



Submission on Consultation Regulatory Impact Statement, Code of Practice and Final Report on Willingness to Pay for E-waste Recycling

Status of this Submission

This Submission has been prepared through the Municipal Waste Advisory Council (MWAC) for the Western Australian Local Government Association (the Association). The Municipal Waste Advisory Council is a standing committee of the WA Local Government Association with delegated authority to represent the Association in all matters relating to solid waste management. It has been formed through collaboration with Regional Councils who are not ordinary members of the WA Local Government Association. The resulting body represents the views of all Local Government bodies responsible for waste management in Western Australia. Due to meeting schedules and the short timeframe of the consultation, this Submission has not yet been endorsed by MWAC, however, it will be put before the Council at the earliest opportunity (Wednesday 19 August 2009) and the National Environment Protection Council (NEPC) Service Corporation will be informed of any changes to this Submission following consideration by the Municipal Waste Advisory Council.

Executive Summary

This Submission covers Local Government comments on the Consultation Regulatory Impact Statement (RIS): Televisions and Computers, Code of Practice and Final Report on Willingness to Pay for e-waste recycling.

Key points

- **Local Government support for television and computer EPR:** Local Government strongly supports government intervention and an Extended Producer Responsibility approach to the management of end of life televisions and computers.
- **Local Government preference for EPR for all e-waste:** Local Government acknowledges that the first priority for action are computers and televisions but would prefer in time all electronic waste to be covered.
- **Local Government support for a National approach to EPR:** National EPR offers the opportunity to reduce duplication of effort, provide consistent systems and ensure equal service delivery nation wide. With good consultation, local issues and conditions can be incorporated into a national EPR approach.
- **Policy options are preferred which:**
 - Clearly demonstrate Extended Producer Responsibility (EPR);
 - Assign Responsibility / Liability;
 - Offer the potential for other E-waste to be included in Regulation;
 - Allow existing Programs to be include; and
 - Show administrative simplicity.

Based on this analysis the options selected are

Option 3: Co-Regulatory Commonwealth EPR - TV & Computer industries collect all products;

Option 5: Co-Regulatory Commonwealth Excise Levy – TV & Computer industries collect all products; and

Option 8: Mandatory import license requirement.

Key points for EPR Scheme design include:

- **Set clear objectives and targets:** *Schemes must be specific and clear about what they seek to achieve and provide means by which to assess whether these objectives have been achieved.*
- **Establish clear responsibilities:** *Schemes must designate clear roles to each participant in the product chain.*

- **Can be implemented in a timely fashion:** *Schemes must be capable of being delivered within a reasonable time.*
- **Apportion costs appropriately:** *Schemes must aim to achieve an appropriate sharing of costs, between the various tiers of government and industry.*
- **Give due consideration to the specific characteristics of the waste or product type:** *Schemes should be designed so as to be appropriate to the product or waste stream in question.*
- **Support claims with reference to credible evidence:** *Schemes should be supported with reliable evidence that demonstrates that the objectives of the scheme are likely to be able to be delivered.*

Experience with current Product Stewardship Schemes also indicates some specific factors to consider in scheme design. These include consideration of geographic isolation, market considerations, contingency planning, contractual arrangements, stakeholder engagement and education.

Regulatory Impact Statement (RIS): Televisions and Computers

1. General comments

The Regulatory Impact Statement outlines a variety of policy options for government intervention to increase the collection and recycling of televisions and computers. All options represent a change to 'business as usual'. These options are only examined at a high level and are likely to be affected by the detail of the scheme design. The comments in this Submission are informed by experience with schemes such as the National Packaging Covenant, Product Stewardship for Used Oil Program and DrumMUSTER.

As the scope of the RIS is limited to computers (and peripherals, including printers) and televisions, the point needs to be made that Local Government is currently collecting a wider suite of electronic products. The first step, putting in place EPR for computers and televisions, is strongly supported but is considered by Local Government to be only addressing a proportion of the problem.

Within Local Government there is strong support for Extended Producer Responsibility and action on electronic waste (e-waste). There is also strong support for EPR being applied at a national level. National EPR offers the opportunity to reduce duplication of effort, provide consistent systems and ensure equal service delivery nation wide. Local issues and conditions can be incorporated into a national EPR approach. A comprehensive consultation and engagement process (with adequate time for comment) will ensure that local conditions and considerations are incorporated in the development and application of EPR Schemes. Regular consultation and review allows Schemes to be adjusted to ensure they are performing well and providing an equitable service.

Currently many Local Governments and Regional Councils in Western Australia are collecting e-waste, the cost to recycle this material is substantial. An example of one regional centre collecting e-waste is the City of Bunbury (16,564 households and an area of 61.2 km²). The City of Bunbury has identified community concern and the need to provide a service for electronic waste recycling. The City is currently collecting approximately one sea container full of electronic waste every three weeks (85 tonnes per year); at a cost of \$52,000 per annum.

Within this Submission comments are made on each of the sections, although most effort has been put into an assessment of the various policy options and the selection and justification of preferred options. Comment has been included on key elements for an EPR Scheme (regardless of what option is selected).

2. The television and computer industries and associated waste

The Association is in broad agreement with the issues raised in this section. Similar concerns regarding increasing volume and complexity of the waste stream have been raised by the Association in the context of the National Waste Policy.

3. Policy context and related pressures

The Association expresses concern regarding the potential implications of the Henry Tax Review on waste management related regulation. For Extended Producer Responsibility to be applicable, responsibility needs to be assigned (including financial responsibility) and this will not necessarily occur if a broad based tax approach is taken to waste management regulation.

4. Television and computer waste is a problem

In Western Australia, Local Government has identified that e-waste is a problem product. In October 2008, the Association endorsed a Position Paper on *Priority Products for Product Stewardship/Extended Producer Responsibility (EPR) Schemes*. The Position Paper included a survey of Local Governments where 72% of respondents identified that e-waste was a 'problem' for their area. The reasons identified for the e-waste being considered a 'problem' product were environmental impact, costly disposal and limited accessible recycling options. The Position Paper recommended that "e-waste is classified as the number one priority EPR / Product Stewardship Scheme". This Position Paper is available from the WasteNet Website (www.wastenet.net.au).

On Saturday 6 and Sunday 7 of June 2009, collection events for e-waste were held in the Perth metropolitan area. These collection days were paid for by Apple PTY Ltd. There were 9 sites around the metropolitan area where members of the public, small business and education institutions could drop off e-waste. Over the two days in excess of 205 tonnes of e-waste was dropped off, from the over 4,000 attendees. Local Government, Regional Councils, the Association and the Waste Authority paid for the advertising of the days. Local Government provided 8 of the collection sites (the other was provided by Sims E-Waste, Apple's nominated recycler). The materials collected at the days included *any brand of computer*—desktop PC, laptops, monitors, printers, Accessories—keyboard, mouse etc, televisions, mobile phones, video and DVD players, computer game consoles, joysticks, telephones, scanners, CD drives, memory cards, floppy disks, hi fi equipment, stereo equipment, digital and video cameras. These collection events were a clear demonstration of Local Government commitment to and community demand for e-waste recycling.

5. Objectives

The Association supports the objectives put forward in the RIS for computer and television recycling. Namely to bring that recycling in line with community expectations, improve efficiency of recovery, ensure equitable coverage of not only geographical area but products and participants in the scheme and to meet Australia's international obligations. The focus on not only collection but recycling/recovery of resources is important, as is equity of coverage, the Association is keen to see an EPR Scheme which implements these objectives.

6. Options

The Association commends the rigorous approach to determining options for consideration and support the initial criteria used to filter the various policy options.

In the RIS the options are compared using the criteria of resource recovery, costs, coverage and administrative simplicity. As all of the options selected score highly on the Resource Recovery and Coverage criteria, differentiation for the options can be based more on the cost/administrative simplicity.

Options	Resource Recovery	Cost	Coverage	Administrative Simplicity
Option 1 & 2	High	High	High	Low
Option 3 & 4	High	Medium	High	Low
Option 5 & 6	High	High	High	Medium
Option 7	High	High	High	Medium
Option 8	High	High	High	Medium
Option 9	High	High	High	Medium

Table 1: Summary of options and criteria (taken from Table 18 of the RIS).

Given the high level analysis of options, the exact funding mechanism for collecting funds is not determined. A range of Feasible Funding Options are given in Table 18, for some options these descriptions seem to contradict the description given in the Executive Summary. For example Option 1 & 2 are described in the table as Co-regulatory State administered, yet a funding option for Commonwealth consolidated revenue is identified. Similarly, for Options 8 (an import license scheme) a point of sale fee option is identified as a potential funding option.

A feasible funding collector is the Producer Responsibility Organisation (PRO). An industry PRO is part of all options except option 7. The PRO is assumed to be a not for profit organisation which plays a key role in administering and running the scheme. The PRO could also collect the funding from industry; this is the Associations preferred option for funding as it would decrease the administrative burden on government and put more onus on the industry regarding the products.

Notwithstanding the criteria used in the initial assessment of the options, the Association has developed further criteria which identify other considerations of importance to Local Government in determining which option is selected. A description of each of these criteria follows. A comparison of the options against the Association criteria is given in Table 2. The criteria are not considered to be of equal weight in determining which option to pursue.

Extended Producer Responsibility (EPR) Demonstrated

Local Government considers the Extended Producer Responsibility approach can provide effective tools to advance the key outcomes required in achieving sustainability. The Associations Extended Producer Responsibility Policy Statement defines EPR as "The financial and/or physical co-responsibility of those involved in making, providing or selling a certain product for the management and disposal of that product at the waste phase. Extended Producer Responsibility schemes generally engage producers in financing or carrying out the collecting, processing, recycling or disposing of post-consumer waste. Extended Producer Responsibility schemes may also be directed at changing manufacturing practices".

The Association supports EPR as a means of assigning greater responsibility to producers for their products at the end of product life. A comparison of the selected options and the degree to which they demonstrate EPR has been outlined in Table 2. The criteria focus on the question, 'does the producer take responsibility for the products they manufacture/distribute'? The Associations preference is that the policy option selected will clearly demonstrate producers taking responsibility for running, administering and collecting funding for the scheme.

Experience with existing Product Stewardship, such as the Product Stewardship for Used Oil (PSO) Scheme, indicates the problems where producers do not have a practical interest in the scheme and government is 'responsible'. The Association is concerned that the Product Stewardship philosophy does not adequately resolve the issue of shared responsibility for product disposal; it is assumed Local Government will be responsible for the disposal of products. This approach to sharing responsibility does not provide compelling drivers for significant change in producer or consumer behaviour. For example, if producers take some responsibility for their products at the end-of-life, they acquire a direct incentive to maximise the ease and affordability of discharging that responsibility

The current PSO arrangements have led to a situation in Western Australia where market failure has occurred regarding used oil. Oil recovery has increased – but with no market development and industry responsibility accompanying it Local Government was left in the situation with increasing stockpiles of oil and no methods of disposal. Currently the situation is that local government is paying for the recycling of used motor oil. This uncertainty and the current disposal charge has substantially damaged confidence in the recycling industry, which has wider implications than for just this specific material type. A large amount of time, effort and money is expended at all levels of government to encourage recycling; such market failures undo much of this good work and damage confidence in Commonwealth programmes.

DrumMUSTER, by contrast is an industry run scheme where the collection and recycling of the material is organised by industry (and the material collected by Local Government). As industry runs the scheme responsibility lies with them to actually organise the recycling and ensure it happens.

Responsibility / Liability

This criteria identifies who would be responsible for regulating, running and administering the selected options and who is liable if there are problems with the Scheme. The co-regulatory options allow for either State or Commonwealth regulation with an industry run scheme (through a PRO), the mandatory import scheme is regulated at a Commonwealth level with an industry run scheme (through a PRO) and the mandatory EPR scheme is regulated at a state level with industry involvement (through a PRO). Only the Commonwealth regulated and run option does not include any responsibility on industry.

At this level of analysis it is difficult to clearly define where the responsibility has been assigned, if the scheme were not to deliver. Therefore, the Association has assumed that those responsible for delivering the scheme also have liability for ensuring the scheme succeeds and taking responsibly for the liability if it does not.

Potential for other E-waste to be included in Regulation

The RIS covers computers and TV's. There is a variety of other electronic waste (including white goods, multimedia equipment, video and camera equipment, telephone equipment) which requires management. The Association acknowledges that computers and TV's are the first priority, however, once an option has been selected, the ability for that option to be easily expanded to include other electronic products would be beneficial. The aim would be that eventually all electronic waste would be covered by EPR schemes.

Not all options have the ability to allow this; computers and TV's are all imported, whereas other electronic products are both imported and manufactured in Australia. Some regulatory options may be harder to extend to other products consequently.

A practical consideration of the options where computers and televisions schemes are administered by a separate PRO suggests that if other e-waste was included another PRO would be needed (or these products would have to be added to one or other of the existing PROs). A simpler solution would be for one PRO to administer all products, with equal representation from the industries and stakeholders involved.

Existing Programs Adaptability

There are a range of existing programs for e-waste, such as Byteback, Apple collection events and Local Government initiated collection sites/programmes. As any regulation is likely to take some time to implement it is important that a smooth transition and potentially an ability to co-exist with existing Programs is considered.

The Co-Regulatory options would have the ability for an 'accredited' existing scheme to operate within their framework. The mandatory options are less likely to foster alternative schemes. This is significant for schemes where a wider suite of e-waste is collected than just computers and televisions.

The WA Government is looking to start a scheme similar to Byteback; it would therefore be beneficial to the State if this scheme were easily incorporated into any future options. The Western Australian Waste Authority is currently establishing a three year e-waste program in partnership with the Australian Industry Information Association (AIIA). This partnership includes the establishment of a Memorandum of Understanding (MoU) between the Authority and AIIA.

Policy options	Options outlined in the RIS	EPR demonstrated	Responsibility / Liability	Other e-waste regulation	Existing Program adaptability
Co-regulatory State-based EPR scheme	Option 1 TV & Computer industries collect all products	Yes	State regulation, administered and run by Industry groups, industry liable	Yes	Yes
	Option 2 TV industry & Computer industry responsible for collecting own product	Yes	State regulation, administered and run by Industry groups, industry liable	More difficult	Yes
Co-regulatory Commonwealth based EPR scheme	Option 3 TV & Computer industries collect all products	Yes	Commonwealth regulation, administered and run by Industry groups, industry liable	Yes	Yes
	Option 4 TV industry & Computer industry responsible for collecting own product	Yes	Commonwealth regulation, administered and run by Industry groups, industry liable	More difficult	Yes
Co-regulatory Commonwealth excise (levy)	Option 5 TV & Computer industries collect all products	Yes	Commonwealth run regulation, administered and run by Industry groups, industry liable	Yes	Yes
	Option 6 TV industry & Computer industry responsible for collecting own product	Yes	Commonwealth run regulation, administered and run by Industry groups, industry liable	More difficult	Yes
Regulatory Options	Option 7 Mandatory Commonwealth levy with a government-run subsidy for collection/recycling	No	Regulation and administration by Commonwealth, Commonwealth liable	More difficult	Unlikely
	Option 8 Mandatory import license requirement	Yes	Commonwealth regulation, administered and run by Industry groups, industry liable	More difficult	Unlikely
	Option 9 Mandatory state-based EPR	Yes	State regulation (although Commonwealth possible) administered and run by Industry groups, industry liable	More difficult	Unlikely

Table 2: Policy options assessed against Association criteria

Conclusion and Recommended Options

In addition to the Association criteria assessed in Table 2, the criteria of administrative simplicity and cost will also be included in this assessment (see Table 3). As the Policy Options looked at are at a very high level, there are some assumptions about what a scheme under these policy options would look like, and particular scheme design could potentially affect the effectiveness of the policy option.

Option	Support	Comment
Option 1: Co-Regulatory State EPR – TV & Computer industries collect all products	Not Supported	Low levels of administrative simplicity due to state based approach.
Option 2: Co-Regulatory State EPR - TV industry & Computer industry responsible for collecting own product	Not Supported	Low levels of administrative simplicity due to state based approach and hard to incorporate other e-waste.
Option 3: Co-Regulatory Commonwealth EPR - TV & Computer industries collect all products	Support–conditional	Low levels of administrative simplicity, however as Commonwealth approach simpler than a state by state option. As this is a co-regulatory approach, firm targets and transparent and accountable governance arrangements would need to be in place.
Option 4: Co-Regulatory Commonwealth EPR - TV industry & Computer industry responsible for collecting own product	Not Supported	Low levels of administrative simplicity, hard to incorporate other e-waste.
Option 5: Co-Regulatory Commonwealth Excise Levy – TV & Computer industries collect all products	Support–conditional	Low levels of administrative simplicity, however as Commonwealth approach simpler than a state by state option. As this is a co-regulatory approach, firm targets and transparent and accountable governance arrangements would need to be in place.
Option 6: Co-Regulatory Commonwealth Excise Levy – TV industry & Computer industry responsible for collecting own product	Not Supported	Low levels of administrative simplicity, hard to incorporate other e-waste.
Option 7: Mandatory Commonwealth levy with a government-run subsidy for collection and recycling	Not Supported	Limited/no demonstration of EPR as this option is government run, with liability resting with government rather than industry.
Option 8: Mandatory import license requirement	Support–conditional	Commonwealth regulation, industry are responsible for the Scheme. As this is directed at importers only could be difficult to add in other e-waste which is not imported. Firm targets and transparent and accountable governance arrangements would need to be in place.
Option 9 Mandatory state-based EPR (NEPM)	Not Supported	Preference for central regulation, rather than state based.

Table 3: Policy Options – supported / not supported and comments

Recommended options include:

Option 3: Co-Regulatory Commonwealth EPR - TV & Computer industries collect all products;

Option 5: Co-Regulatory Commonwealth Excise Levy – TV & Computer industries collect all products; and

Option 8: Mandatory import license requirement.

There are qualifications attached to each of these options and any support for their application would depend on scheme design.

Scheme Design

The Association supports an Extended Producer Responsibility approach as an important part of achieving sustainability. The Associations Extended Producer Responsibility Policy Statement outlines high level objectives that should be considered in the design of a Scheme:

Set clear objectives and targets

Schemes must be specific and clear about what they seek to achieve and provide means by which to assess whether these objectives have been achieved.

The achievement of objectives must be assessed with reference to measurable targets and the failure to meet targets must be accompanied by clear and firm consequences.

Establish clear responsibilities

Schemes must designate clear roles to each participant in the product chain.

Local Government favours the assignment of clear responsibilities for specific outcomes to particular participants within the product chain.

Can be implemented in a timely fashion

Schemes must be capable of being delivered within a reasonable time.

Where an unacceptably long delay will be unavoidable when implementing any specific scheme, other options must be vigorously pursued, notwithstanding that these other options might be otherwise less preferred.

Apportion costs appropriately

Schemes must aim to achieve an appropriate sharing of costs, between the various tiers of government and industry.

New schemes must appropriately apportion costs to the various stakeholders, taking into account considerations including:

- a. What allocations will be fair, given the distribution of total costs and benefits?
- b. Which price signals may be desirable?
- c. Who has the capacity to pay?
- d. Will an allocation arrangement be able to be efficiently administered?

Give due consideration to the specific characteristics of the waste or product type

Schemes should be designed so as to be appropriate to the product or waste stream in question.

Support claims with reference to credible evidence

Schemes should be supported with reliable evidence that demonstrates that the objectives of the scheme are likely to be able to be delivered.

In its twin roles as community representative and waste management service provider, Local Government has an obligation and a right to expect that proponents will demonstrate the merit of proposed Extended Producer Responsibility schemes. This must be done with reference to respectable and verifiable evidence.

Experience with current Product Stewardship Schemes also indicates some specific factors to consider, such as geographic isolation, market considerations, contingency planning, contractual arrangements, stakeholder engagement and education.

Geographic Isolation

The Association is concerned with the application of any option to non-metropolitan areas in Western Australia, transportation costs are considered the largest obstacle to be overcome for recycling targets to be achieved. For both metropolitan and non-metropolitan areas there are various collection options including Local Government collection points, retailer take back and collection days. For the non-metropolitan areas there is a need for special focus to ensure equitable service provision. The drumMUSTER program works well in Western Australia due in part to the active engagement of non-metropolitan Local Governments and community by drumMUSTER.

Market considerations / contingency planning

The market reality is that recycling is dependent on the price in an international market. The recent downturn in the price of recyclables has indicated the vulnerability of the recycling industry. As markets are likely to continue to fluctuate the design and structure of an EPR Scheme must consider this. If the downturn in prices is long term, the viability of companies may be threatened. If there is no plan (e.g. additional storage, alternative markets, other service providers etc) the effectiveness of the program is likely to be impacted upon. In addition to market fluctuations the substantially greater amount of material, a scheme would generate, on the market must also be considered.

Contractual arrangements

Solid contractual arrangements are one way to manage risk in the industry (for example through risk sharing provisions). For any Scheme, clear contracts must be in place between collection points, collectors, recyclers and the management organisation.

Stakeholder engagement

Local Governments is already collecting e-waste. Engagement with Local Government is therefore necessary to ensure that collection systems are relevant to the area and do not act to the detriment of existing operations.

Education

As part of the scheme, wide scale education on the appropriate ways to dispose of electronic waste is necessary. As highlighted under stakeholder engagement Local Government is already undertaking e-waste collection to ensure that there is no confusion when education options are developed the process should include consultation with Local Government.

Code of Practice for Managing End-of-Life Televisions

1. General Comments

The aim of the Code of Practice, to support good environmental practice in the recycling of televisions, is strongly endorsed. The inclusion of the waste hierarchy to identify the preferred options (reuse, recycling, disposal) is supported. Within the document it is good to see the emphasis on refurbishment. The Association also supports the outcome based rather than prescriptive requirements of the Code of Practice.

The emphasis on appropriate end uses for material is commended as is the inclusion of the point "Recyclers will ensure that legitimate end-use markets exist for refurbished television or the materials and components resulting from dismantling for recycling and reprocessing before commencing operations" (pg 2). In

response to the recent down turn in the market for recyclable, the Association would also suggest the inclusion of an outcome relating to contingency planning to ensure alternative markets / strategies.

The Code of Practice is comprehensive and covers the major issues (legislative, policy and practical) that are relevant.

2. Collection, Storage & Transport

For Local Government the most directly relevant section is collection, many Local Government operate e-waste collections (as part of the vergeside collection/landfill/transfer station/recycling drop off area).

The comment that "Recyclers should work with entities establishing collection points to ensure that only the types of end-of-life products they can recycle are collected" may be particularly relevant as Local Government may be accepting a wider range of e-waste than is covered under the product stewardship scheme.

The Association suggests a change to the Code of Practice to make it clear that it doesn't matter if the collector is taking more than computers and televisions, as long it is there is clear separation on site of those products which will be recycled.

Final Report: Willingness to Pay for E-waste Recycling

1. General comments

This is the first time that choice modelling has been used relating to waste management RIS. The Association is pleased to see the Office of Best Practice Regulation (OBPR) has accepted and worked with NEPC to develop this approach. On other occasions the significant impost of the RIS process and the focus on financial costs/benefits has been raised by the Association as a concern. Although the use of choice modelling is supported, the RIS process still places severe constraints on environmental regulation.

The survey was very clear in the language used and the methodology for its creation appears to be robust.