

## Topics

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## Improving stewardship outcomes

The objective of the Recycling and Waste Reduction Act 2020 (RaWR Act) is to create a shared responsibility for managing products, waste from products, and waste material to:

- + reduce their impact on human and environmental health
- + realise the community and economic benefits of taking responsibility for them
- + develop a circular economy that maximises their continued use and account for environmental impacts.



The RaWR Act makes it clear this is to be achieved by encouraging and regulating manufacturers, importers, distributors, designers, and other persons to take responsibility for a product.

In determining the need for regulatory intervention to achieve stewardship outcomes, it is important to first establish the challenges to be solved, and what level of encouragement or regulation is needed to address a problem product.

Having navigated the establishment and deployment of a voluntary scheme, the BSC is well placed to understand the challenges and how a simplification of regulatory interventions could transform stewardship with minimal delay and reduced cost to government, industry, and consumers.

## The current framework constraining industry effectiveness

Currently the RaWR Act has only three options for fostering product stewardship: Voluntary, Co-regulated and Mandatory and none of these options address the core challenge of free riders being experienced on the ground by industry schemes.

For problem products, the Government identifies products needing action through the Minister's listing as a priority product. This provides a signal to industry that action is needed or regulation in the form of Co-regulated or Mandatory is to follow.

## The core challenge

The BSC is advocating an additional option of Industry Led scheme be added to the RaWR Act to address the core challenge. For any scheme getting started or seeking to expand into new product categories, the pathway requires industry participation to obtain scheme funding. Without it, no scheme can operate successfully.

Regulated schemes compel liable parties to participate but constrict industry in being able to adjust or change as the landscape dictates. Voluntary schemes provide industry with the flexibility to drive the scheme forward, yet the challenges presented by free riders are hard to avoid.

The core challenge is to secure full industry participation in a scheme, while still allowing industry the flexibility to change and adapt the scheme to achieve stewardship outcomes as circumstances and the market dictate.

This proposal offers a small refinement to the RaWR Act to address the core challenge for maximising the effectiveness of stewardship and circular economy outcomes.



## The Solution: a new stewardship category

The BSC is advocating for regulatory reform to enable the RaWR Act to avoid the pitfalls and address the core challenge in order to better deliver on the objects of the Act to achieve stewardship.

With this one small change, Government could radically transform the stewardship environment so that the objects of the Act could be achieved in a much shorter and cost-effective manner, allowing industry to take action but also remain accountable.

Consistent with the objects of the RaWR Act 2020, this proposal would see a new category of Industry Led schemes that would compel importers of problem products to join a Commonwealth accredited product stewardship scheme. Schemes would be required to be clearly defined and demonstrate how it furthers the objectives of the RaWR Act.

## Producer responsibility and engagement

Government would notify the importers and digital retailers of their obligation to participate in a scheme, but not administer the reporting of the obligation. This has the advantage of reducing departmental and industry costs to administer the current co-regulated approach. A number of activities could be used to maximise the success of this requirement:

- + Government communication to importers, copied to schemes, indicating importers are required to join a scheme
- + standardised self-declaration processes for imports similar to the process used by existing Schemes
- + industry communications & education
- + annual auditing by the scheme
- + brand audits by recyclers
- + penalties for non-participation.

## Shared responsibility essential

A strong and equal partnership between producers, retailers, collectors, and recyclers to design and deploy the scheme is essential for ongoing success and continual improvement. This allows for robust, honest and hard discussions to be had to ensure that the objectives of a scheme is met, while delivering on efficiencies and continual improvements

For this regulatory reform to work in creating a level playing field, it will be essential to clearly define what is expected of a Commonwealth accredited product stewardship scheme.

## Requirements for Commonwealth accredited industry led product stewardship schemes

To become a Commonwealth accredited Industry Led product stewardship scheme, applicants would need to meet the following specifications in addition to self-defined requirements needed to deliver on the objectives of the Act:

### ► GOVERNANCE ARRANGEMENTS

The Scheme design shall establish:

- + clear scope and lines of responsibility
  - + scope of all products in a category
  - + scheme governance arrangements reflecting the entire product life cycle
  - + producer responsibility for circular economy
  - + the goal to recover all products put on the market.
- + funding arrangements appropriate for market failures
  - + a levy or other mechanism with annual CPI increases
  - + regular economic analysis identifying cost / benefits and opportunities for improvement
  - + plan to reduce costs as economies of scale improve.

### ► LIFE CYCLE REPRESENTATION

The Scheme design shall include obligations at each stage of the product life cycle, including but not limited to:

- + Producers shall:
  - + contribute levy or other defined funding mechanisms to ensure the intent of the scheme can be met
  - + address design for circularity including repair and reuse where appropriate
  - + comply with product safety and quality standards
  - + provide product information necessary to maximise recycling safety and materials recovery outcomes.
- + Retailers shall:
  - + pass on the cost of the levy in a manner that is transparent to consumers
  - + promote the scheme to consumers.
- + Collectors and recyclers shall:
  - + define accessible collection channels and logistics
  - + establish and maintain safety, quality, and traceability measures at each stage of the process
  - + implement mass balance accounting and traceability processes to maximise collection and prevent double counting and fraud
  - + independent verification and reporting of collection rates, recovery rates, & materials efficiency rates.

### ► SCHEME PROTOCOLS & INDEPENDENT VERIFICATION

The Scheme shall develop and continually improve protocols for operating in a safe, accountable, and environmentally sound manner, including:

- + procedures specific to each life cycle role focused on business sustainability and continual improvement
- + independently verify with third-party auditing of scheme obligations and Scheme outcomes, including unannounced audits.

### ► BEHAVIOURAL CHANGE

The scheme shall establish and maintain:

- + mechanisms for improving environmental outcomes – incentives for demonstration of solutions or efficiencies, e.g. increased levy for toxic or problematic products
- + communications and education objectives
- + consumer research to benchmark awareness and target marketing activities for success

### ► PERFORMANCE IMPROVEMENT AND REPORTING

The scheme shall operate in a transparent and accountable manner including:

- + using a performance measurement process consistent with national and/or international standards
- + publishing annual report
- + research to confirm market participation, life cycle impacts, circularity outcomes
- + professional development to ensure access to latest in safety, circularity, and stewardship best practices.

## Industry and government input on this approach would be important

Work is needed to refine these proposed requirements for Commonwealth accredited industry led product stewardship scheme, however these provide a baseline from which to begin. Industry consultation and input from industry and government would be needed to ensure the objectives of the act and stewardship principles are achieved.

Each Scheme will have its own unique needs, however regulatory reform would enable industry to design and adapt a Scheme that works for them and delivers on government and community expectations.

## The long road

For those seeking to action the Minister's product list by initiating a scheme or expanding an existing scheme into new product categories, the pathway requires:

- + initiating action with limited resources, particularly when there are many thousands of importers in a market
- + clear definition of scope to identify obligated parties
- + consultation on the Scheme design and establishing the value proposition
- + negotiating participation and funding need for launch and implementation
- + engaging new importers or expanding into emerging product categories.

## Cost of free riders

The importance of whole of industry engagement cannot be understated. Free riding is problematic because it:

1. has a direct and significant impact on scheme budgets and their corresponding ability to achieve stewardship outcomes
2. disadvantages participating importers by enabling free rider competitors to avoid a levy and receive a price advantage in highly competitive markets
3. inevitably means schemes pay for the collection and recycling of products imported by free riders.

## Time to secure producer engagement

Everyone who has dedicated themselves to launching a scheme knows it is a very long process. For batteries, the time between the priority listing and launch was 9 years. This is not unusual and not desirable for problem products.

## The value of creating a learning environment so that stewardship outcomes are achieved

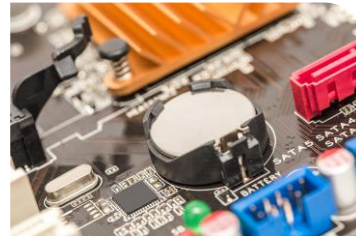
A major challenge for co-regulatory schemes is that once regulated it is very difficult if not impossible to flex and adapt in response to lessons learned or market realities.

Problem products are rarely static and constraining the scheme to its original design can have far reaching impacts, often inconsistent with the objectives of the Act.

## Case study: the NTCRS

The National Television and Computer Recycling Scheme (NTCRS) illustrates how difficult it is to make changes or adjust scheme design for co-regulated schemes.

Although the NTCRS has been successful to a degree, such as engaging industry, it also has problems that have been known since well before the current Review was initiated in 2015.



The lack of substantive changes or improvements since that time is indicative of a systemic failure of a fully regulated approach. The NTCRS Review was initiated in response to serious concerns regarding:

- + importers exiting the market as the new regime became economically unviable to comply
- + the race to the bottom for recyclers
- + lack of robust traceability and recycling outcomes
- + inappropriate stockpiling of problematic materials e.g. CRT glass and batteries
- + targets being used to game the system – once an arrangement met the target, the overflow was traded to cover obligations for succeeding years rather than foster continual improvement.

## Benefits of reform

### Regulatory reform targeted to the core challenge would:

- + allow industry to gain control of the approach while remaining accountable
- + afford flexibility which encourages innovation and continual improvement
- + reduce the cost of free riders by creating a level playing field for importers of problem products
- + achieve lower cost of administration than co-regulated or mandatory schemes (usually in the order of 20%)
- + enable greater flexibility to pivot and adapt to changing market realities and industry experience
- + allow for changes to fee structure as needed in response to changing costs or changing commodity markets
- + ensure problem wastes are managed in a timely manner.

## Questions or ideas?

Please contact BSC if you have any questions or ideas about this proposal and how to progress the proposal further at:

[contact@bsc.org.au](mailto:contact@bsc.org.au).