

Submission on the Review of the co-regulatory arrangement under The National Environmental Protection (Used Packaging Materials) Measure 2011



March 2021

Status of this Submission

This Submission has been prepared through the Municipal Waste Advisory Council (MWAC) for the Western Australian Local Government Association (WALGA). MWAC is a standing committee of WALGA, with delegated authority to represent the Association in all matters relating to solid waste management. MWAC's membership includes the major Regional Councils (waste management) as well as a number of Local Government representatives. This makes MWAC a unique forum through which all the major Local Government waste management organisations cooperate.

This Submission therefore represents the consolidated view of Western Australia Local Government. However, individual Local Governments and Regional Councils may have views that differ from the positions taken here.

Due to the timeframe for consultation, this Submission has not yet been considered by MWAC. It will be put before the Council at the upcoming meeting on Wednesday, 28 April 2021. The Department will be informed of any changes to this Submission following consideration by MWAC.

Introduction

The Western Australian Local Government Association (the Association) welcomes the opportunity to comment on the Review of the co-regulatory arrangement under the National Environment Protection (Used Packaging Materials) Measure 2011 (Packaging NEPM). Local Government has a keen interest in this matter given the pivotal role of the sector in delivering, or ensuring the delivery of, kerbside recycling where the majority of the material covered by the Packaging NEPM is collected.

The Federal Government has enacted legislation to ban exports of glass, plastic, tyres and paper and cardboard to be implemented progressively over the next four years. For Western Australia this has a significant impact on recycling viability, markets in Asia are frequently more economically and environmentally efficient to trade with than other areas of Australia. The State and Federal Government and industry has committed significant funds to invest in on-shore processing options for the materials subject to the ban, and this approach is welcomed. In WA alone \$70M from [State and Federal Government](#). In Western Australia the community, through Local Governments, is paying for packaging materials to be collected, processed and recycled, as there is not enough material value in the recycle to fund the system. It is unlikely that on-shore processing will improve this situation and early indications are that the costs of recycling are likely to increase, rather than decrease with the move to on-shore processing. The recently implemented container deposit scheme is anticipated to have a positive economic (and environmental) impact on kerbside recycling, as although the amount of material collected will reduce, the value of what remains will increase. However, this increase in value of products will not affect approximately 66% of the material in kerbside recycling bins, which is paper and cardboard. The packaging industry is one of the main sources of this material but is not taking financial or physical responsibility for managing material they are generating.

The review of the Packaging NEPM offers an opportunity for significant change to how packaging is managed in Australia, including making it easy for the community to recycle, for the materials collected to be recycled and ensuring that the packaging industry take financial and/or physical responsibility for their products at end of life. This Submission provides commentary on the effectiveness of the Packaging NEPM and Packaging Covenant and recommendations on effective approaches for product stewardship.

Effectiveness of the NEPM

The Packaging NEPM was used as the regulatory instrument because there was not a national legislative framework to enable product stewardship. In previous WALGA Submissions some of the issues with NEPM's have been identified including inconsistent approaches to implementation and regulation, as these depend on State/Territory priority and resourcing. The *Product Stewardship Act 2011* established the national legislative framework to provide for mandatory, co-regulatory or voluntary product stewardship. This legislation has now been incorporated into the *Recycling and Waste Reduction Act*

2020. To ensure a consistent national approach Product Stewardship for Packaging should be regulated through the national legislation and the existing NEPM's repealed. This would also simplify the governance, improve data collection, ensure a consistent approach to brand owners and reduce duplication of effort and administrative burden on States and Territories.

Recommendation: That Product Stewardship for Packaging be implemented through the *Recycling and Waste Reduction Act 2020*.

The Discussion Paper notes that the current encouragement for brand owners to be part of the Packaging Covenant is to avoid the regulatory requirements in the Packaging NEPM. The Discussion Paper identifies that this is not particularly effective and can cause confusion.

Recommendation: That brand owners are requirement to be part of Product Stewardship for Packaging through implementation of a mandatory or co-regulatory Product Stewardship Scheme under the *Recycling and Waste Reduction Act 2020*.

Objectives Packaging Product Stewardship

The Discussion Paper identifies that there are a range of objectives which need to be achieved by whatever structure/entity is put in place. These are stated as:

- *a decrease in packaging waste (waste avoidance)*
- *an increase in:*
 - *the reusability, recyclability and composability of packaging*
 - *the recycled content in packaging*
 - *the recycling, recovery and reuse of used packaging*
- *phase out of problematic and unnecessary single use plastic packaging.*

WALGA would also identify that the new structure – as an essential outcome - has to ensure that kerbside recycling remains viable when the Export bans for plastic, paper and cardboard are implemented. As an example, WALGA highlighted in a [Submission](#) on the Export Bans that of the 231,200 tonnes of paper and cardboard collected in WA, 99.6% was exported and Local Government, predominantly through kerbside recycling, was responsible for collecting 75% of that tonnage.

Recommendation: That an additional objective for Product Stewardship for Packaging be to ensure kerbside recycling remains viable when the Export bans for recyclable materials are introduced.

Consistent and Effective Product Stewardship for all Materials

The Association has identified in previous Submissions, there needs to be a consistent, and equitable approach to the design and implementation of Product Stewardship Schemes. To develop and maintain a respected 'brand,' of Product Stewardship, it is imperative that the same expectations on what outcomes are to be achieved, are reflected in the design of all Schemes.

When comparing packaging industry's requirements under the Australian Packaging Covenant Organisation (APCO), to other Product Stewardship schemes, the packaging industry appears to have far less responsibly (physical or financial) for their products. Under the Covenant, there are membership fees, actions plans, reporting and various projects. In comparison the voluntary Scheme for Paint (Paintback) places a 15c Levy on every litre of paint sold to fund the recycling of this product. This approach has had a very positive outcome for Western Australia, with the Scheme reducing costs to State and Local Government by over \$1M since it commenced. WALGA administers the Household Hazardous Waste (HHW)Program, funded by the State Government through the Waste Avoidance and Resource Recovery Account. Prior to Paintback this Program was funding paint recycling in WA, the cost saving that has been achieve due to Paintback has meant the Program coverage can expand and the community can more easily access free disposal options for their HHW. By contrast the Packaging Covenant has not demonstrably reduced the cost of kerbside in the 20 years it has been in operation. The Association is of the view that Product Stewardship for Packaging should be held to the same standard as that of other Product Stewardship Schemes.

Recommendation: That Product Stewardship for Packaging is designed to reflect all the objects of the Act, by:

- **Assigning manufacturers, importers, distributors with a financial or physical responsibility for managing the end-of-life of their products**

- **Prohibiting the sale or distribution of new products, where there is no clear pathway to manage end-of life impacts in an environmentally sound manner.**

Effectiveness of the Packaging Covenant

In the past WALGA has actively engaged with the Packaging Covenant, including membership of the organisation. In 2015, WALGA withdrew from the Covenant because of concerns relating to unclear governance, limited improvement and impact on packaging design and ineffective funding. The detailed explanation of these concerns was outlined in WALGA's [Submission](#) on the Covenant Review in 2018. WALGA acknowledges the efforts of the current Australian Packaging Covenant Organisation (APCO) to address some of these issues. However, without a robust legislative underpinning the Covenant is unlikely to achieve the outcomes that Government has set and the community expects.

One benefit of APCO's approach is that there is the single focal point for packaging, rather than having multiple Product Stewardship Organisations (PSO). WALGA has commented in its [Submission](#) on the review of the TV and Computer Product Stewardship Scheme the problems associated with multiple PSO's.

Making it easy for the community to recycle

In WA, in many areas there are high levels of contamination in the kerbside recycling bin, this partly the result of confusion about what can/can't be recycled. To reduce contamination and increase resource recovery it is imperative that we make it easy for the community to know what can go in the kerbside recycling bin. WALGA working with Local Governments, Regional Councils and industry has put in place the Consistent Communications Collection which aims to ensure that all those communicating with the community on waste management related matters are providing a consistent message.

Labelling

The Australasian Recycling Label (ARL) is voluntary and although there is uptake it is not universal. Many products still include the Mobius loop in various forms which signals 'recyclable' to the community. Some of these products may be recyclable through kerbside, but many are not. Labelling as to recyclability needs to be a mandatory requirement.

Container Deposit Schemes

Container Deposit Schemes are being progressed or implemented in all States and Territories. This offers an opportunity to expand these Schemes to cover all containers and to increase the deposit to ensure there is sufficient incentive for the community to return the product. In relation to the material covered, Local Government supports the Scheme expansion to include wine and spirit bottles and other types of containers. This will make the Scheme much easier to communicate and for the community to engage with.

Conclusion

The current review of the Packaging NEPM is an ideal opportunity to improve Product Stewardship for Packaging to ensure that the structure in place is fit for purpose and will be able to achieve the outcomes that Government and the community expect. In summary:

- ***We need to make it easy for the community to recycle*** through consistent messages about what can and can't be recycled in the kerbside recycling bin, clear and easy to understand labelling and reduction/elimination of packaging products which are not recyclable through the kerbside system.
- ***Export bans are likely to increase the cost of kerbside recycling*** there is no guarantee that on shore processing is going to be as cost effective as exporting product to overseas markets, and current indications are that it may be more expensive.
- ***A renewed Product Stewardship Scheme for Packaging is essential***, which:
 - Is constituted under the national legislation to facilitate a consistent, streamlined, efficient and effective approach
 - Is delivered by a single Product Stewardship Organisation
 - Covers all the costs associated with recycling products
 - Includes mandatory product labelling – for recyclability
 - Prohibits the sale of products onto the market which are not readily recyclable through the kerbside collection system.
- ***The deposit and materials covered by Container Deposit Schemes increases*** to give the community more incentive to return materials and make the system more easily understandable.

