options perform very poorly across numerous criteria (refer to Table 11 in their attached report). PSA considers that "after the event" compliance management based presumably on historical data from ACS is not effective in dealing with free-riders and in ensuring that all importers participate in an industry scheme. In other words, "NEPM" style schemes will not achieve a level of participation acceptable to PSA.

c) **Options 5 and 6**

Co-regulatory Commonwealth excise (levy) scheme

This Option is based on a levy applied to importers who do not participate in a Government-approved industry scheme. This manages compliance at the time of import. If the levy was set high enough, importers would join the industry scheme and funding lost to the PRO through the levy being absorbed by Commonwealth revenue would be minimal.

The likely need for legislation would lead to delays in implementing this regulatory approach. It would be difficult to envisage option 6 becoming a reality because of the apparent differing classes of members in a separate computer scheme.

d) **Option 7**
Mandatory Commonwealth levy with a government-run subsidy scheme for collection/recycling.

This Option is not PSA's preferred approach and does little to ensure a Product Stewardship or Shared Product Responsibility approach to end-of-life electronic goods. The efficient and effective allocation of funds accumulated through this Option is questionable. Industry funded AND operated collection and recycling programs will deliver greatest effectiveness, efficiency and stakeholder acceptability in PSA's view.

e) **Option 8**
Mandatory import license requirement

This Option is PSA preferred regulatory model. It is essentially the approach that PSA and CESA have advocated for several years, and is the only Option, which would enable the current intent, spirit and targets of the draft Product Stewardship Agreement to be implemented. PSA has received advice stating that it can be implemented by regulation alone and does not require legislation. PSA's earlier discussions with ACS indicate that these types of schemes can be accommodated. Indeed a clear and appropriate precedent for such Import Licensing measures involving the ACS currently exists with regard to the import of Ozone Depleting Substances and the existence of Refrigerant Reclaim Australia – a producer responsibility organisation similar in structure and purpose to PSA.

The benefits of Option 8 are significant and this is underscored by MJA's analysis against primary AND secondary assessment criteria for best practice regulation. Importantly Option 8 is supported by other major stakeholders including NGOs and key e-waste recyclers. Option 8 represents an intelligent method of intervention that will achieve industry-wide participation and the shortest timeframe for meeting the desired recycling rates as outlined in the MJA report under Table 4: Recycling Outcomes as Presented in the CRIS.

Option 8 deals effectively with "free riders" at the time of import; it is administratively simple; can be adapted to other relevant electrical and electronic product categories, and it is equitable as all industry participants are equally affected from the outset. Earlier implementation achieves collection/recycling will deal with the growing volume of consumer discards arising from the digital change-over.

In summary, Option 8:

- is highly acceptable to PSA;
- can be implemented rapidly;
- maximises positive environmental outcomes and recycling rates;
- eliminates competitive disadvantage;
- builds on an existing precedent i.e. Ozone Depleting Substances/RRA;
- delivers significant net benefit to the community;
- allows industry/commercial experience to benefit the process;
- has the support of key stakeholders in industry and the community;
- will deliver significant environmental outcomes;
- is consistent with fundamental Product Stewardship principles;
- avoids state-based regulatory and enforcement variability; and
- scores exceptionally well against best practice regulation assessment criteria in MJA's report.

f) **Option 9**

Mandatory state-based EPR (NEPM)

PSA finds Options 9 unacceptable for reasons previously outlined with regard to the state-based approaches – be they co-regulatory or mandatory. Any regulatory option which relies on variable and often state-based measures and consistently under-resourced enforcement is fundamentally flawed and unacceptable to PSA. The increased costs to TV suppliers (and potentially consumers) associated with state-based measures would be a direct result of poor government policy and regulatory development.

Furthermore, the 'best practice' regulatory criteria applied by MJA and documented in their report underscores that such options perform very poorly across numerous criteria compared to Option 8 (refer to Table 11 in their attached report).

Other Comments

1. Willingness To Pay for E-Waste Recycling. (June 2009)

The Choice modelling research undertaken on televisions and computers is welcome by PSA and demonstrates an innovative approach to better understanding the community's position on e-waste related issues including disposal, recycling and cost related matters.

The methodology which underpins the study, seems to have been considered and extensively tested and refined. The application of questionnaires and focus groups concludes that there is a positive view on the issue of willingness to pay, and PSA welcomes this.

The cost benefit analysis in the CRIS, supported by the Willingness to Pay study findings, is an important element in the acceptance of a regulatory approach to e-waste.

It seems clear from the findings that concern about e-waste can be converted into a broader community willingness to pay for an effective and efficient e-waste recycling scheme that is national, environmentally beneficial and cost effective for all stakeholders involved.

2. Code of Practice for Managing End-of-Life Televisions. (August 2008)

The Code of Practice for Managing End-of-Life Televisions (CoP) is a necessary document and provides an important first step towards guiding and directing e-waste collectors and recyclers towards higher levels of environmental performance.

PSA was involved in the development of the CoP with NSW DECC and will use it as an appendix for tendering processes during scheme implementation. We feel that the CoP Checklist will provide some clear signals to potential service providers as to what is expected of them in any large scale TV collection and recycling program.

It is important to note that PSA views the CoP as a baseline set of requirements and guidelines, and that this will be bolstered with additional detailed environmental performance requirements specified by PSA during the tendering process.

We believe that the CoP should be reviewed once the agreed regulatory regime is in place and Product Stewardship Agreements are finalised. The CoP should be informed by these two key elements and modified accordingly.

PSA also believes that the Documentation and Accreditation requirements outlined in the CoP may need further elaboration and development to meet the needs of relevant stakeholders and ensure community and industry expectations are met.

ENDS