

Co-Regulatory Frameworks for Product Stewardship

Analysis of Submissions to Discussion Paper

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Co-Regulatory Frameworks for Product Stewardship **Analysis of Submissions**

Executive Summary

I. Introduction

The Environment Protection and Heritage Council (EPHC) released the discussion paper *Co-Regulatory Frameworks for Product Stewardship* for public consultation on 3 December 2004. Submissions closed on 25 February 2005 and 66 submissions were received.

The primary purpose of this analysis is to provide an overview of the level of stakeholder support for co-regulation to inform EPHC Ministers as to next steps relating to governments' role in supporting product stewardship.

Summaries of answers to 8 specific questions raised in the discussion paper are provided, along with a discussion of additional comments made. In addition, Attachment A provides initial government responses to a representative sample of comments, grouped by topic.

II. Overview of Respondents

Some 66 responses were received. These were **mainly from industry (67%) and governments (20%)**. The remainder were from individuals, environmental organisations, a community group and an academic/research body.

A wide range of industry sectors was represented: information and communication technology (including computers and mobile phones); tyre and other automotive; paper, plastic and packaging industries; mining, resources and construction; consumer electronics (including televisions) and chemicals.

III. Support for Co-Regulation for Product Stewardship

The overall level of support for co-regulation is indicated in Chart C (page 12). While a majority of respondents (82%) supported co-regulation, some offered qualified support depending on issues such as:

- A more detailed description of how co-regulation would work in practice;
- A thorough impact analysis and further public consultation;
- A nationally consistent approach;
- A clear competitive disadvantage to justify co-regulation;
- Clear requirements for approved schemes;
- Non participants or potential 'free riders' being adequately identified; and/or
- Strong enforcement from governments.

These issues will be taken into consideration and will be developed further as the framework for product stewardship progresses.

Some respondents emphasised that co-regulation may be appropriate for certain sectors, but the **suitability of co-regulation needs to be assessed on sector-by-sector basis**. Some respondents generally preferred voluntary approaches, but would accept co-regulation where voluntary approaches are not successful or unviable. Others would accept co-regulation but actually preferred a fully regulatory approach.

Approximately 65% of all industry respondents supported that co-regulation be considered for the sectors they do business in – including both producers and recyclers in the tyres, television, computer, lead acid battery, motor vehicle, vinyl, paper/printing (excluding newsprint), mining and paint industries.

IV. Opposition to Co-Regulation for Product Stewardship

Of all respondents 11% did not support co-regulation, reasons for which were mixed:

Some **preferred non-intervention or voluntary approaches** as they believed that any additional regulatory burden on business to be undesirable and stifle innovation. Such respondents were mainly broad-based industry bodies, including the Australian Chamber of Commerce and Industry and the West Australian Chamber of Commerce and Industry. They wanted co-regulation to be subjected to a more detailed and rigorous impact assessment if it were pursued, and that consideration be given to exempting small business.

Others **preferred a fully regulatory approach**. This included two environment groups (who stated that co-regulation did not go far enough and favoured investigations into market-based instruments), and one company.

V. Comments on implementing mechanisms

A NEPM was mentioned in the paper as a possible means to achieve a consistent approach to co-regulation. A third of respondents offered some comment on the appropriate type of implementing mechanism (see Chart J on page 26) and **70% (of those who commented) indicated support for a NEPM** with half qualifying this support pending a further detailed assessment.

Some respondents offering qualified support reflected on the perceived failure of the Used Packaging NEPM and wanted to ensure stronger targets or enforcement or more consistent application across all jurisdictions. Opposition to a NEPM mainly came from those opposing co-regulation. Generally there was **unanimous support for the pursuit for nationally consistent approaches** over fragmented state-based approaches.

VI. Threshold Criteria and Guiding Principles

There was a **high level of support for the proposed Threshold Criteria and Guiding Principles** included in the Discussion Paper. A number of respondents requested clarification on points that had been left undefined in the Discussion Paper – such as the definition of ‘a substantial segment’ of an industry, the precise role and constitution of the stakeholder forum, and what was meant by a ‘staged’ national rollout. These points are addressed in Attachment A, and will be considered as the framework is developed on a product-by-product basis.

VII. Comments about co-regulation for specific products

An overview of comments relating to how co-regulation for product stewardship might work in specific products sectors is provided. These comments will be taken on board in future work relevant to specific products and in deciding future priorities if Ministers decide to progress towards a co-regulatory framework. The high level of interest in and support for co-regulation from a range of sectors **supports a broad and flexible co-regulatory framework as a tool for dealing with a range of future products.**

The industries EPHC is currently working closely with on product stewardship – **the tyres, television and computer industries - were overwhelmingly supportive of co-regulation** and offered comments specific to its further development.

Comments on **tyres** focussed on recycling industry markets and the impact of incentives on the retreading, crumb rubber or energy recovery markets, enforcement and stakeholder involvement.

Comments on **televisions** included those relating to the challenge of dealing with orphan and historical product waste, the desire for import controls as an enforcement mechanism, and standardisation. One industry body also supported full regulation as an alternative.

Comments on **computers** included the difficulties in capturing free riders, responsibility for orphan and historical product waste, the level of stakeholder involvement, and a desire for a softening of hazardous waste export restrictions to give access to lower cost recycling.

VIII. Summary of additional comments

<i>Responsible Parties</i>
Need to clearly define responsible parties to enable enforcement
Whether producers or others in supply chain should take responsibility
<i>Stakeholder Forum</i>
Involvement of non-industry stakeholders e.g. local government and environment groups
Whether role is to negotiate targets/goals, or be a more advisory body
<i>Orphan and Historical Products</i>
Computer industry rejected responsibility for orphan and historical products
Television industry accepted responsibility for orphan and historical products if all competitors contribute equitably
<i>Enforcement</i>
Need for strong enforcement by governments
Difficulties/opportunities of industry self-policing
Need for enforcement within schemes as well as outside them
<i>Cost recovery</i>
Support for cost recovery, including for local government collection services or facilities
Need to recover costs up front, rather than multiple points in supply chain or end-of-life
Whether costs recovered only from regulated parties, or also from self-regulating industry
<i>Collective Industry Schemes</i>
Need to ensure both collective and individual company schemes can operate
Need for rigour in product stewardship agreements on operation of collective schemes
<i>Cost internalisation</i>
Whether sending changed consumer price signals was achievable, desirable or crucial
<i>Competition</i>
Collective schemes forming anti-competitive monopolies or oligopolies
How Australian Competition and Consumer Commission authorisation fits into process
International nature of markets and competition to be considered in co-regulation
Need to avoid barriers to smaller or regional businesses joining collective schemes
<i>Targets</i>
Need for measurable targets and performance indicators, linked to clear objectives
<i>Recycling Infrastructure and Markets</i>
Need for early and clear signals for recycling industry to plan and build infrastructure
Impacts of exports on domestic recycling capacity
Need to support the reuse industry
<i>Standards</i>
Need for standards for recycling/reuse or product design
Need to consider standards for both health and environment
<i>Design for Environment</i>
Need for co-regulation to provide incentives for design for environment
Need to avoid rapid obsolescence
Need to ensure design-oriented initiatives do not impact on trade competitiveness
<i>Hazardous Substances</i>
Need to ensure that hazardous substances, such as mercury, are designed out of products, including to avoid negative impacts on recycling processes

IX. Conclusion

In summary, there was a high level of support for co-regulation to support industry-led product stewardship initiatives and for its application to a range of industry sectors.

Most respondents who commented on how this might be achieved, thought a NEPM would be an appropriate mechanism to achieve a nationally consistent approach so long as it required adherence to clear targets and strong enforcement of those that failed to comply.

Most responses indicated that further examination of the issues would be essential as a next step and highlighted areas for particular consideration.

Next steps

In July 2005, Ministers agreed to initiate a NEPM for co-regulation of product stewardship, and further public consultation, as part of a regulatory impact assessment, will be undertaken. Updates on this work will be available at www.ephc.gov.au.

Co-Regulatory Frameworks for Product Stewardship

Analysis of Submissions to Discussion Paper

1.0 Introduction

The Environment Protection and Heritage Council (EPHC) released the discussion paper *Co-Regulatory Frameworks for Product Stewardship* for public consultation on 3 December 2004. Submissions closed on 25 February 2005. In total, 66 submissions were received and analysed.

The following analysis includes:

- overview of sectors represented by respondents;
- summary of responses indicating general support for co-regulation;
- summary of responses to 8 questions asked in the discussion paper;
- a discussion of additional comments; and
- specific responses to key issues identified.

1.1 Purpose

This analysis will be of use to those with an interest in product stewardship, to further clarify the nature of the co-regulatory framework envisaged by the authors of the Discussion Paper. Its primary purpose is to provide a snapshot of the level of community support for further work by the EPHC in this area and inform a decision by EPHC Ministers on next steps. The contents of this analysis and the submissions themselves will be used by governments in furthering this work through more detailed analysis of co-regulation at the request of the EPHC.

1.2 Response to comments

While this analysis does not address all comments from the 66 submissions, it aims to provide an overview of key issues raised. Some comments have been drawn out as direct quotes and highlighted in boxes throughout this paper to provide some 'voices'.

The summary table at Attachment A provides selected comments and responses. This selection, while not attempting to be comprehensive, does aim to be broadly representative of the range of views expressed, and builds upon the overview analysis. These comments are not all direct quotes, but have been paraphrased for conciseness. In doing so, every effort has been made that the interpretation is consistent with that originally intended by the writer. The source of the comment is identified to assist readers to place the comment in its original context and to explore issues of further interest to them.

The initial responses in Attachment A are provided to clarify any possible misunderstandings about the nature of the co-regulatory framework as envisaged by the authors. They are not

meant as definitive responses and do not necessarily represent the views or policies of any Minister or government agency. Any further development of the co-regulatory framework would be subject to a further round of public consultation.

The responses in Attachment A do not include comments that were specific to a particular product. Due to the broad and generic nature of the framework and Discussion Paper, such comments will be useful as input to further product-specific developments towards co-regulation but will not be specifically responded to at this stage.

2.0 Overview of Respondents

The breakdown of respondents by broad sectors is illustrated in Chart A below. Responses were mainly received from industry and governments.

2.1 Industry respondents

The majority of responses were received from industry (67%).

Responses were received from 22 industry associations and 17 companies, representing both upstream and downstream ends of the supply chain:

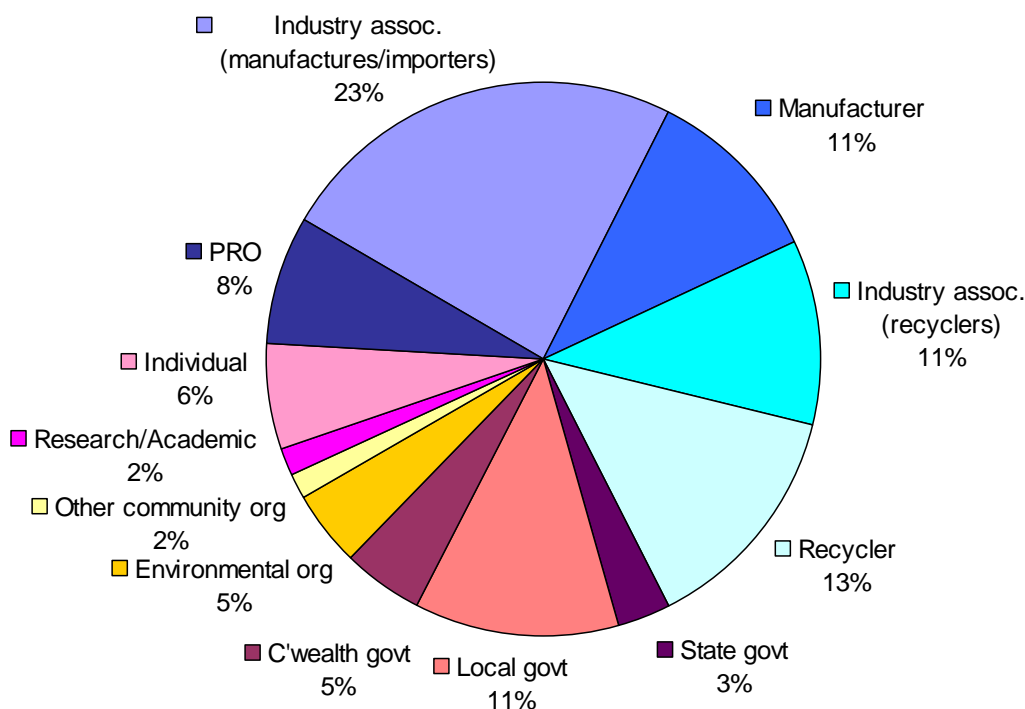
- manufacturers, importers or brand owners: 16 industry associations & 7 companies
- recyclers: 7 industry associations & 9 companies

In addition, responses were also received from 5 organisations that have been categorised as being actively involved in implementing product stewardship on behalf of companies – collectively referred to here as ‘Producer Responsibility Organisations’ (PROs).

Retailers were only indirectly represented (e.g. through the Australian Chamber of Commerce and Industry). This indicates a need for both governments and industry to engage more effectively with this potentially affected sector to ensure retailers are aware of product stewardship initiatives, understand how they can contribute to their development, and how they might be impacted.

Chart A

Respondents by organisation type



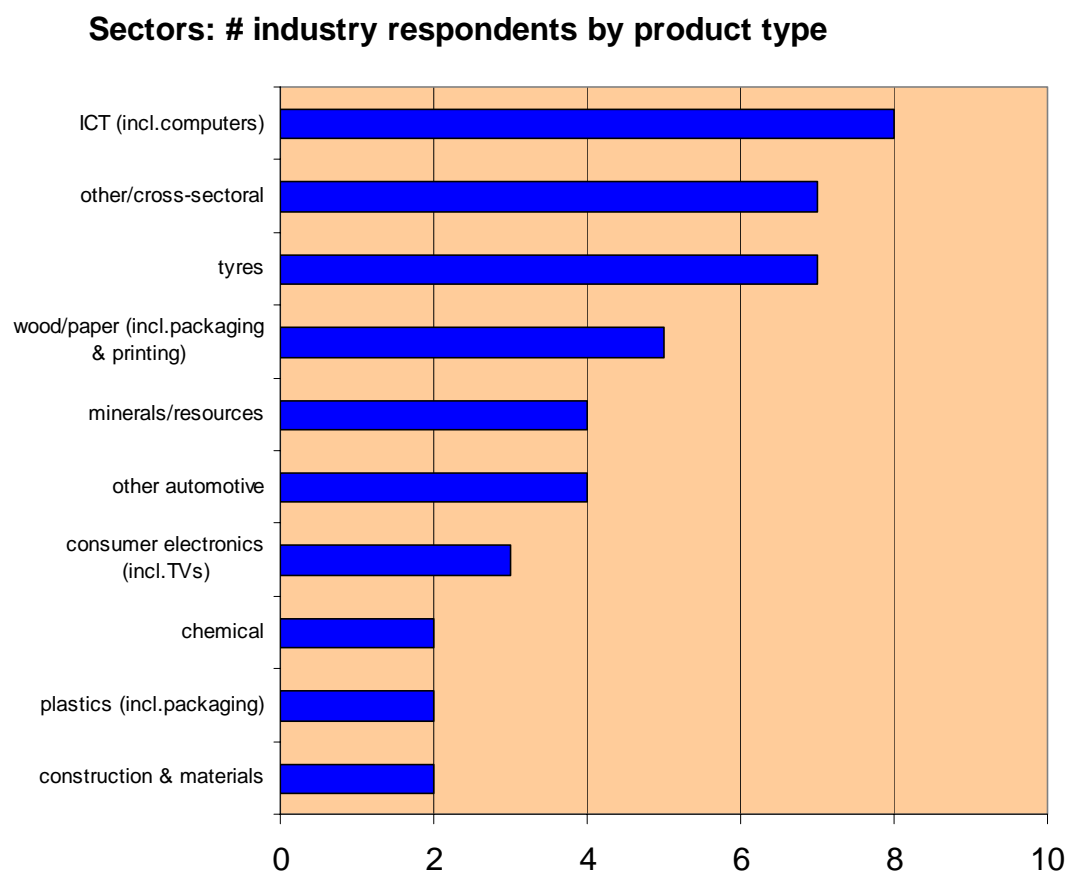
The industry respondents have been roughly categorised by product type in [Chart B](#).

This shows that the information and communication technology (ICT) sector was best represented in terms of number of responses. There were also quite a number of responses that were not specific to a particular type of product - such as recyclers or producers who manage or produce a range of products, or associations representing a range of product sectors (referred to in the Chart as other/cross-sectoral). The tyre and other automotive; paper, plastic and packaging industries; mining, resources and construction; consumer electronics and chemicals industries were also represented.

2.2 Government respondents

Government respondents made up 20% of the total. Of these local government was represented with 8 responses, some of these being from local government associations representing the views of a number of councils. In addition 3 Australian Government and 2 state government agencies made submissions.

CHART B



2.3 Other respondents

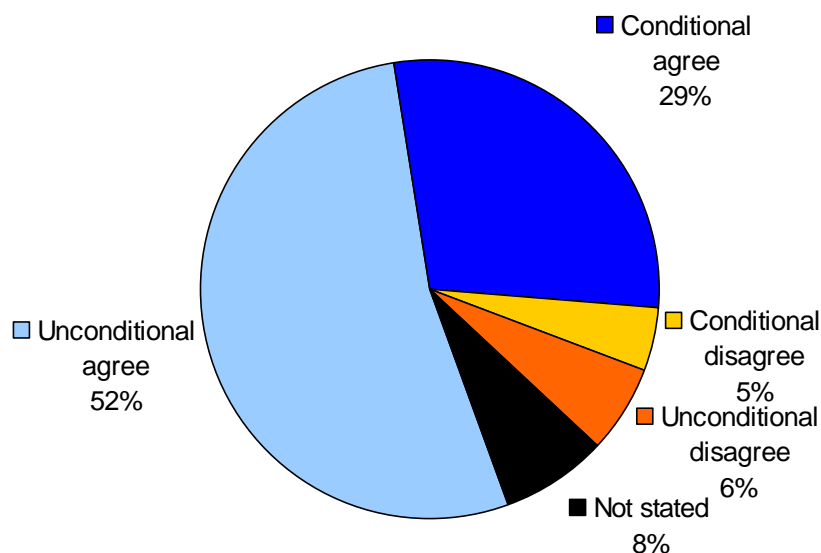
Submissions were also received from individuals (4), environmental organisations (3), other community groups (1), and academic or research bodies (1). Given the major intended environmental and consumer impacts of the co-regulatory framework described, this was considered a relatively low response. That said, this discussion paper was mainly targeted at industry and governments (in terms of its content and style). To progress this work further, an additional and more detailed consultation process would be need to be publicly advertised to ensure broader community views are expressed and taken on board.

3.0 Support for Co-Regulation for Product Stewardship

The vast majority of responses received stated that co-regulation appeared to be a suitable way to progress product stewardship. Only 5 respondents (8%) did not make a statement that could be categorised as indicating general support or otherwise for co-regulation. The overall level of support for co-regulation is indicated in [Chart C](#).

CHART C

Support for concept of co-regulation for product stewardship



3.1 Understanding of co-regulatory framework and the discussion paper's purpose

Generally respondents seemed to understand the conceptual framework described in the Discussion Paper. However there was some confusion about the scope and purpose of the paper and the process for further development of the framework. Specific comments in this regard are addressed under 'Broad Approach' in [Attachment A](#).

A common theme with regards to support for co-regulation, from respondents both in favour of and opposed to co-regulation, was the need for a more detailed description and regulatory impact assessment to be undertaken prior to implementation. The need for such further examination and consultation was certainly the intent of the authors (as mentioned under 'Purpose' on p.2) but responses suggest this aspect of process would have benefited from clearer explanation in the paper.

3.2 Support for co-regulation

Of the 66 respondents, 54 (82%¹) indicated their general support for co-regulation for product stewardship as proposed in the paper. Of these, 19 provided significant qualification for their support, for example that their support depended on:

- A more detailed description of how co-regulation would work in practice;
- A thorough impact analysis and further public consultation;
- A nationally consistent approach;
- A clear competitive disadvantage to justify co-regulation;
- Clear requirements for approved schemes;
- Non participants or potential 'free riders' being adequately identified; and/or
- Strong enforcement from governments.

¹ Due to rounding, some figures may appear inconsistent with those shown in the graphs.

"It will often be appropriate for industry to develop the initial response to an environmental issue. Industry has the greatest knowledge of the supply chain and is in the best position to identify steps that will address the issue in an efficient manner.

A co-regulatory approach allows the benefits described above to be strengthened by the stability and comprehensiveness afforded through legislation."

A3P – Australian Plantation Products and Paper Industry Council

Some respondents emphasised that while co-regulation may be appropriate for certain sectors, *it would not be appropriate for all sectors* and each product sector should be assessed independently for suitability to co-regulation as proposed in the paper. Some said they would generally prefer voluntary approaches be pursued in the first instance, but accepted the paper's intent of providing an alternative to voluntary approaches where these are found to be unachievable.

Some respondents said they would accept co-regulation but actually preferred, or would welcome, a fully regulatory approach. For example:

- The Motor Trades Association of Australia preferred a mandatory product stewardship scheme for tyres, with a levy imposed at the point of import or manufacture;
- Australian Electrical Equipment Manufacturers Association supported any framework that provided a mandatory requirement on all suppliers to comply, whether this is fully regulatory or co-regulatory; and
- The Local Government Association of NSW preferred fully regulatory approaches based on their own experiences in trying to encourage self-/co-regulatory schemes for Industry Waste Reduction Plans with the tyre, dairy and packaging industries as required under NSW legislation, and with the National Packaging Covenant.

Respondents from the computer industry supported co-regulation but said they proposed to put forward an alternative co-regulatory model for their sector.

"AIP believes that, where possible, market forces should be relied on to deliver product stewardship outcomes..."

Co-regulation is best suited for an industry environment where market forces will ensure that the majority of the industry participants are prepared to develop a collective product stewardship programs, but where there are significant parts of the industry that have chosen not to participate for one reason or another, and/or the policing of performance to the program standards raises competitive issues.

Full regulation may be required where industries are fragmented and participants not easily identifiable, and/or market forces cannot be relied upon. Regulation or co-regulation will tend to be more suitable for environments where substantial funding or compliance policing are required."

Australian Institute of Petroleum

3.3 Opposition to co-regulation for product stewardship

The remaining 7 respondents (11%) did not support co-regulation, the reasons for which were mixed. Some thought co-regulation would amount to an unnecessary regulatory burden and that voluntary approaches were preferred, while others thought co-regulation did not go far enough and would prefer a fully regulatory approach.

Three of those outright opposing co-regulation were industry associations, the Australian Chambers of Commerce and Industry (ACCI), the Australian Consumer & Specialty Products Association (ACSPA) and the Chamber of Commerce and Industry Western Australia (CCIWA).

These respondents felt that any form of regulation creates an additional and often unnecessary burden on industry and stifles innovation. These views were also supported by the Australian Academy of Technological Sciences and Engineering (AATSE). ACCI and CCIWA expressed similar views that industry should be 'allowed' to self-regulate. This contrasts with the strong interest in co-regulation from other industry associations and companies, which supported co-regulation or full regulation as being less risky and more affordable for companies than self-regulation.

ACSPA gave examples of where voluntary self-regulation had worked for their industry, such as the phasing out of phosphorous content and labelling for detergents. They said they could only support co-regulation if a competitive disadvantage was clearly demonstrated, and they did not believe the paper did this. ACSIPA did not think the proposed framework included any elements that could really be termed self-regulation.

These respondents all wanted co-regulation to be subjected to a more detailed and rigorous impact assessment if it were pursued. ACCI and CCIWA were particularly concerned about the impacts on small business and requested that they be exempted from any co-regulatory scheme.

"ACCI favours an approach where industry is allowed to self-regulate. Government regulation should be the last resort after all other options, including education, publicity, moral persuasion and industry self-regulation. ACCI does not believe the case for co-regulation of product stewardship has been proven in this instance.

If co-regulation is pursued, which ACCI does not support, then a thorough and independent cost benefit analysis should be conducted including the full cost of the proposed regulation to business. The cost benefit analysis must be in the form of a Regulatory Impact Statement (RIS) which should assess the total cost of business compliance, fees and paperwork. These costs should then be compared with the estimated benefits of the proposed regulation."

Australian Chamber of Commerce and Industry

The Minerals Council of Australia (MCA) provided some qualification to their opposition to co-regulation. They thought regulation should only be pursued if industry had first implemented voluntary schemes and these had been assessed as unsuitable. However their submission also acknowledged the need for governments to ensure a level playing field for industry, supported a nationally consistent approach, and favoured a regulatory arrangement that maximised industry self-regulation and minimised regulation.

By contrast, Toyota Motor Corporation Australia Pty Ltd (Toyota) opposed co-regulation as they preferred a fully regulatory approach. However, their submission did state that if co-regulation were pursued they considered the motor vehicle industry ideally suited to consideration for co-regulation.

A joint submission by the environment organisations Environment Victoria and the Total Environment Centre (EV/TEC), offered qualified opposition to co-regulation pending a fuller examination of alternatives. While they welcomed the opening of debate around these issues, they felt the policy context of the paper was unclear.

“We consider governments’ duty to the public goes well beyond ensuring a level playing field for industry. Governments should be promoting resource conservation and waste avoidance by:

- Setting targets for resource recovery for each relevant industry sector;*
- Ensuring that the most effective scheme is adopted by industry at least cost; and*
- Regulating Extended Producer Responsibility schemes where voluntary industry schemes have failed to achieve pre set levels of environmental improvement”*

Environment Victoria and Total Environment Centre

4. Responses to 8 specific questions raised in discussion paper

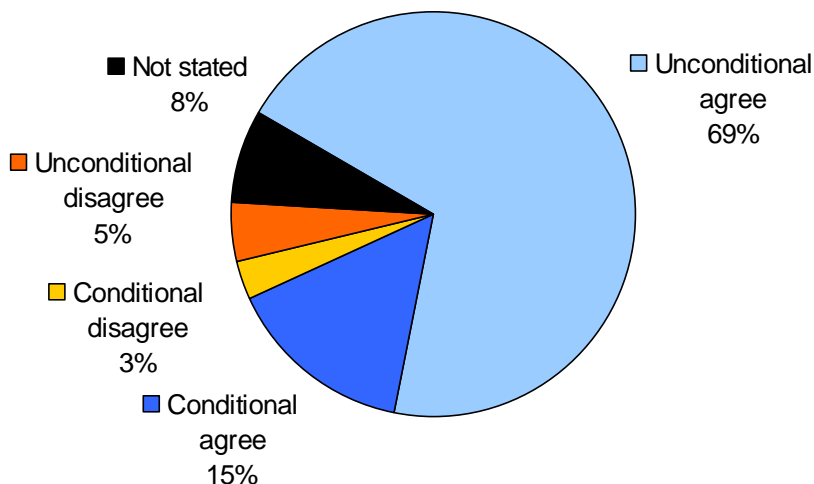
4.1 Question 1 (p.3) *“Do you think that it is appropriate for governments to regulate companies who may gain a competitive advantage by not participating in voluntary product stewardship schemes where other companies in their sector have agreed to do so, so as to ensure an equivalent acceptance of environmental responsibility by all companies?”*

While not all respondents addressed this question directly, their support or otherwise for this aspect was usually clear. There was significant support (84%) for government regulation of non-participants in product stewardship schemes, as described in this question. This is illustrated in Chart D.

Free riding was a very commonly raised issue, with respondents generally insistent on the need for, and difficulties in, both identifying and capturing free riders. Some suggested ways in which free riders may be most easily captured, with a number suggesting the point of import as an efficient and effective point of capture. One suggested that it would be relatively difficult for domestic manufacturers to free ride. These comments are addressed under ‘Free riders’ in Attachment A.

CHART D

Support government regulating non-participants in voluntary schemes to avoid competitive advantage



"We believe voluntary programs are far more effective in establishing a co-operative approach between industry, government, community and consumer groups to achieve a nationally consistent approach to the life-cycle management of the products.

Our industry has experienced a high level of industry participation from manufacturers and network carriers, however we acknowledge the threat to any voluntary program by 'free riders'. To this extent we support the government initiative to establish a co-regulatory framework for product stewardship, in particular the introduction of safety net regulation, in order to ensure no company will gain a competitive advantage by not participating in a voluntary product stewardship scheme."

Australian Mobile Telecommunications Association

The level of support for government regulation of free riders closely reflects the overall level of support for co-regulation for product stewardship, with a few exceptions – for example the submissions from EV/TEC and the MCA were counted as providing qualified support for government regulation of free riders (as a bare minimum and where appropriate respectively).

4.2 Question 2 (p.5) “How might co-regulation work in your sector?”

A number of respondents provided comment on how co-regulation might work in their sector. In all, 24 respondents said they would support (9 with some qualifications) co-regulation for their *own* industry sector. Government and other respondents would account for the high number of ‘not stated’ responses to this question.

Five respondents from the chemicals and plastics/paper/packaging industries noted that co-regulation was already happening in their sector.

These figures indicate that 75% of all industry respondents – including recyclers – supported co-regulation for the sector they do business in. This included respondents in the television, computer and tyre industries with which the EPHC is currently working closely.

4.2.1 Comments about co-regulation for specific products

Comments raised with regards to product stewardship for specific products are not addressed in Attachment A, since the focus of this analysis is on the broader co-regulatory framework. However a brief overview of the sorts of comments received relevant to specific products is provided below to assist readers to conceptualise the practical application of co-regulation to different products and to highlight some of the opportunities and challenges this may pose. Tyres, televisions and computers are drawn out separately as respondents most commonly addressed these products. Comments relevant to a range of other products are also touched on generally. The overall breakdown of responses is indicated in Chart E.

4.2.1.1 Tyre industry comments

Seven responses were received from those whose core business was in tyres, including a high proportion of recyclers. All respondents that took a clear position were supportive of co-regulation, apart from the Motor Trades Association of Australia, which preferred a fully regulatory approach. The Cement Industry Federation was also supportive of co-regulation. Comments mainly addressed the level of stakeholder involvement and the issues around recycling infrastructure. In particular tyre recyclers and re-users raised concerns about the exclusion of the retreading industry and a perceived favouring of energy recovery.

“The issue of the responsible and economical disposal of waste tyres has been debated for nearly 20 years and regrettably not a lot of progress has been made. A major block in all discussions and proposed schemes has been the failure to reach agreement and co-operation between the States, who have not accepted a National Approach...”

We believe that co-regulation is the most likely method to succeed in the tyre industry. The problem of proper and effective disposal of waste tyres is worldwide, and many solutions have been tried. Information on successful overseas schemes should be used where appropriate.”

Independent Retreaders Division of Australian Tyre Dealers and Retreaders Association

4.2.1.2 Television industry comments

The Australian Electrical Equipment Manufacturers Association (AEEMA), the Consumer Electronics Suppliers Association (CESA), and their recently established producer responsibility organisation Product Stewardship Australia Ltd (PSA Ltd), provided submissions representing the television industry.

All were supportive of co-regulation although AEEMA said they would also be happy with a fully regulatory approach, and that they saw a strong role for standards which should be examined prior to committing to any proposal.

PSA Ltd said they wanted a scheme that included strict import controls as the primary enforcement mechanism, similar to the license requirements under the Ozone Protection and Synthetic Greenhouse Gas Management Act (1989).

CESA said they were supportive of a NEPM or similar mechanism that would help eliminate competitive disadvantage. They said greater attention needed to be given to how the scheme might embrace non-producer stakeholders in the supply chain, such as retailers.

“PSA believes that a co-regulatory approach (reflecting a shared product responsibility model) can help ensure maximum industry participation in managing end-of-life TVs. This is particularly relevant to the potential application of a NEPM for electronic waste. Subject to the specific detail, and the clear presence of strong and effective enforcement, PSA would be supportive of a NEPM (or equivalent mechanism).

Any NEPM would need to clearly demonstrate how it would help eliminate competitive disadvantage, maximise environmental outcomes and specifically address PSA’s concern about free riders.”

Product Stewardship Australia Ltd

4.2.1.3 Computer industry comments

Submissions were received from the major computer industry association the Australian Information Industry Association (AIIA), IBM, Fuji-Xerox and Hewlett Packard. Other representations from the information and communications technology sector were received from the print consumables and mobile phone industries.

All representations from the computer industry were supportive of co-regulation for their own sector, but there were some suggestions that the computer industry preferred a slightly different model to that proposed in the paper. While opinions differed, issues raised included the degree to which industry will take responsibility for orphan and historical product waste, the level of stakeholder involvement, and a desire to see governments soften hazardous waste export restrictions to give access to lower cost recycling.

"IBM supports the development of a co-regulation model as outlined in the Discussion Paper..."

The personal computer and associated peripherals marketplace is a highly cost competitive one. Those companies that undertake to provide voluntary computer recovery schemes will require action from government to ensure they are not financially disadvantaged in doing so. The proposed co-regulatory framework should be structured in such a way as to ensure equity between all participants in the marketplace and therefore its scope will need to encompass the significant proportion of 'white box' and 'orphan' products.

IBM Australia Ltd

4.2.1.4 Other industry comments

It is particularly noteworthy that in addition to those industries which were already targeted for product stewardship by the EPHC, representatives of the lead acid battery, motor vehicle, vinyl, paper/printing (excluding newsprint), mining and paint industries indicated an interest in the potential for co-regulation being used to support product stewardship schemes in their own sectors. This support came from manufacturers, brand owners and recyclers.

"The general Product Stewardship Co-Regulatory Model could be applied to the paint industry..."

In principle, a regulatory safety net, supported by a National Environment Protection Measure (NEPM), would encourage companies to sign up to a Product Stewardship Agreement for their sector.

However, it should not be assumed that the best environmental and social outcomes will be achieved by a coalition of industry players (an industry scheme).

The framework should explain how Product Stewardship Agreements negotiated and signed by individual producers will work, particularly where individual producers represent a major portion of the market."

Orica Australia Pty Ltd

Product stewardship operations already underway for printer cartridges and lead acid batteries were proposed as ideal test cases for governments to assess the suitability for co-regulation. The mobile phone and agricultural/veterinary chemicals industry associations stated that as they were already running product stewardship schemes without problems caused by non-participants, they did not consider the co-regulatory framework to be necessary for their sectors.

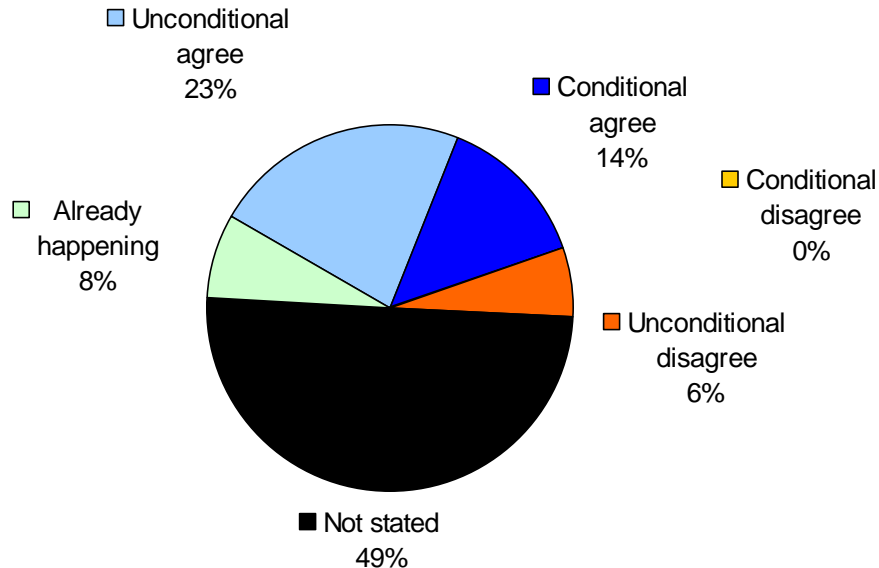
"If we accept that the level of any product stewardship approach (ie voluntary, co-regulation, mandatory) must be proportional to the risk associated with a particular product use or application, and that (in general) the products produced by the mining and minerals-producing sector present occupational risks rather than consumer risks (and generally well understood occupational risks be it during their production or first use), then reasonable to propose that voluntary product stewardship frameworks would normally be suitable for our sector (ie mining & mineral/metal production)."

However, our products do find their way into all sorts of downstream applications and uses, some of which may pose risks to consumers that need to be managed via product stewardship initiatives, including via co-regulation. Players in our sector do have a responsibility to work with downstream players involved in such applications to understand risks associated with production and use, and to manage them. Such management measures could include co-regulation and management of the risk could entail actions or materials originating up stream from within our sector."

BHP Billiton

CHART E

Support Co-Regulation in Own Sector



4.3 Question 3 “Are there successful co-regulatory approaches to product stewardship locally, or overseas, which could be useful in helping to design future co-regulatory product stewardship schemes?”

A third of respondents referred to product stewardship-type schemes in Australia or overseas that should be considered in developing co-regulation. These included:

- end-of-life vehicle schemes in the European Union, United States, Canada, Japan, Taiwan and Korea;
- tyres schemes in Europe, Canada and Japan;
- packaging/container deposit schemes in Europe and Australia; and
- mobile phone, refrigerant gas and lead acid battery industry schemes in Australia

These examples will be drawn on in the examination of the suitability of co-regulation for specific products.

4.4 Question 4 “If so, how could these be applied to improve the proposed model for Australia?”

Respondents drew on examples of the abovementioned schemes to highlight a number of areas for particular attention, or ‘lessons learned’, relating to:

- Assignment of responsibilities to producers or others in the supply chain;
- The value in a full life cycle approach;
- Allowing time for industry transition;
- The value in conducting trials to determine the best model;
- The importance and difficulties in capturing free riders;
- The need to ensure actual recycling outcomes and secondary markets;
- The importance of evaluating schemes; and
- The failures and successes of voluntary schemes.

4.5 Question 5 (p.6) “Will the Threshold Criteria be suitable for determining if an industry sector is suitable for co-regulation?”

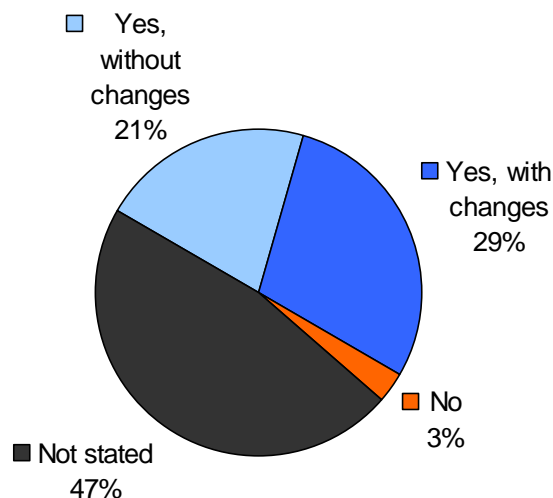
The Threshold Criteria were considered generally appropriate to determine if co-regulation was suitable to an industry sector by all but two of the 33 respondents who directly answered this question as shown in Chart F. While 14 (42% of the 33) seemed to fully support the existing criteria, 19 (57%) suggested changes.

“The criteria are comprehensive in their coverage. Best means of assessment is to apply these to existing co-regulation and other product stewardship initiatives to check effectiveness.”

BHP Billiton

CHART F

Support Threshold Criteria



In particular, a few respondents considered what constituted a 'substantial segment' of industry to require further clarification. A number also made comments either supporting or opposing the potential for governments to initiate co-regulation where appropriate if industry did not do so itself.

"We believe that Close the Loop's collection and recycling service [for printing consumables] adheres to the threshold criteria as detailed in Attachment A of the discussion paper. For this reason, Close the Loop presents a potential 'test case' for EPHC in regard to industry co-regulation. We would welcome discussing with the EPHC ways in which Close the Loop could co-operate to run a pilot study for industry co-regulation in Australia."

Close the Loop Limited

Responses to specific questions and suggestions relating to the threshold criteria are contained in Attachment A.

4.6 Question 6 (p.6) "Are there any other factors that need to be considered that are not addressed in the Threshold Criteria or in the Guiding Principles?"

Most respondents (55%) did not directly indicate their views on the proposed Guiding Principles. None specifically stated that they opposed the Guiding Principles outright. Most that made comments recommended some form of change to the Guiding Principles.

Some suggestions related to articulating the role of the consumer, clarifying the constitution of the stakeholder forum and cost-recovery by governments. Others raised issues regarding consistency with trade and other international agreements. Some, particularly those from the computer industry, raised concerns relating to the obligation to cover historical and orphan

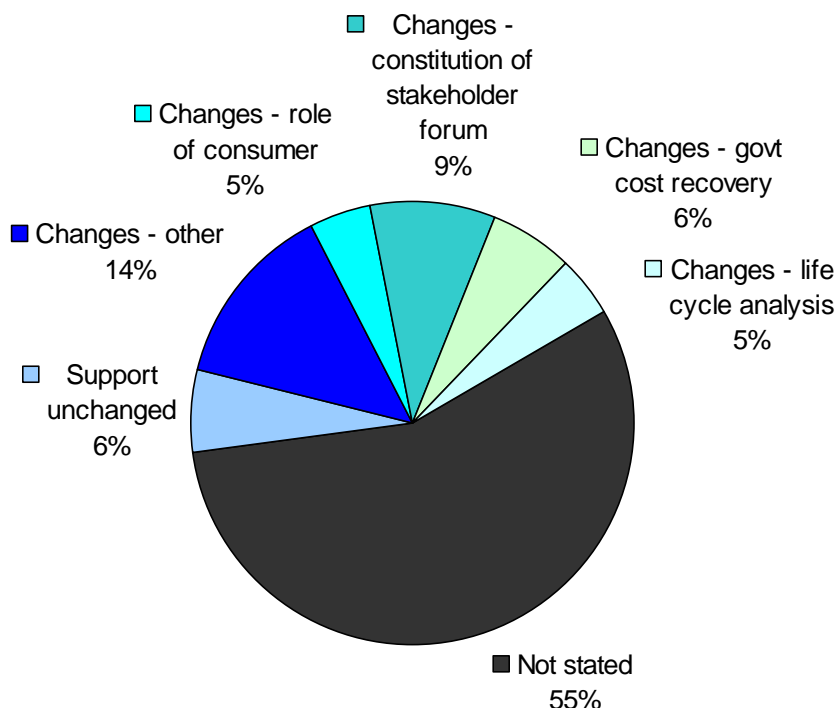
product waste. Many other comments or changes were consistent with the original intent of the Guiding Principles and provided some form of clarification or expansion.

Some of these suggestions are included in Attachment A, organised either under Threshold Criteria', 'Guiding Principles' or by issue e.g. 'responsible parties' or 'targets'.

A smaller number of respondents commended the Guiding Principles and Threshold Criteria and supported them unchanged. This is shown in Chart G.

CHART G

Support Guiding Principles



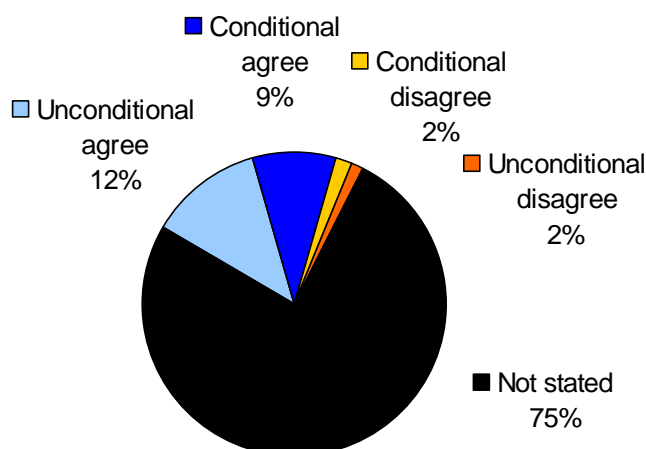
4.7 Question 7 (p.8) “Would the obligations described under the safety net encourage companies to sign up to a Product Stewardship Agreement for their sector?”

Most respondents (75%) did not directly address this question. Of the 16 that did, all but two said they probably or definitely would. One respondent, who opposed co-regulation, offered qualified support – stating that the safety-net obligations would rather *force* than encourage sign up. Some other respondents noted that it would be desirable for the obligations under the safety net to be more onerous than participation in a voluntary scheme to push companies into self-regulation. Others offering qualified support indicated that more detail on the obligations was required to ensure effectiveness.

One local government respondent disagreed that the safety net obligations would encourage sign-up, and that this depended upon how onerous and enforceable the obligations were. They drew on the Used Packaging National Environment Protection Measure (NEPM) as an example. Responses are depicted in Chart H. Comments under ‘targets’ and ‘enforcement’ in Attachment A have some relevance to this question.

CHART H

Safety net obligations likely to encourage participation in self-regulatory schemes



"For tyres the safety net provisions must negate the potential for free riders to achieve a commercial advantage by not participating. Preferably, the alternative to active participation in a scheme should be substantially more onerous as to make compliance the preferred choice in pursuit of self-interest."

Joint Working Group Tyres

4.8 Question 8 (p.8) "Should the regulatory safety net apply to all companies not part of a voluntary industry scheme, or should there be exemptions?"

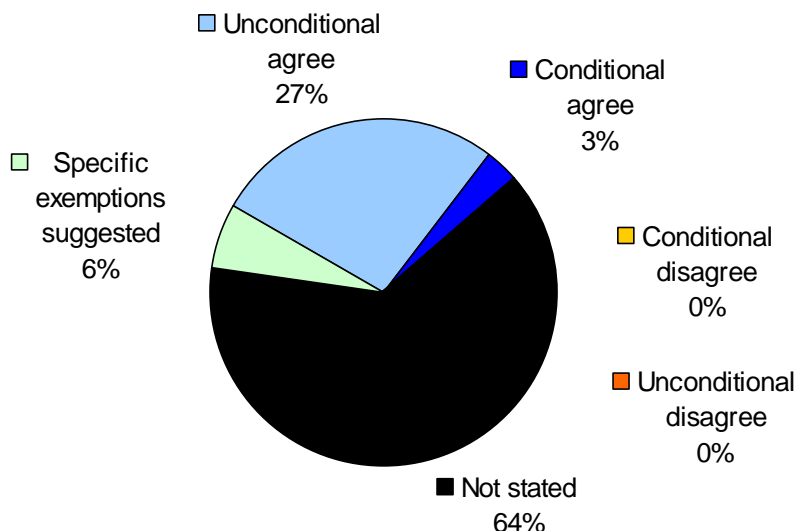
Most respondents did not respond to this question as shown in [Chart I](#). Of the 24 that did respond, 83% wanted no exemptions. Some recognised the need to ensure some flexibility in what constitutes an approved scheme (for example many supported the existence of both collective and individual company schemes).

Four respondents suggested exemptions. Two wanted an exemption for small businesses or businesses below a threshold market share, another for companies that belong to overseas schemes through their parent companies, and another for companies in remote areas who cannot join schemes for logistical reasons.

Two respondents qualified their support for no exemptions, both suggesting that criteria or guidelines could be established for exemptions in exceptional circumstances.

CHART I

Safety net to apply to all, no exemptions



5.0 Additional comments

5.1 Comments on implementing mechanisms.

A NEPM was mentioned in the paper as a possible means to achieve a consistent approach to co-regulation. While not directly asked in the paper, 20 respondents (30%) offered some comment on the appropriate type of implementing mechanism as shown in [Chart J](#).

Of these, 14 (or 70% of the 20 respondents who commented on implementation mechanisms) indicated support for a NEPM, with half qualifying this support pending provision of further detail. Some said equivalent mechanisms would also be suitable.

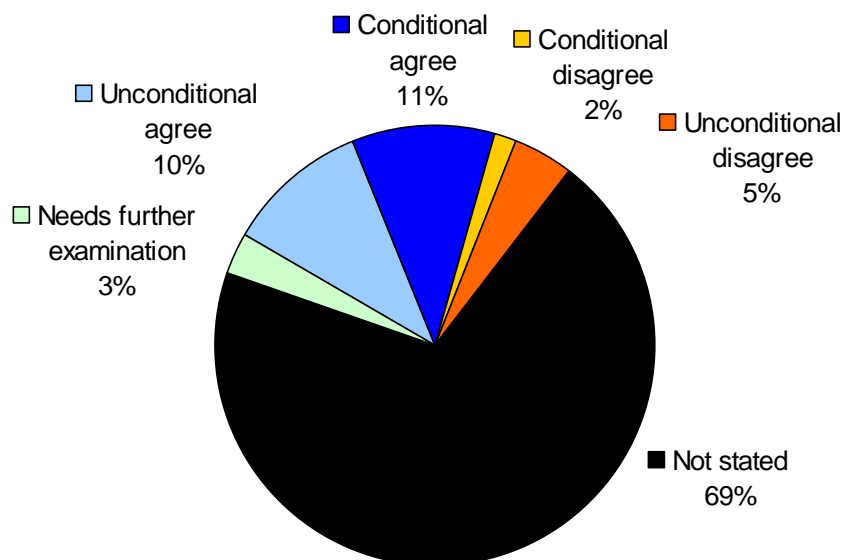
Opposition to a NEPM mainly came from those opposing co-regulation. The Australian Information Industry Association said it wanted consistent state legislation, but not a NEPM.

Some respondents offering qualified support reflected on the perceived failure of the Used Packaging NEPM and wanted to ensure stronger targets or enforcement or more consistent application across all jurisdictions. Others considered the issue needed further examination.

Generally there was unanimous support for the pursuit for nationally consistent approaches over fragmented state-based approaches. Further comments on whether a NEPM was a preferred way to achieve this national consistency are addressed in under 'NEPM' in [Attachment A](#).

CHART J

Support for NEPM as legislative mechanism



“The MCA strongly supports that where regulation is developed, that it is nationally consistent. Such an approach is critical to providing a regime capable of:

- preventing market distortion or anti-competitive behaviour;*
- avoiding the imposition of unnecessary compliance costs;*
- and maintaining a capacity for business flexibility in implementation to ensure that industry is not subjected to additional imposts.*

Importantly, a national approach would also provide the opportunity for the development of schemes that facilitate the movement of materials between jurisdictions to optimise the product stewardship outcomes.”

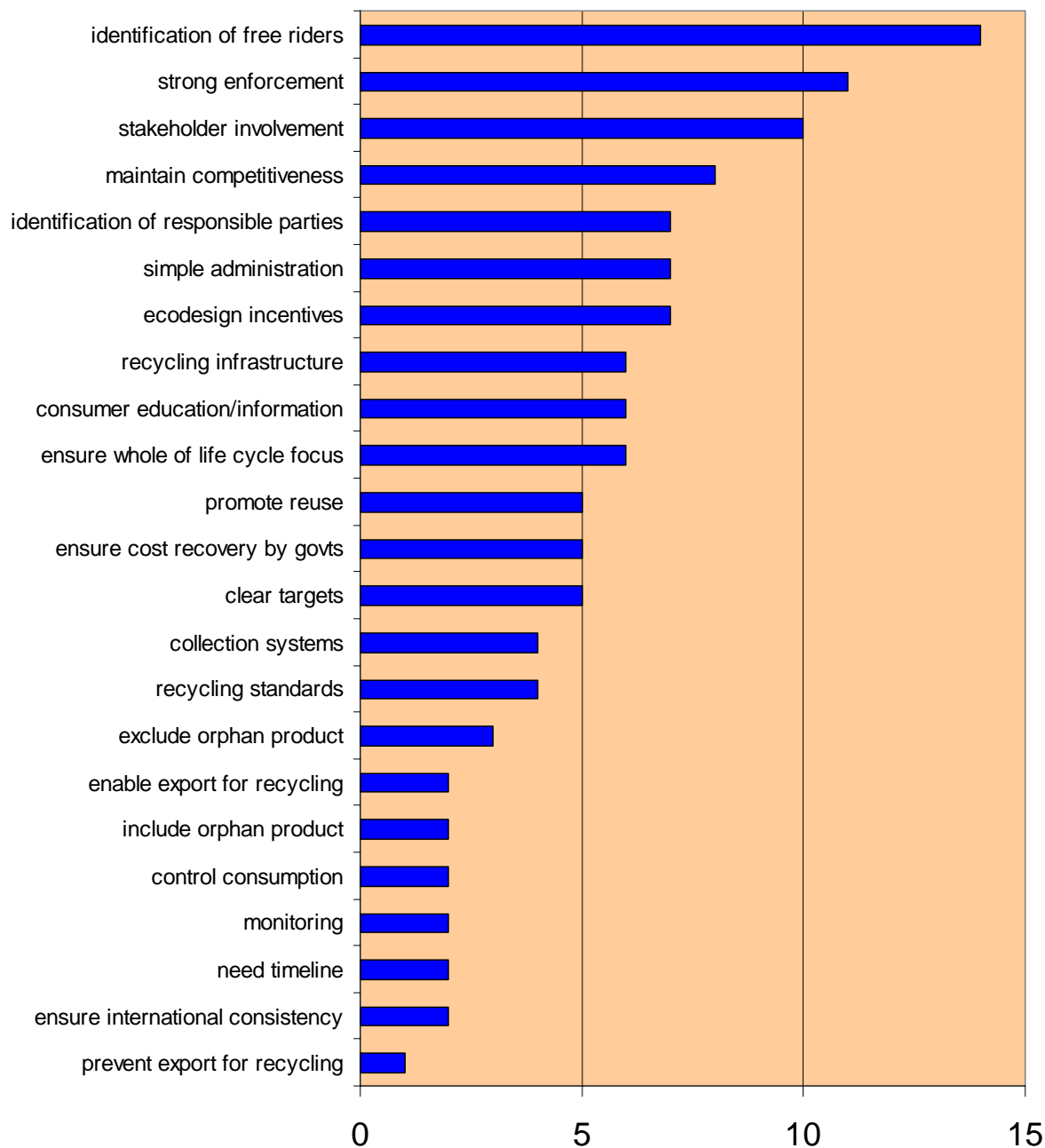
Minerals Council of Australia

5.2 Categorised comments

Many respondents provided additional comments, which were not otherwise captured above. These have been categorised in [Chart K](#) below by number of respondents raising the particular issue for consideration.

CHART K

General comments: # respondents referring to specific issues needing attention



A number of comments representing a range of views have been chosen for direct response at this stage, and are captured in [Attachment A](#). In addition to those issues already discussed above, an overview of comments made on other key areas is provided:

5.2.1 Responsible Parties

Many respondents made comments relating to who should be targeted as responsible parties under the framework. Views ranged from those that supported a clear delineation of responsibility – many wanting this to rest with the producer (manufacture/importer) to those who preferred a more shared approach to responsibility. Some made the point that responsibility at various points of the supply chain for a single product could lead to difficulties in enforcement.

5.2.2 Stakeholder Forum

There were differing views on the composition and role of the Stakeholder Forum. Some thought that the glossary of the Discussion Paper was inconsistent in the role the Stakeholder Forum would take, and whether this was to act in an advisory capacity, or to set goals and monitor outcomes of the product stewardship schemes. One respondent was concerned that if too much power were placed in the hands of the Stakeholder Forum, that it would compromise the directors and autonomy of a product stewardship scheme.

5.2.3 Orphan and Historical Products

The industry association representing most of the computer industry rejected the notion of industry accepting responsibility for orphan and historical products, preferring only to take responsibility for products sold after implementation of any co-regulatory arrangement. The consumer electronics industry was also concerned about the costs arising from dealing with orphan and historical products, but was prepared to take on the challenge so long as there was equitable participation from all competitors in the sector. They noted that without taking such responsibility, the environmental benefits from co-regulation would be substantially reduced.

The problems associated with orphan and historical products are significant and contentious issues, which in many respects provide the rationale for Product Stewardship Australia being a strong advocate of co-regulation. A co-regulatory framework that fails to effectively address orphan and historical products is unlikely to achieve any noteworthy environmental outcomes. PSA believes that these issues have received inadequate attention in the Discussion Paper, yet their environmental relevance is substantial.

Very minor environmental outcomes will be achieved if any party can choose to only recover and recycle their own brands/products. The players in the industry are constantly changing – today's market leaders are tomorrow's laggards...

Having said this Product Stewardship Australia will engage with the challenge of dealing with orphan and historical products, but only if there is a blanket requirement by governments for all parties and related sectors to do the same.

Product Stewardship Australia Ltd

5.2.4 Enforcement

The need for strong enforcement was a common theme in submissions. With most arguing that without strong enforcement by governments, co-regulation would fail. Some respondents also made comments relating to industry self-policing. Some felt self-policing by industry could support government enforcement. Others cited experiences where industry self-policing was foiled by competition concerns.

5.2.5 Cost recovery

Respondents who commented on cost recovery, mentioned in Guiding Principle 18, were in the main supportive but concerned about how this is done. A couple of respondents commented on the need for cost recovery by local governments (e.g. for provision of collection services or facilities). However one respondent criticised the notion of cost recovery, as they perceived that governments were already collecting money for such services.

One respondent commented on the need to ensure any charges are applied up front as opposed to at end-of-life (to avoid encouraging illegal dumping). Another respondent raised concerns that money collected by governments should not be used as general revenue. Others were concerned about who should pay for the costs of regulation (whether it be industry as a whole or non-participants in voluntary schemes or a combination of both).

5.2.6 Collective Industry Schemes

Comments relating to collective industry schemes included the need to ensure that both individual and collective schemes are able to operate. One respondent, from the United Kingdom, discussed the advantages of their independent National Clearing House that coordinates the allocation of waste collected to the industry as a whole, providing a service to both individual and collective schemes. They said this system avoids creation of a monopoly. Others made comments on the need for clarity and rigour in product stewardship agreements relating to the operation of collective schemes. Other competition concerns relevant are discussed under 5.2.8.

5.2.7 Cost internalisation

There were diametrically opposed views from industry and non-industry respondents relating to the internalisation of costs into product prices and the sending of clear price signals to consumers, which may influence consumption choices. Three industry respondents did not think it was valid to include cost internalisation as a requirement, nor that it was necessarily desirable. By contrast, one local government association and one environmental organisation submission saw sending price signals to consumers as a crucial way to drive more sustainable consumption.

5.2.8 Competition

A number of concerns were raised about the impact of collective schemes on competition within a product sector. There was recognition of the likely need for authorisation of collective industry schemes by the Australian Competition and Consumer Commission (ACCC). There was concern expressed about the potentially disproportionate impact of participation in such schemes on smaller businesses, and that collective schemes should not pose barriers to entry to smaller businesses. There was also concern expressed about the effect of large collective schemes constituting oligopolies and controlling supply. One respondent said that it is important to utilise business relationships along the supply chain to drive improvements. A couple of respondents said that it was important to recognise the international markets within which companies operate.

5.2.9 Targets

There was considerable emphasis for the need for measurable targets, linked to clear objectives set out under a product stewardship agreement negotiated between governments and industry.

5.2.10 Recycling Infrastructure and Markets

Comments relevant to recycling infrastructure and markets related to:

- The need to provide clear signals on proposed regulation to enable the recycling industry to plan and build infrastructure;
- The need to consider the impacts of exports on domestic recycling infrastructure and markets (one respondent suggested that export for recycling be avoided to avoid impacting on domestic capacity, another that it should be facilitated); and
- The need to ensure co-regulation does not adversely affect the reuse industry.

5.2.11 Standards

Some respondents made comments relating to the need for standards, one suggesting that the aims of co-regulation might be progressed through standardisation instead. Other respondents were insistent that minimum standards or guidelines for recycling or reuse must be met. One emphasised the importance of protecting of both the environment and human health through standards, another that increased standardisation of parts may increase opportunities for repair and reuse.

5.2.12 Design for Environment

A number of respondents made comments relating to the need for co-regulation to provide incentives for design for environment and the potential that co-regulation for product stewardship presents to create such incentives. One commented on the difficulties in achieving industry consensus on product stewardship scheme design aspects that might effect such incentives. One respondent mentioned the need to discourage rapid obsolescence, another the need to ensure design-oriented initiatives do not impact on trade competitiveness.

5.2.13 Hazardous Substances

Some respondents focussed on the need to ensure that hazardous substances, such as mercury, are designed out of products, including to avoid negative impacts on recycling processes.

6.0 Conclusion

In summary, there was generally a high level of support for co-regulation to enable industry-led product stewardship schemes. There was also support for the application of co-regulation to a range of industry sectors.

Most respondents who commented on how co-regulation might be implemented thought a NEPM would be an appropriate way to achieve a nationally consistent approach, so long as it required adherence to clear targets and strong enforcement action was taken against those that failed to comply. Most responses indicated that further examination of the issues would be essential as a next step and highlighted areas for particular consideration.

A significant wealth of information on how co-regulation might work in Australia for different products was provided by respondents, and a number of potential pitfalls were drawn to the attention of policy makers.

6.1 Next steps

The high level of stakeholder support for the concept of co-regulation as demonstrated in responses to this Discussion Paper, prompted EPHC Ministers to request officials to scope options available to progress work on a national co-regulatory framework in April 2005.

In July 2005, EPHC Ministers agreed to initiate a NEPM for Co-Regulation of Product Stewardship. Further public consultation and a detailed regulatory impact assessment will be undertaken to ensure all stakeholders have opportunity to further contribute to this important new initiative. Updates on this work program will be available at www.ephc.gov.au.

6.2 Thank you for contributions

The authors would like to thank everyone who has taken the time to comment on this discussion paper and contribute to the formulation of EPHC policy on product stewardship. Please contact Naomi Wolfe at the Australian Government Department of the Environment and Heritage naomi.wolfe@deh.gov.au or (02) 6274 1683 if you have any queries or comments regarding this analysis.

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SAMPLE COMMENTS AND RESPONSES ²

The following table groups comments into 19 categories:

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2. NEPM	37
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A list of organisations providing submissions referred to in this attachment is available at page 64.

² This analysis does not aim to capture all comments from all 66 submissions, but to provide an overview of key issues raised by various participants. This summary table and the more detailed submissions themselves will be used to guide further work in this area. Comments have been paraphrased. Please refer to full submissions listed at the end of this table for further detail and context.

1. Broad Approach	Response
<p>It would be better to decide on priority wastes, establish goals for resource conservation and waste avoidance and establish a scheme to achieve that. Disappointed that the only focus is on co-regulation and no discussion of the effectiveness of the model or alternative options. Market-based instruments should be developed.</p> <p style="text-align: right;">46 EV/TEC</p> <p><i>Similar comment</i></p> <p>The paper appears concerned about addressing the competitive disadvantage rather than resource consumption and waste generation. The Municipal Waste Advisory Council does not consider that governments have meaningfully engaged with the community or local government on the definition of the problem, range of potential responses or the sufficiency of industry action. Suggest the following steps to strengthen the framework:</p> <ol style="list-style-type: none"> Governments collaboratively develop some simple, national strategic goals in waste management to guide the development of more detailed responses; Governments collaboratively identify problem industries and put them on notice that they will need to act to avoid direct regulation; Governments collaboratively identify the types and magnitudes of changes which need to be made in the highest priority industries and provide these industries with fair notice of the expectations; invite proposals for voluntary schemes; governments scrutinise the proposals and determine how well these are likely to be able to meet the objectives already determined. <p style="text-align: right;">12 WALGA</p>	<p>The need for a more strategic approach to national waste issues is recognised by the Environment and Protection Heritage Council (EPHC). The EPHC has done a strategic appraisal of priority national waste issues, and among them electrical and electronic products and tyres were identified as requiring national action.</p> <p>Scrutiny of the opportunities for product stewardship in these sectors has identified common issues relating to non-participants, necessitating consideration of a new tool to enable product stewardship initiatives. The co-regulatory framework being developed is just one tool. If progressed co-regulation could be one of a number of options assessed for potential application to products in the future and does not preclude the use of other tools where these are deemed to be more effective.</p> <p>Product stewardship arrangements do not preclude the use of market-based instruments as a means to achieve environmental outcomes. Further information on market based instruments is available at http://www.deh.gov.au/industry/waste/mbi/index.html</p>

<p>Concur with the principle of government supporting industry-led voluntary product stewardship schemes, but that where commitment to stewardship is evident and benefits can be measured industries should be allowed to self-regulate. Safety nets should only be considered if the majority of industry requests it or if it has been unable after a reasonable period of time to play its role in achieving sustainable development. Avcare/Agsafe use a different definition for co-regulation, which relates to an industry-led compliance scheme, without a government safety net.</p> <p style="text-align: right;">54 Avcare/Agsafe</p>	<p>Noted. Co-Regulation will not be suitable for every sector and the Threshold Criteria and Guiding Principles will guide development.</p>
<p>The fundamental basis of regulation should be that it is the minimum level required to achieve state policy objectives and to avoid unnecessary restrictions. It should be targeted at the identified problem or issue, and not impose an unnecessary burden on those affected. Government should encourage the development of self-regulatory schemes ahead of any consideration of regulatory controls. Following the implementation of such schemes an assessment should be made, and only should the voluntary industry scheme be found at this stage to not be meeting the criteria referenced above, the MCA considers that it would then be appropriate to consider the development of a co-regulatory response.</p> <p style="text-align: right;">58 MCA</p> <p><i>Similar comment</i> Need to provide a much clearer case for market failure and explore alternative options. Regulatory burden should be reduced. Recommend that the Coalition of Australian Governments (CoAG) principles on regulation be adhered to and a RIS undertaken. Where self-regulation has clearly failed</p>	<p>Noted. Any further development of the framework will be guided by a regulatory impact statement (RIS) and public consultation in accordance with CoAG Principles and Guidelines³.</p>

³ Principles and Guidelines for National Standard Setting and Regulatory Action by Ministerial Councils and Standard-Setting Bodies is available at <http://www.pc.gov.au/orr/reports/external/coag/>

<p>and this can be objectively demonstrated, then alternatives to self-regulation can be considered. Do not consider co-regulatory framework to contain any element of self-regulation.</p> <p>38 ASCPA</p>	
<p>Co-regulation is supported, but should be based on a risk assessment. The eventual level of regulation (voluntary, co-regulatory or mandatory) will likely be directly dependent upon and proportional to the level of risk (to human health, environment, and economic viability).</p> <p>60 BHP</p>	<p>Noted. Such assessment will be considered going forward through the development of any regulatory impact statement.</p>
<p>ACOR does not support individual state-based approaches for materials that are clearly distributed and consumed nationally.</p> <p>49 ACOR</p> <p><i>Similar comment</i> A national uniform approach is essential to maximise positive environmental outcomes and minimise unnecessary administrative and compliance related costs to industry and govts.</p> <p>52 CESA</p>	<p>Noted. The purpose of the proposed co-regulatory framework is to ensure a nationally consistent approach</p>
<p>Suggest rewording page three of Discussion Paper with the addition of wording in italics: “It is important for Australia, <i>in light of its World Trade Organisation obligations</i>, to develop a national approach to product stewardship that fits with the Australian context while maintaining consistency with other approaches being taken internationally”.</p> <p>47 DFAT</p>	<p>Noted. Although it is not proposed that the Discussion Paper be revised and re-released, this comment will be taken on board in future work and publications.</p>

2. NEPM as implementing mechanism	
<p>A NEPM may be adequate if it can provide real time physical intervention in the market, ensure free riders cannot bypass the scheme or safety net even for short periods, and is the most cost effective and efficient mechanism.</p> <p>13 Renewed Rubber</p>	<p>Noted. These issues will be considered in the future development of the framework.</p>
<p>Want to authorities to examine if other mechanisms exist. Propose state-based legislation through 'sale of goods' acts.</p> <p>39 AIIA</p>	<p>Noted. A range of options to ensure national consistency in regulatory development will be considered.</p>
<p>Welcomes a NEPM but notes history with National Packaging Covenant not a good example as States have failed to use the "teeth" provided. The lead time in some states to implement is too long.</p> <p>49 ACOR</p>	<p>Noted. This is an important issue. Lessons learnt from the NPC will be considered as the framework is developed.</p>
<p>Should a decision be taken that regulation is required in the area of product stewardship, a NEPM may provide an appropriate framework to use for its development. Importantly this consistency needs to be developed at a greater level of detail than the principle level to provide clarity and certainty for industry and the community.</p> <p>58 MCA</p>	<p>Noted. Further detail will be included in a RIS and put to public consultation.</p>
<p>Support only if it is a national framework. Local governments must follow the lead of State/Territory governments and not act unilaterally. AEEMA supports any framework that provides a mandatory requirement on all suppliers to comply whether this is fully regulatory or co-regulatory. AEEMA believes the use of a NEPM could ensure a national scheme</p>	<p>Noted. National Environment Protection Measures (NEPMs) ensure a nationally consistent framework, whether used as a regulatory or co-regulatory mechanism.</p>

and could be an appropriate tool by which to implement a co-regulatory scheme. 4 AEEMA	
The Threshold Criteria as currently drafted do not establish the suitability for NEPM type of co-regulation. 46 EV/TEC	The Threshold Criteria are to determine suitability of an industry for co-regulation, not for a NEPM as the implementing mechanism.
More clarification is sought on product specific schedules. 44 HP	Product specific schedules address outcomes and actions required for specific products. Further information on this would be developed for public consultation.
3. Threshold Criteria	
The suitability of the Threshold Criteria depends on the ACCC's criteria for 'public good'. If the ACCC have authorised a scheme based on the public good then this may predetermine the Threshold Criteria and suitability of a sector for co-regulation. Otherwise the criteria themselves are generally acceptable. Governments and industry should work together on finalising Threshold Criteria to avoid duplication and ensure harmony. 5 PSA Ltd	The ACCC assessment is not design to assess suitability of a sector for co-regulation, and is different but complementary, process. Governments will be working with the Australian Competition and Consumer Commission (ACCC) as the further development of the framework and accompanying RIS.
Suggested additional criteria: "Is the proposed scheme likely to undermine other current or future policy responses to the product life-cycle impacts associated with the particular industry?" 12 WALGA	This issue will be considered in the development of the framework and accompanying RIS.
National coverage should only be committed to once the individual product has been examined – for example, the environmental detriment of transporting the product to a recycling station may be higher than the environmental detriment of the product going to landfill. 4 AEEMA <i>Similar comment</i> Clarify definition of 'national in scope'. 44 HP	Noted. Further analysis of the scope of industry schemes will be undertaken as the framework is developed.

<p>Criteria proposed are sensible. Care needs to be exercised with "staged rollouts". Risk that not all components of industry activity would be affected in the same way and this may lead to distortion.</p> <p>10 ATRA</p>	<p>Noted. This issue will be an important aspect for assessment of any scheme.</p>
<p>Support these criteria with the understanding that meeting these criteria will, for global companies, mean reporting both overseas and local product stewardship initiatives.</p> <p>17 IBM</p>	<p>Noted.</p>
<p>Think that these criteria are more like design elements for a scheme. Suggest they be kept as such, and that criteria be listed (that are along the same lines as those intended):</p> <ul style="list-style-type: none"> • The environmental issue is significant; • Consumer behaviour is not enough to reward environmentally friendly approaches; • Competitive pressures favour non-participation; • There is a relatively easily defined response to the environmental issue; • The issue cannot be addressed more efficiently through other approaches. <p>19 A3P</p>	<p>Noted.</p>
<p>Governments should be able to invoke co-regulation if a sector is unable or unwilling to establish a voluntary scheme. Should also be a second threshold for government-invoked co-regulation, including criteria based on: product volume in marketplace, landfill as end of life solution, toxicity issues, opportunity costs from buried resources, need for national solution, potential for recovery/reuse.</p> <p>24 EcoRecycle Vic</p> <p><i>Similar comment</i> Government should not be allowed to instigate co-regulation, only the majority of industry should.</p> <p>53 ACCI</p>	<p>The appropriateness of governments initiating co-regulation, depending on the impacts of the product and the capacity of industry to self-regulate, will be considered in any further development of co-regulation.</p>

<p>Suggest that if 75% of companies are in voluntary scheme, then it should be made mandatory. Conversely if less than 75% in scheme should force mandatory.</p> <p>25 WA DE</p>	<p>Noted. Exact thresholds may be set for individual sectors/products following further examination.</p>
<p>Support concept that costs of implementation should be less than environmental benefits, but need to consider in terms of time frame - a long-term benefit may require significant up-front investment.</p> <p>34 VCA</p>	<p>Noted. The timeframe for cost-benefit analysis will need to be considered in a RIS.</p>
<p>Some of the conditions in the Threshold Criteria and the guiding principles as currently written are fairly vague and would benefit from further clarification. Concepts such as 'effective outcome', viable, sustainable development and product stewardship are vague and imprecise.</p> <p>44 HP</p>	<p>Noted. Further clarification will be provided through the development of the framework.</p>
<p>Data collection proposed might need to be assessed from the perspective of its workability as well as the value of the data gained for the effort required to both collect and manage this information. In addition the data requirements should apply only to those companies who are participants in the industry scheme rather than requiring the provision of aggregated quantitative information for the sector as a whole.</p> <p>58 MCA</p> <p><i>Similar comment</i> With regards to Criterion 4, 5 PSA Ltd will only provide aggregated, not company-specific data due to commercial sensitivity.</p> <p>5 PSA Ltd</p> <p><i>Similar comment</i> Provision of quantitative information on product life cycles should be subject to commercial confidentiality.</p> <p>44 HP</p>	<p>Noted. The level of data collection required will need to be considered on a product-by-product basis and negotiated between governments and industry in developing a Product Stewardship Agreement.</p>

Difficult to specifically assess what we would need to consider at this early point. No doubt there would be other considerations that would evolve as this concept is developed through sectors where it may be more easily implemented. 65 BPIC	Noted.
An additional criterion should be included relating to consumer access to information sufficient to make an informed choice regarding their purchase and the environmental cost/benefits of that commodity and its packaging. This could be achieved through a star rating system. 7 LGA NSW	Noted. Such inclusions will be considered in the further development of the framework.
Define the proposed interrelationship between the national product stewardship agreements and state-based initiatives. 44 HP	Noted. Further clarification will be provided in the future development of the framework.
Point 5 should be the first point, and should read 'majority' rather than 'substantial segment'. Failure to meet this criterion should mean that the scheme does not proceed. 53 ACCI	Noted. Clarification of the definition of substantial segment will be explored as framework is developed.
4. Guiding Principles	
Principle 8 should be broadened (is waste-focussed, but should relate to all performance measures in the scheme). Co-regulation must compliment voluntary schemes and encourage continued evolution of an industry scheme. It should not only encourage single-issue based solutions. 34 VCA	Noted. Further clarification on these issues will be sought in the future development of the framework.
Want to ensure that second paragraph of principles regarding minority of free riders is based on minority of market share not necessarily number of companies (as there may be many small companies not participating but representing only a small market share). 5 PSA Ltd <i>Similar comment</i> 'Substantial segment' definition should be based on	Noted. Further clarification will be provided in the future development of the framework.

<p>something other than just the number of companies participating in the scheme and should represent market size or coverage. Individual schemes should achieve equivalent levels of performance rather than demonstrate the same level of achievement and risk management.</p> <p>44 HP</p>	
<p>Issues at Guiding Principle 9 should be considered in a reasonable balance with other considerations such as health and safety, functionality, manufacturing costs/affordability, marketability and manufacturers competitiveness.</p> <p>44 HP</p>	Noted.
<p>Principal 9 refers to social equity. AEEMA emphatically rejects the notion that social equity is the responsibility of a product stewardship scheme.</p> <p>4 AEEMA</p>	Product stewardship approaches are not limited to consideration of environmental outcomes, but must also consider how the community is affected in achieving these. Issues of social equity will also need to be considered by governments and industry in negotiating product stewardship agreements and undertaking impact assessment.
<p>Add "apply equally and unconditionally to like product originating from any other WTO member that is affected by the scheme" to cover off on GATT 1994 Article 1. It is important to ensure the WTO is notified when government standards or regulations are made where international trade is affected.</p> <p>47 DFAT</p>	Noted. Further clarification around trade regulations will be provided in the future development of the framework.
<p>Guiding principles should explain types of scheme that could breach competition policies and international trade obligations.</p> <p>48 Orica</p>	Noted. Further detail will be provided on this matter in any further work and impact assessment.
<p>The statement 'including provisions for the risk management to guard against failure of both self-regulating and regulated parties' requires clarification.</p> <p>44 HP</p>	Noted. Further clarification will be provided in the future development of the framework.

<p>Product Stewardship Agreements need the following two elements: a detailed definition of the product's life-cycle and boundaries of the scheme, and a detailed account of the measures expected in each part of the lifecycle. Need to recognise international nature of schemes, including for example performance of offshore manufacturers.</p> <p>14 Green Lead</p>	<p>Noted. These aspects will be taken into consideration in the negotiation of Product Stewardship Agreements.</p>
<p>Suggest two additional Guiding Principles:</p> <ul style="list-style-type: none"> • There should be a clear, simple environmental objective for the actions. In most cases this will be based on the issue of waste to landfill; and • Subsidiary actions, targets and milestones should be clearly linked to the principle objective. <p>19 A3P</p>	<p>Noted. These suggestions will be taken into consideration as the framework is developed.</p>
5. Responsible parties	
<p>Local government is supportive of extended producer responsibility, as Product Stewardship, which implies a shared responsibility, tends to diffuse the responsibility of manufacturers.</p> <p>7 LGA NSW</p> <p><i>Similar comment</i></p> <p>Would prefer clear responsibility to lie with producers (EPR), allowing for incorporation of product stewardship where appropriate (as in NSW legislation).</p> <p>25 WA DE</p>	<p>Noted. In the context of this framework, schemes need to be developed in a way that considers the roles and responsibilities of all parties across the life cycle of the product.</p>
<p>In our view product stewardship and EPR are one and the same thing.</p> <p>62 WMAA Tas</p>	<p>Noted. In the context of this framework schemes need to be developed in a way that considers the roles and responsibilities of all parties across the life cycle of the product.</p>
<p>Need to be clear about responsible parties to avoid multiple application of levy at different points in supply chain.</p> <p>37 AP</p>	<p>Noted. This issue will be considered in the future development of the framework.</p>

<p>Need to clearly identify the term 'industry' used in the paper - does this include retailers, recyclers, transport companies etc?</p> <p>5 PSA Ltd</p>	<p>This term has been used in different contexts within the discussion paper, and its definition will be clarified in future publications.</p>
<p>Retailers should be responsible if manufacturers or importers not readily identifiable.</p> <p>24 EcoRecycle VIC</p> <p><i>Similar comment</i> Need to look at how co-regulation can bring retailers into sharing of responsibility.</p> <p>52 CESA</p>	<p>Noted. The issue of responsibility will be further clarified in the future development of the framework.</p>
6. Free riders	
<p>The requirements for negotiation for companies in product stewardship agreements should be a more onerous burden than the regulated free riders. Free riders must have to engage in dialogue with stakeholder forum and provide detailed reports and feedback. This should be reflected in Attachment B of the Discussion Paper.</p> <p>5 PSA Ltd</p>	<p>Noted. The exact requirements imposed on 'free riders' will be the subject of further more detailed analysis and public consultation.</p>
<p>If you are going to regulate free riders for this aspect, why not regulate those that 'free ride' on other businesses by not investing in training (poaching staff from others that have).</p> <p>9AATSE</p>	<p>Noted.</p>
<p>We would advocate that Product Stewardship Schemes should be mandatory not voluntary so as to ensure an equivalent acceptance of environmental responsibility... In the absence of a fully regulatory scheme, it is appropriate for governments to regulate as environmental responsibility rests with both the private and public sectors.</p> <p>41 Toyota</p>	<p>Noted.</p>

<p>AIP believe that it is acceptable (to regulate free riders) and indeed may be essential to ensure an optimal and equitable product stewardship outcome, in the environments identified above as suitable for co-regulation</p> <p>55 AIP</p>	<p>Noted.</p>
<p>7. Stakeholder Forum</p>	
<p>AEEMA asserts that any stakeholder forum should be advisory only and not have the power to make decisions relating to the operation of the scheme. One reason for this is that it may compromise a company's directors, who are ultimately responsible for the activities of the scheme. Stakeholder Forum is defined as one that sets goals.</p> <p>4 AEEMA</p> <p><i>Similar comment</i> Need to better define the role of the Stakeholder Forum. The forum should not be setting goals for approved scheme nor monitoring outcomes but should have an advisory role. Not clear if the same forum would be used for all industries (TVs, Computers and Tyres). If so PSA Ltd would oppose this. 5 PSA Ltd would like further discussion on this, including consideration of their proposal to establish their own advisory forum. Directors and managers of PSA Ltd will be setting its goals consistent with the Product Stewardship Agreement.</p> <p>5 PSA Ltd</p> <p><i>Similar comment</i> Merit in providing further clarification to Guiding Principle 12, which allows for a forum of stakeholders. There should be two distinct forums, one broader advisory forum and another more strategic forum of key industry stakeholders, providing direction and sign off on all key policy issues.</p> <p>10 ATRA</p>	<p>Noted. Further clarification on the nature and role of the stakeholder forum will be provided in future development of the framework.</p>

<p>Role of stakeholder forum should be clearly defined. Industry should not be responsible for securing stakeholder participation.</p> <p>44 HP</p>	Noted.
<p>Support the involvement of external stakeholders but they must be involved based on both their interest and relevance to the focus of the scheme. Therefore considers that it is not appropriate to prescribe the involvement of any groups including the recycling industry or local government.</p> <p>58 MCA</p>	Noted. The constitution of the stakeholder forum will require further examination.
<p>Community and environment groups should be included on the stakeholder forum.</p> <p>50 Lam</p>	Noted.
8. Orphan and historical products	
<p>Product stewardship schemes must provide a solution for orphaned products as well as brands in the current market.</p> <p>24 EcoRecycle Vic</p>	Noted
<p>The government should provide support for the funding of historic/orphaned product recover if that becomes a requirement. Schemes should initially be designed to be forward-looking and cover products sold after an agreed starting date.</p> <p>39 AIIA</p>	Noted. The impacts of this position and its alternatives will be assessed in the development of the framework and any regulatory impact statement.
<p>In following the spirit of shared producer responsibility, the role of government should be to assume primary responsibility for historical and orphaned products. As the Discussion Paper states, similar schemes are being developed in the rest of the world. In many of these cases government has assumed responsibility for orphaned and historical product for a period of time, such as ten years, after which industry takes responsibility.</p> <p>4 AEEMA</p>	Noted. The impacts of this position and its alternatives will be assessed in the development of the framework and any regulatory impact statement.

<p>The problems associated with orphan and historical products are significant and contentious issues, which in many respects provide the rationale for Product Stewardship Australia being a strong advocate of co-regulation. A co-regulatory framework that fails to effectively address orphan and historical products is unlikely to achieve any noteworthy environmental outcomes. PSA believes that these issues have received inadequate attention in the Discussion Paper, yet their environmental relevance is substantial.</p> <p>Very minor environmental outcomes will be achieved if any party can choose to only recover and recycle their own brands/products. The players in the industry are constantly changing – today’s market leaders are tomorrow’s laggards...</p> <p>Having said this Product Stewardship Australia will engage with the challenge of dealing with orphan and historical products, but only if there is a blanket requirement by governments for all parties and related sectors to do the same.</p> <p>5 PSA Ltd</p>	<p>Noted. The impacts of this position and its alternatives will be assessed in the development of the framework and any regulatory impact statement.</p>
<p>Need to ensure equitable treatment of orphan products - no financial penalty</p> <p>42 DoCITA</p> <p><i>Similar comment</i></p> <p>Think it is inappropriate to require companies to deal with orphan or historical waste as it penalises those companies who chose to participate in the industry scheme by requiring them to develop measures to address environmental liabilities that were generated by other companies operating in the same sector. Issues of conflict may also arise where such liabilities now rest with state governments following cessation of operations.</p>	<p>These are important issues and will be clarified as industries develop schemes for product stewardship arrangements and assessed in a RIS and public consultation.</p>

58 MCA	
<p>The Westminster system of government has endorsed in it the principle of ex post facto, that no law should be changed after the event to retrospectively address the event. This is a principle that has been especially honoured in the area of taxes, levies and costs. To impose the cost of managing the recycling of historical product on the industry rather than letting it be borne by the broader consumer society (who rightly should have borne the cost of end of life recycling as a built in element of product cost) would seem to significantly breach this enshrined principle and be inequitable.</p> <p>21 Fuji Xerox</p>	<p>Noted. The issue of retrospectivity should not be a challenge to the development of the framework as described, but will given consideration as the framework is developed.</p>
9. Enforcement	
<p>A scheme where companies signed up but without real requirements provides no incentive to achieve results. Under the National Packaging Covenant no real requirements were placed on signatories. This encouraged sign up but also made the safety net provisions unworkable as any sanctions would be clearly challengeable.</p> <p>7 LGA NSW</p>	<p>Noted. Because co-regulation is not appropriate for every industry, the suitability of approaches will be considered on a product-by-product basis.</p>
<p>Need clearer statements about the penalties and further detail on: Where the govt collects the fee, who is responsible for recycling the free riders' products if govt collects money, will govts take responsibility for these products? PSA Ltd would like to see harsh penalties strongly identified in the next version of the Discussion Paper.</p> <p>5 PSA Ltd</p>	<p>Noted. This comment will be taken on board in the further development of the co-regulatory framework and any RIS.</p>
<p>Must ensure that companies cover responsibilities in the present, as products may be orphaned in the future.</p> <p>24 EcoRecycle Vic</p>	<p>Noted. This issue will be taken into consideration as the framework is developed.</p>
<p>Could there be importation controls on goods that do not have a proper EPR strategy in place?</p> <p>57 ZWN</p>	<p>This issue will be clarified further in the future development of the framework.</p>

Free riders must be identified at the earliest possible time and there must be an effective national policing mechanism. 49 ACOR	Noted. These issues will be investigated as the framework is developed.
Individual companies falling behind the industry scheme in respect of performance should be able to be removed from the agreement and placed under the regulatory arrangements. 24 EcoRecycle VIC	Noted. The mechanism for expulsion of non-compliant companies from collective industry schemes will be considered in the development of governments' approval of the scheme.
Need to be wary of requiring voluntary schemes to regulate their own members. Competition concerns may be used to stop active policing. 55 AIP <i>Similar comment:</i> MCA don't think that an industry run or funded body should be required to monitor itself or 'stand in judgment of its own membership in terms of monitoring compliance and issuing penalties for non-compliance'. In addition it is not appropriate for such an organisation to establish a framework that may lead to the regulation of a company who is not a participant in the scheme, thereby taking on the legitimate role of government. 58 MCA	Noted. This issue will need to be considered in the development and approval of schemes.
Financial and operational responsibility for managing products must (continue to) move from general taxpayers to producers and consumers. As it does so, industry participants have a financial interest in ensuring wide compliance and in preventing "free riders". A self-policing mechanism supported by government enforcement action on non-compliant "free riders" is important to ensure a level playing field within each sector, where such 'support' is warranted by the risk. 60 BHP	Noted. This issue that will be examined as the framework is developed.

10. Exemptions	
<p>Must apply to all with no exemptions. There needs to be a degree of flexibility in what constitutes an approved scheme, which should be achieved when drafting industry agreements.</p> <p>5 PSA Ltd</p>	<p>Noted. Exemptions and requirements for approved schemes will be further clarified in the development of the framework and any regulatory impact statement.</p>
<p>Industries should not be able to claim exemption on size.</p> <p>7 LGA NSW</p>	<p>Noted. Exemptions will be further considered in the development of the framework and any regulatory impact statement.</p>
<p>Should exempt small business and any companies below a nominated market share threshold.</p> <p>53 ACCI</p> <p><i>Similar comment</i></p> <p>Small business should be exempted</p> <p>56 CCI WA</p>	<p>Noted. Exemptions will be further considered in the development of the framework and any regulatory impact statement.</p>
<p>All industry sectors should be expected to participate in a viable industry scheme for product stewardship. An exemption case in the event that exceptional circumstances exist, should be accommodated. However, the exemption criteria should be specific with timeframes for a parallel scheme.</p> <p>14 CIF</p>	<p>Noted. Exemptions will be further considered in the development of the framework and any regulatory impact statement.</p>
<p>Of course there will be cases where there are clearly justifiable reasons to exclude certain operations from the provisions and the question needs to be asked as to whether the safety net needs to automatically apply. A significant penalty applied to a small regional operator who is in no position to develop an alternate yet approved product stewardship approach would be inappropriate.</p> <p>65 BPIC</p>	<p>Noted. Exemptions will be further considered in the development of the framework and any regulatory impact statement.</p>
<p>Exemptions may be appropriate for companies that belong to equivalent schemes through their offshore parent companies</p> <p>34 VCA</p>	<p>Noted. Exemptions will be further considered in the development of the framework and any regulatory impact statement.</p>

<p>There should be a process to apply for exemptions, which could be looked at on an individual basis. It may be possible to develop strict guidelines under which an exemption may be considered to avoid wholesale applications from parties who should not be considered.</p> <p>45 GCCC</p>	<p>Noted. Processes for determining exemptions will be developed and clarified in the development of the framework.</p>
<p>Should there ever be a requirement that imposes additional costs on the producers or suppliers of products then it can only be fairly applied if it goes to all products. This includes both imported and locally made goods.</p> <p>65 BPIC</p>	<p>Noted. Both imported and domestically manufactured products will need to be treated equivalently to ensure our compliance with international trade agreements.</p>
<p>HP suggests that more detailed research be undertaken before any decisions are made about exemptions based on market share or the size of the producer's business.</p> <p>44 HP</p>	<p>Noted. Standard exemptions may not be appropriate for all industries and further clarification will be considered in the development of the framework and any regulatory impact statement.</p>
<p>11. Cost recovery</p>	
<p>Guiding Principle 18 allows for cost recovery by governments and the fair apportionment of costs to industry. This would allow government to shift costs to industry for a service for which they currently receive payment, as waste collection is a direct government responsibility.</p> <p>4 AEEMA</p>	<p>Noted. The development of the framework will lead to a proper assessment and clarification of appropriate roles and responsibilities of both industry and governments for targeted products.</p>
<p>Consideration of collection points for returned products are important. It would be expected that the local council would need compensation to cover sorting and storage costs.</p> <p>21 ALC</p>	<p>Noted. Cost recovery will be assessed for each industry as the framework and any regulatory impact statement is developed.</p>

<p>Need to ensure cost recovery for local governments. Avoid fees at more than one stage in the life cycle - either up front or at disposal. Prefer upfront fee to avoid illegal dumping. This fee should cover collection, recycling and disposal costs, including the significant costs associated with providing separate collection infrastructure for local government.</p> <p>29 SWSA</p>	<p>Noted. Cost recovery will be assessed for each industry as the framework and any regulatory impact statement is developed.</p>
<p>Cost-recovery requires transparency and should not place additional burdens on voluntary industry schemes that are already at a competitive disadvantage due to administration costs etc.</p> <p>34 VCA</p> <p><i>Similar comment</i> Need to make sure that it is not only signatories to a product stewardship agreement that have to bear the cost recovery by governments, should be non-participants or all of industry.</p> <p>55 AIP</p> <p><i>Similar comment</i> Concerned that cost recovery will be difficult, particularly if a smaller number of regulated companies are sharing the costs.</p> <p>25 WA DoE</p>	<p>Noted. The issue of cost recovery will be clarified further as the framework and any regulatory impact statement is developed.</p>
<p>Environment Victoria supports cost recovery by governments.</p> <p>46 EV/TEC</p>	<p>Noted.</p>
<p>ACOR is concerned with cost recovery by governments becoming general revenue.</p> <p>49 ACOR</p>	<p>Noted.</p>

12. Collective industry schemes	
<p>Collective industry scheme monopolies have been successful in achieving high levels of recycling in Europe but have attracted concerns from the European Commission regarding anti-competitiveness and much higher costs to producers. Tradable certificates have led to a lower compliance cost but a lower level of recycling. Local authorities are marginalised by tradeable certificates. The National Clearing House model to be used in the United Kingdom is not a monopoly because it does not undertake logistics and recycling. It is a low cost solution that does not marginalise local government.</p> <p style="text-align: right;">6 PSWG</p>	<p>Competition issues will be considered in any RIS and governments will be working with the ACCC on these issues. Schemes will require ACCC authorisation where they raise competition concerns.</p>
<p>Companies must be able to join broader industry schemes or operate their own.</p> <p style="text-align: right;">24 EcoRecycle VIC</p> <p><i>Similar comment</i></p> <p>HP believes that it is critical that producers should be able to select whether they participate in a cross industry schemes or operate their own individual producer scheme. Obligations of both participants should be the same.</p> <p style="text-align: right;">44 HP</p>	<p>Noted.</p>
<p>Agreement should clearly set out how companies can join and what the penalties for not joining are, and identify what level of establishment costs latecomers should bear.</p> <p style="text-align: right;">55 AIP</p>	<p>Noted. This is an important issue and will be considered in the future development of the framework.</p>
<p>Government might consider using commercial contracting practices as a benchmark for the level of rigour that must be injected into the development of voluntary agreements.</p> <p style="text-align: right;">12 WALGA</p>	<p>Noted.</p>

13. Internalisation of costs	
<p>The paper states that the framework will incorporate product management costs into consumer price signals and promotes this as a desirable outcome. How this will happen is not explained, nor is it an assurance of the framework. Surely this claimed outcome will depend on each producer's actions. Encouraging standard product stewardship costs to be incorporated in consumer price signals for orphan and historic waste is likely to discourage innovation and promote mediocrity.</p> <p style="text-align: right;">4 AEEMA</p> <p>Product Stewardship Australia believes that the definition for Product Stewardship listed in the glossary is unnecessarily long and incorporates concepts and actions not often highlighted in such a definition. Providing such specific detail on the issue of 'internalising unavoidable costs within the product price' is not appropriate or productive. Suggest delete.</p> <p style="text-align: right;">4 AEEMA</p> <p><i>Similar comment</i> HP's view that the decision whether to incorporate costs into product price should be a decision of an individual producer.</p> <p style="text-align: right;">44 HP</p>	<p>Noted. This issue will be considered in the development of the framework and any regulatory impact statement.</p>
<p>Crucial to changing behaviour is to incorporate product management costs into consumer price signals.</p> <p style="text-align: right;">7 LGA NSW</p> <p style="text-align: right;">7 <i>similar comment</i></p> <p>It is recommended that price signals and consumer information be imbedded in the scheme for consumers.</p> <p style="text-align: right;">46 EV/TEC</p>	<p>Noted. This issue will be considered in the development of the framework and any regulatory impact statement.</p>

<p>The currently haphazard arrangements and indiscriminate levies leave consumer, retailers and local governments subject to too many market influences. This results in dumping due to lack of official routes.</p> <p>33 Bowen Shire</p>	<p>Noted.</p>
<p>14. Competition</p>	
<p>The paper touches slightly on anti-competitive behaviour but does not mention any need for authorisation of a product stewardship scheme from the Australian Competition and Consumer Commission.</p> <p>4 AEEMA</p>	<p>Noted. Anti-competitive conduct would need to be authorised by the ACCC. Governments will be working with the ACCC on this matter with regards to product stewardship schemes.</p>
<p>Care will be needed by government to ensure the self-interest of private industry does not dilute the operational intent of the agreements.</p> <p>12 WALGA</p> <p><i>Similar comment</i> A producer responsibility organisation must be neutral to ensure that larger companies do not use to their own advantage. The barrier to entry issue is an important one. Larger companies may use product stewardship as an expensive compliance system to keep smaller businesses out of the market.</p> <p>63 WMAA</p>	<p>Noted. Further clarification on the management of industry schemes will be considered as the framework is developed and as schemes are approved.</p> <p>Competition issues will be considered in a RIS and anti-competitive conduct by schemes would require ACCC authorisation.</p>
<p>Requires links throughout the supply chain so that product stewardship driven through business relationships.</p> <p>14 Green Lead</p>	<p>The development of industry schemes may take this into account.</p>

<p>Any system which encourages recovery and recycling of information technology (IT) equipment should be responsive to market forces and must support competition in transport logistics and recycling services. If only one product stewardship organisation exists per industry sector, this would prejudice the development of a competitive recycling industry. Any approach based on collective responsibility removes any incentive for a producer to apply eco-design or recyclability into its own products.</p> <p>44 HP</p>	<p>Noted. The costs and benefits of collective versus individual responsibility will need to be assessed and further clarification will be provided as the framework is developed.</p>
<p>Governments should also consider companies' competitiveness in international as well as domestic markets.</p> <p>44 HP</p>	<p>Noted.</p>
<p>BHP Billiton would like the EPHC to elaborate on how this initiative would be adapted into international initiatives and how export(ers) and import(er)s would be accommodated by such a scheme. Voluntary industry initiated schemes could be interpreted as providing entry barriers. Such schemes need to be transparent so as not to breach anti-trust legislation.</p> <p>60 BHP</p>	<p>Noted. This is an important issue and Governments will be working with the ACCC and will provide further clarification in any regulatory impact statement.</p>
<p>CPIC would caution that there is the possibility that special care may be needed where there are oligopoly supply issues as it is possible the introduction of such measures could, dependent on such factors as location, have unbalanced impact.</p> <p>65 BPIC</p>	<p>Noted.</p>
<p>Fixed costs likely to place greater burden on small and medium sized enterprises. Care must be taken not to unfairly penalise rural areas with geographic averaging of prices/taxes on computer disposal (landfill costs likely to be lower in rural areas).</p> <p>42 DoCITA</p>	<p>Noted. This is an important issue and these factors will need to be taken into account in any regulatory impact statement.</p>

15. Targets	
<p>The voluntary agreement must oblige corporate change through requiring a specific and measurable contribution from every signatory.</p> <p style="text-align: right;">12 WALGA</p> <p><i>Similar comment</i> Timetables, lead times, targets etc need to be set with both the producers and the waste industry. There must be measurable targets and quantifiable outcomes.</p> <p style="text-align: right;">49 ACOR</p> <p><i>Similar comment</i> There should be a clear, simple environmental objective for the actions (usually based on issue of waste to landfill). Subsidiary actions, targets and milestones should be clearly linked to principle objective.</p> <p style="text-align: right;">19 A3P</p>	<p>Noted. The development of targets and performance measures will be considered and clarified as the framework is developed further.</p>
<p>The framework must define the features and expectations of a product stewardship agreement. These include:</p> <ul style="list-style-type: none"> a) Targets for product recovery; b) Targets for geographical access; c) A commitment to work towards zero residual waste from disassembly; d) Reporting requirements; e) Government and community participation in governance arrangements; and f) A commitment to continual improvement. <p style="text-align: right;">24 EcoRecycle Vic</p>	<p>Noted. Suggestions will be taken into account as the framework is developed and examined in any regulatory impact statement if appropriate.</p>

<p>Want national targets and performance measurement requirements to be implemented by governments taking into account requirements of different jurisdictions. There should also be mandatory environmental and product recovery targets and performance measures specified within each jurisdiction. If these weren't achieved, the scheme should have to develop a plan to address this in the short term and the plan should be approved by both national and state/territory jurisdictions.</p> <p>25 WA DoE</p>	<p>Noted. This issue would be assessed on a product-by-product or industry sector basis.</p>
<p>Should also regulate companies within voluntary schemes that do not achieve targets.</p> <p>25 WA DoE</p>	<p>Noted. Monitoring and reporting are important issues and will be further considered and clarified as the framework is developed.</p>
<p>Dissolution of product stewardship agreements should not be purely time-driven or with quantitative measures but rather the focus should be on developing the most appropriate schemes and achieving widespread participation.</p> <p>44 HP</p>	<p>The process for dissolution of product stewardship agreements will be clarified and assessed in the development of any RIS.</p>
<p>Timetables, lead times, targets etc need to be set with both the producers and the waste industry. There must be measurable targets and quantifiable outcomes.</p> <p>49 ACOR</p>	<p>Noted. This is an important issue that will be investigated as the framework and any industry scheme is developed.</p>
<p>Governments should take responsibility for collecting rigorous waste and recycling data as a matter of priority. Targets should not be set in the absence of such data.</p> <p>53 ACCI</p>	<p>Noted. Monitoring and reporting are important issues and will be further considered and clarified as the framework is developed.</p>
<p>16. Recycling infrastructure and markets</p>	
<p>Recycling requires infrastructure. If the private sector is relied upon to deliver infrastructure then regulations need to be determined in good time for the private sector to recognise the market opportunity, and for facilities to be planned and built.</p> <p>6 PSWG</p>	<p>This issue is noted and will involve governments sending clear signals establishing timelines for the recycling industry.</p>

<p>Want to see facilitation of export for recycling.</p> <p>39 AIIA</p>	<p>Schemes will need to operate in respect of existing legislation relating to exports, such as the Hazardous Waste (Regulation of Exports and Imports) Act 1989, which supports Australia's international obligations under the Basel Convention. Further information on this legislation and the convention is available at http://www.deh.gov.au/industry/chemicals/hwa/</p>
<p>Local reuse/recycling facilities must be developed preferentially to shipping materials elsewhere. Should develop domestic recycling capacity to avoid shipping offshore. There have been instances within cartridge industry where original equipment manufacturers have used product stewardship schemes to send cartridges offshore to less developed countries to be handled in inappropriate ways. Transport costs (eg Tasmania to mainland) can make recycling unviable.</p> <p>21 ALC</p>	<p>Noted. These are important issues, which will be explored in the development of any regulatory impact statement.</p>
<p>Legislation for co-regulation must take into account both domestic disposal and offshore disposal (i.e. international movements of waste or bans)</p> <p>49 ACOR</p>	<p>This is an important issue. The interrelation between product stewardship schemes, domestic recycling capacity and exports will be examined in detail in a RIS and in respect of existing legislation relating to waste movements.</p>
<p>Need to ensure co-regulation doesn't impact negatively on reuse industry</p> <p>28 ACRA</p>	<p>Noted.</p>
<p>Want government support for consumer education and in negotiating/developing collection and recycling infrastructure.</p> <p>39 AIIA</p> <p><i>Similar comment</i></p> <p>There is a need for market support for recyclates generated. Government purchasing policies should support the scheme.</p> <p>49 ACOR</p>	<p>Noted. The issue of government support in various industry initiatives will be further developed as work on the framework continues.</p>
<p>Lack of repair/re-use/recycling and rental constitutes a loss of job creation.</p> <p>50 Lam</p>	<p>Noted.</p>

17. Standards	
<p>Many of the objectives of the safety net could be met through inclusion of requirements in Australian Standards. This would also allow industry, government, consumers and additional stakeholders to be involved in determining the standards. It would ensure that all suppliers to the Australian market comply with environmental requirements for product before it may legally be sold in the Australian market. Government should explore the option of including product stewardship requirements in mandatory standards further before committing to any regulation or framework.</p> <p style="text-align: right;">4 AEEMA</p>	<p>Noted. The role of standards in achieving the aims of co-regulation will be considered as the framework is developed.</p>
<p>Should ensure minimum recycling standards are achieved. 30 APRAA</p> <p><i>Similar comment</i> Should have clear guidelines for recycling/reuse 39 AIIA</p> <p><i>Similar comment</i> All companies and organisations have a responsibility to meet minimum standards. 63 WMAA (TAS)</p>	<p>Noted. The role of standards in achieving the aims of co-regulation will be considered as the framework is developed.</p>
<p>The Product Stewardship Agreement must include standards for health safety and environment in the product stewardship activities. 55 AIP</p>	<p>Noted. These issues will be considered as part of the framework negotiations on an industry basis.</p>
<p>There is a lack of standardisation to make repair/reuse efficient. 50 Lam</p>	<p>Noted.</p>

18. Design for Environment	
<p>Local government has an historic role in waste management. There is an increased shifting of responsibility towards producers but this has not yet moved to financial responsibility, which stifles innovation in design for environment. A regulatory or co-regulatory system has potential to change this situation.</p> <p style="text-align: right;">7 LGA NSW</p> <p><i>Similar comment</i> Ultimately companies need to design waste out of their processes. That will happen if product end-of-life take-back is more costly and an incentive to avoid waste.</p> <p style="text-align: right;">50 Lam</p> <p><i>Similar comment</i> Local government is constantly frustrated by the lack of thought given a product at the design stage.</p> <p style="text-align: right;">43 NRWMG</p>	<p>Noted. Incentives to promote design for environment will need to be considered as the framework and industry schemes are developed.</p>
<p>HP are concerned that there might be local environmental design targets which could be difficult to meet in a worldwide market place.</p> <p style="text-align: right;">44 HP</p>	<p>Noted. This is an important issue that will be investigated as the framework and any industry scheme is developed.</p>
<p>AEEMA does not agree with the statement on page 2 with regards to action being needed due to "too much energy and water used in manufacture". Do not see how product stewardship would influence this, or the efficiency of resource use in products as so much manufacture happens overseas. Should delete.</p> <p style="text-align: right;">4 AEEMA</p>	<p>Noted. This is provided as one of various lost economic opportunities, which are linked to the negative impact of products on the environment. The issue raised will be given consideration in further development of the framework.</p>

<p>Product stewardship schemes need to promote research and development into products designed for easy recycling. 21 ALC</p> <p><i>Similar comment</i> Approach outlined is too focused on end-product disposal and compliance, rather than promoting innovative technologies to reduce problems. Care will be needed not to inhibit newcomers to the industry using different technology. 9 AASTE</p> <p><i>Similar comment</i> Need to ensure the designing out of waste at the pre-production phase and the encouragement of repair and reuse service systems. A sliding scale of achievement towards zero waste should be designed. Pioneers in zero waste deserve rewards perhaps along a sliding scale of financial incentives. 50 Lam</p> <p><i>Similar comment</i> Want to enable individual company schemes to provide some incentive for eco-design. 39 AIIA</p>	<p>Noted. Incentives to promote design for environment including industry funding for research and development will be considered as the framework and industry schemes are developed.</p>
<p>There is a real challenge in achieving consensus behind a single means to implement producer responsibility. With regards to electrical and electronic equipment, producers of premium products will want to include incentives for eco-design and have costs apportioned according to market share by weight, whereas producers of bulky items will prefer market share by unit or revenue. 5 PSWG</p>	<p>The structure of any co-regulatory arrangement will need to be negotiated between governments and industry, and the impacts of this assessed in a RIS on an industry-specific basis.</p>
<p>Need to reduce intentional rapid obsolescence. 26 NCWA</p>	<p>Noted.</p>

19. Hazardous Substances	
<p>Need to reduce use of hazardous substances in products. 26 NCWA</p> <p><i>Similar comment</i> Need to avoid hazardous substances that impact on recyclability. 21 ALC</p> <p><i>Similar comment</i> Alternative recovery methods such as composting and recycling can be negatively impacted by contamination of hazardous materials. 40 GR</p>	<p>The extent to which hazardous substance reductions and controls are incorporated into product stewardship schemes will be further clarified on an industry specific basis as the framework is developed.</p>
<p>Want government to act quickly on product stewardship for mercury-containing products. Want mercury-containing wastes (eg lighting) covered by product stewardship. Philips Lighting has already committed to recover/recycling and is keen to bring its competitors to the table. Want mercury-containing dental amalgam captured. 31 ARA</p> <p><i>Similar comment</i> Think removing mercury from products should be a top priority. 27 McCormack</p>	<p>Noted. Proposals for co-regulation of other problematic wastes, including those containing mercury, could be considered by EPHC if presented by industry and/or identified as a priority for national action. .</p>
<p>Companies should not be allowed to introduce a replacement for materials that have substantially the same environmental impact as the one being replaced. 57 ZWN</p>	<p>Noted. Governments would take such issues into consideration policies regarding hazardous substances and their management in product stewardship schemes is further developed.</p>

Submission Reference Number	Name of organisation or individual represented
1	Cook Shire Council
2	Mr Frederick Ayscough
3	Keep South Australia Beautiful
4	Australian Electrical and Electronic Manufacturers' Association
5	Product Stewardship Australia Ltd
6	Parliamentary Sustainable Waste Group, United Kingdom
7	Local Government Association of NSW
8	Tyre Crumbing Australia
9	Australian Academy of Technological Sciences and Engineering
10	Australian Tyre Recyclers Association
11	Independent Retreaders Division of the Australian Tyre Dealers and Retreaders Association
12	Western Australian Local Government Association
13	Renewed Rubber Pty Ltd
14	Cement Industry Federation
15	Green Lead Project
16	Publishers National Environment Bureau
17	IBM Australia Ltd
18	Motor Trades Association of Australia
19	A3P - Australian Plantation Products and Paper Industry Council
20	Printing Industries Association of Australia
21	Fuji Xerox Australia Pty Ltd
22	Local Authority Waste Management Advisory Committee (Queensland)
23	Australian Laser Charge
24	EcoRecycle Victoria
25	Western Australia Department of Environment
26	National Council of Women of Australia Inc Ltd

Submission Reference Number	Name of organisation or individual represented
27	Ms Lyndall McCormack
28	Australasian Cartridge Remanufacturers Association Inc
29	Southern Waste Strategy Authority (Tasmania)
30	Auto Parts Recyclers Association of Australia Inc
31	Advanced Recycling Australasia Pty Ltd
32	Australian Automobile Association
33	Bowen Shire Council (Queensland)
34	Vinyl Council Australia
35	Motorway Tyres Pty Ltd
36	Withheld due to confidentiality request
37	Australian Paper
38	Australian Consumer and Specialty Products Association
39	Australian Information Industry Association
40	Global Renewables (GRL Investments Pty Ltd)
41	Toyota Motor Corporation Australia Pty Ltd
42	Australian Government Dept of Communications, Information Technology and the Arts
43	Northern Regional Waste Management Group (Victoria)
44	Hewlett-Packard Pty Ltd
45	Gold Coast City Council
46	Environment Victoria and Total Environment Centre
47	Australian Government Department of Foreign Affairs and Trade
48	Orica Australia Pty Ltd
49	Australian Council of Recyclers Inc.
50	Ms Keelah Lam
51	Joint Working Group Tyres
52	Consumer Electronics Suppliers Association

Submission Reference Number	Name of organisation or individual represented
53	Australian Chamber of Commerce and Industry
54	Avcare and Agsafe (National Association for Crop Product and Animal Health)
55	Australian Institute of Petroleum Ltd
56	Chamber of Commerce and Industry Western Australia
57	Zero Waste Network (providing waste advice to Nature Conservation Council of NSW)
58	Minerals Council of Australia
59	Australian Mobile Telecommunications Association
60	BHP Billiton
61	Australian Government Australian Customs Service
62	Close the Loop Ltd
63	Waste Management Association of Australia (Tasmania Branch)
64	Plastics and Chemicals Industries Association Inc.
65	Building Products Innovation Council
66	Entyre Enterprises Pty Ltd