



*Packaging Council of Australia –  
Submission on the  
Product Stewardship Legislation –  
Consultation Paper*

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**The Packaging Council of Australia offers the following comments on the Product Stewardship Legislation Consultation Paper:**

**Product Criteria**

The criteria listed in the Consultation Paper (page 24) are too broad and all encompassing. They do not provide a satisfactory “test” as to what products should and should not be included:

- The criteria would apply to virtually every product available in Australia. Is that the intention? Most products available and sold in Australia would easily “satisfy” the requirement that at least two of the criteria be applicable before consideration for inclusion in the proposed legislation. For example, the vast majority of products in Australia are sold nationally and would present the “potential” for increased resource recovery. But at what cost and how significant is the potential? What is the dimension of the problem and the potential – minuscule, moderate or large?
- On these matters the criteria listed are silent, even though, earlier in the Paper (page 18) mention is made that, “There needs to be good reason for government to intervene.” Those reasons should be explicitly stated as one of the factors listed in the criteria.
- In particular, the criteria should include the need for the product stewardship legislative approach to satisfy itself on the scale of the problem and that the legislative approach would produce a net benefit.
- It is surprising that the criteria mentions “the willingness of the consumer to pay” and the “economic burdens on jurisdictions” but, in contrast, is silent on the impact of product stewardship on the economics of the product itself and its manufacturers. The criteria needs to be “balanced” by also requiring an assessment of the costs companies would incur in complying with a product stewardship scheme, particularly one that was co-regulatory or mandatory.
- The Paper uses the concept of “the willingness of the consumer to pay” in a way which strikes us as inappropriate and which could undermine good policy outcomes. “Willingness to pay” does not necessarily mean, as the Paper implies, that the proposed approach therefore has merit. The application of a product stewardship scheme should be judged on its merits. The question of “who pays” is a related, but separate, question. Moreover, ‘willingness to pay’ studies need to be treated with a great deal of caution. They are notoriously unreliable and often do not reflect the purchasing habits of consumers when they are given a choice.

**Objectives of the Legislation**

The objectives of the proposed legislation (page 23) need to be clearly articulated, consistent and complementary. The listed objectives do not meet that standard.

- The objectives are very broad and diffuse – health and safety, design, environmental impacts, resource management, international obligations, greenhouse gases and energy consumption and supply chain management. They need to be better defined, more

selective and more focussed. What precisely is meant in each of these categories? And how do they interact with other Australian Government legislation in these fields?

- The categories are vague and multi-dimensional and, in some circumstances, may well be contradictory and conflicting. For example, it is not clear that the goal of “reducing or eliminating the amount of waste for disposal” is consistent with the goal of “managing waste as a resource”.
- For example, “managing waste as a resource” requires recognition that, in achieving such an objective, more resources may need to be used. The resources used need to be balanced against the waste that is being targeted. In short, there will come a point where a trade-off is required and managing waste in an environmentally sound manner (point 5) may require recognition that waste to landfill is the most appropriate option.
- It is also surprising that the objectives make no mention of the need to ensure that waste is managed “economically and efficiently” consistent with the environmental, health and safety aspects. Legislative intervention must take into account its impact on efficiency and competition aspects.
- The Paper makes no explicit connection between the management of waste and the economic and environmental costs of such management.
- Given the (relatively) small size of the Australian market, the preponderance of multinationals in certain industries and the global standards already in existence, particularly in Europe, care needs to be taken about legislation mandating products to be “designed” specifically to meet Australian requirements.

### **Roles and Responsibilities of Governments**

The Paper emphasises the importance of a national approach for product stewardship:

- The Paper and the draft outline for the legislation does not provide sufficient confidence that the approach will, in practice, produce a nationally consistent approach.
- The Paper acknowledges that the roles and responsibilities for state and territory governments will “continue to flow from their existing environmental policy and regulatory functions” such as occupational health and safety laws and consumer protection laws (page 29). It would, thus, still be possible for state and territory governments to, for example, ban certain material or products and implement varying rules for the operation of landfills which would undermine the national consistency and product stewardship legislation itself.
- While product design and manufacture are generally organised on a national (if not, international) basis, waste is managed locally and appropriate policies depend on local conditions and infrastructure. Differences in access to landfill, availability of nearby markets for recyclables as well as transport distances and costs will inevitably mean that there will be different waste management systems and outcomes in different parts of Australia. In this context, is it necessarily true that a consistent national approach to the waste resources aspect of any Product Stewardship framework is desirable?

## Health and Safety Issues

In Australia, the majority of packaging by volume and units is used to contain food and beverage products. The health and safety of the food and beverages we consume is fundamental. It is a non-negotiable requirement for all food and beverage packaging. It is also a matter that the food, beverage and packaging supply chains are in close contact with Food Standards Australia and New Zealand (FSANZ).

- How does the proposed legislation interact with the work being done by FSANZ and the Australian and New Zealand Food Ministerial Regulation Council? Industry will need to be assured that the proposed will not duplicate, complicate or run contrary to the work being done by these bodies.
- For example, food packaging, and the potential migration of chemicals from packaging into food, is a major issue for all companies in the food and packaging supply chain.
- Globally, governments and regulators are monitoring food contact packaging issues closely. This involvement reflects growing public debate and concern over the presence of some chemicals in food.
- In Australia, Food Standards Australia New Zealand (FSANZ) is keeping a close eye on the potential public health and safety risks of food contact packaging materials. FSANZ is also considering whether any further regulatory action is required in this area. In its meeting on 3 December, the Australian and New Zealand Food Regulation Ministerial Council “sought assurances from FSANZ to continue to liaise with industry in relation to alternative packaging materials such as stainless steel glass, or BPA-free plastics to ensure their safety.”

## Conclusion

Overall, we believe more work needs to be done on the Paper and the approaches outlined. In particular:

- The objectives of the legislation need to be more tightly and rigorously defined.
- The product criteria also need to be redrafted and tightened so that the product stewardship schemes are less all-encompassing and better focussed on priorities.
- Greater weight needs to be given to ensure that any legislative intervention is justified, promotes efficiency and actually produces an environmental benefit.
- Greater confidence needs to be provided that the proposed approach will, in practical terms, produce a nationally consistent approach rather than just another layer of regulation.
- More information is required on how the proposed approach will “mesh” with existing Australian Government policies and the work of other agencies particularly in the fields of health and safety policies.

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