

Australian Food and Grocery Council SUBMISSION

6 APRIL 2011

TO:
SENATE STANDING COMMITTEE ON ENVIRONMENT AND COMMUNICATIONS
LEGISLATION

IN RESPONSE TO:

INQUIRY INTO THE PRODUCT STEWARDSHIP BILL 2011



one voice - adding value

PREFACE

The Australian Food and Grocery Council (AFGC) is the leading national organisation representing Australia's food, drink and grocery manufacturing industry.

The membership of AFGC comprises more than 150 companies, subsidiaries and associates which constitutes in the order of 80 per cent of the gross dollar value of the processed food, beverage and grocery products sectors. A list of members is included as [Appendix A](#).

With an annual turnover of \$102 billion, Australia's food and grocery manufacturing industry makes a substantial contribution to the Australian economy and is vital to the nation's future prosperity.

Manufacturing of food, beverages and groceries in the fast moving consumer goods sector¹ is Australia's largest and most important manufacturing industry. Representing 26 per cent of total manufacturing turnover, the sector is comparable in size to the Australian mining sector and is more than four times larger than the automotive parts sector.

The growing and sustainable industry is made up of 31,140 businesses and accounts for \$44.8 billion of the nation's international trade. The industry's total sales and service income in 2008-09 was \$102 billion and value added increased to \$27.3 billion². The industry spends about \$3.5 billion a year on capital investment and around \$370 million a year on research and development. The food and grocery manufacturing sector employs 288,570 people representing about 3 per cent of all employed people in Australia paying around \$13 billion a year in salaries and wages.

Many food manufacturing plants are located outside the metropolitan regions. The industry makes a large contribution to rural and regional Australia economies, with almost half of the total persons employed being in rural and regional Australia³. It is essential for the economic and social development of Australia, and particularly rural and regional Australia, that the magnitude, significance and contribution of this industry is recognised and factored into the Government's economic, industrial and trade policies.

This submission has been prepared by Mr Tony Mahar, Director Sustainable Development.

1 Fast moving consumer goods includes all products bought almost daily by Australians through retail outlets including food, beverages, toiletries, cosmetics, household cleaning items etc..

2 AFGC and KMPG. State of the Industry 2010. Essential information: facts and figures.

3 About Australia: www.dfat.gov.au

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Introduction

The Australian Food and Grocery Council (AFGC) welcomes the opportunity to provide input into the Senate Committee on Environment and Communities inquiry into the Product Stewardship Bill 2011.

This submission reiterates the views expressed, and provides additional comments on, those included in the AFGC submission on the development of National Product Stewardship Legislation in December 2010.

The AFGC supports the implementation of the National Waste Policy and associated strategy under which the National Product Stewardship Legislation would be initiated. Further to this the AFGC supports a supply chain wide product stewardship approach where all parties involved in producing, selling, using and disposing of products share responsibility for reducing the environmental footprint of food, drink and grocery (and other) products.

AFGC maintains the view that regulation should be:-

- flexible enough to recognise, and allow to continue, programs which are already in place and are achieving effective waste management outcomes;
- sophisticated enough to apply to the wide range of products within the waste stream, from the most noxious and potentially harmful, to the most benign;
- outcomes focused and designed to minimise unintended market distortions and social inequities (eg minimise unreasonably high costs of compliance);

The AFGC and its members are committed to actively managing waste streams as part of their overall commitment to secure a sustainable future for the food, drink and grocery industry in Australia.

The AFGC supports the provisions in the Bill which will enable the establishment of voluntary and co-regulatory approaches to the management of the lifecycle impact of products throughout supply chains. The AFGC is of the view that mandatory provisions should only be considered for products that have passed a rigorous risk/impact assessment process, pose a hazard to the community and the environment and where there is a clear and demonstrated market or regulatory failure.

The Australian Packaging Covenant (APC) is an example of a co-regulatory mechanism that should be used as a guide for future product stewardship schemes under the Bill. The AFGC is of the view that the APC, its achievements and structure, should be recognised and supported under the proposed product stewardship legislation.

The AFGC makes the following comments to provide detailed feedback on the Product Stewardship Bill.

OBJECTIVE OF THE BILL

The AFGC supports the objective of the Bill to reduce the impact that products and their use have on the environment.

In addition the AFGC, in principle, endorses the intent of the Bill to adopt an entire supply chain approach to avoiding waste, reducing resource use and encouraging recycling or disposal in a scientific and environmentally sound way.

This is consistent with the AFGC's support for a coordinated and comprehensive supply chain wide approach where product stewardship involves participants in the product supply and consumption chain sharing responsibility for the costs of resource recovery and waste management, rather than one component of the chain such as industry or the community.

DIVISION 3 CLAUSE 5 - PRODUCT STEWARDSHIP CRITERIA

RISK/IMPACT ASSESSMENT PROCESS

It is vital that the Product Stewardship Bill focus on those products and materials where regulatory and/or market failure has been demonstrated and the significance of the economic, environmental and social impact measured. Currently the Bill provides a level of uncertainty around the identification of, and justification for, product stewardship schemes.

The AFGC views the determination of whether a product or industry should be subject to a product stewardship scheme and which variety, a critical design consideration of the Bill. We recommend that the Government include an environmental risk/impact assessment process which would assist in the identification of priority products and/or materials.

While the Product Criteria provides a checklist of issues to be satisfied before National Product Stewardship Legislation would apply, what is lacking is detail on how a product or material will be assessed for its impact, ie the scale and significance of the problem that legislation is seeking to address.

The inclusion of an environmental risk/impact assessment framework (using Life Cycle Assessment tools) would potentially address the environmental risk issue, however for each of the criteria at Section 5 of the Bill, no measure is proposed to assess the scale and significance of the problem.

For example:-

- what constitutes an appropriate level of "hazardous material" [Section 5(b)] in a product? It could be argued that a range of materials are hazardous if there are significant enough amounts entering a landfill.

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- what is meant by “there is the potential to increase the conservation of materials used in the products, or increase the recovery of resources (including materials and energy) from waste from the products” etc [Section 5(c)]? This clause could mean that until there is 100% recycling of a product there is the “potential” for improvements when in fact there may be rational reasons and other sustainability factors that need consideration. For example, it may not be sustainable (from a greenhouse gas reduction objective) to recycle some products or materials in remote parts of Australia.
- what is meant by “significant cost” [Section 5(f)] as opposed to those costs that are not “significant”?

Recommendation 1:

That the Bill be amended to include within or as part of the Product Criteria section provisions to enable the scale and significance of the problem associated with a product or material to be rigorously assessed.

Only after completion of the risk/impact assessment process should a determination be made on whether there has been a regulatory and/or market failure and the appropriate approach which is proportionate with the level of risk and impact. For example, extremely high risk products or materials (such as asbestos and radioactive wastes), if run through a risk/impact assessment process, would require a high level of government intervention via mandatory provisions (as they are managed currently). Conversely, products or materials with a low impact due to the benign nature of the material maybe better managed through a voluntary code.

Further [Section 5(c)(i) of the Bill refers to increasing the recovery of resources from waste, however increasing recovery does not in itself increase recycling and it recommended that wording in this Section be changed to “... or increase the recovery of resources from waste products for recycling and/or energy recovery”.

CRITERIA REQUIREMENTS

The AFGC notes that the product stewardship criteria are intended to be basic filter criteria to help determine whether the Bill should apply to a particular class of products.

AFGC is of the view that the criteria are too broad and the requirement to adopt only 2 criteria an inadequate basis on which to determine appropriate regulatory action. The criteria currently proposed in the Bill will pose an un-necessary level of ambiguity around products and potential schemes which will lead to a high level of uncertainty for business.

The AFGC view is that the Bill should be amended to distinguish between voluntary and regulatory based schemes. Specifically, for co regulatory or mandatory schemes, the Bill should require that unless the Minister is satisfied that all of the product stewardship criteria for a class of products are met then regulations cannot be made under the co-regulatory or mandatory provisions.

The Bill currently refers to the following criteria:-

The product stewardship criteria are satisfied in relation to a class of products if 2 or more of the following paragraphs apply in relation to products in the class:

- a) *the products are in a national market;*
- b) *the products contains hazardous substances;*
- c) *there is the potential to:*
 - i. *increase the conservation of materials used in the products, or increase the recovery of resources (including materials and energy) from waste from the products; and*
 - ii. *contribute to reducing the amount of greenhouse gases emitted energy used or water consumed in connection with products and waste from products;*
- d) *reusing, recycling, recovering, treating or disposing of the products involves a significant cost to the Commonwealth, or State, Territory or local governments;*
- e) *the consumer is willing to pay for action that reduces the impact:*
 - i. *that the products will have on the environment, throughout the lives of those products; or*
 - ii. *that substances contained in the products have on the environment, or on the health or safety of human beings, throughout the lives of those products;*
- f) *taking action to reduce those impacts will offer business opportunities that would make a contribution to the economy.*

The AFGC does note references in the Explanatory Memorandum that the criteria are only one factor in determining whether regulations can be made with respect to a class of products and that the Minister would have to consider the results of the regulatory impact analysis process when pursuing schemes.

Notwithstanding this, the additional requirements of having to satisfy more than 2 of the criteria would provide more specific advice which could be incorporated into the regulatory impact

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analysis and thereby providing a more robust, equitable and credible process for the development of any product stewardship schemes and any associated regulation.

Recommendation 2:

That the Product stewardship criteria in the Bill be amended to read:

The product stewardship criteria for coregulatory and mandatory approaches are satisfied in relation to a class of products if all of the following paragraphs apply in relation to products in the class:

That a new Clause (a) be added and existing Clauses (a) to (c) replaced and renumbered (b) to (d) as follows:

- a) there a demonstrated regulatory and/or market failure for the products;***
- b) the products poses an environmental risk to the community and/or environment;***
- c) the products are in a national market;***
- d) there the potential to:***
 - i. increase the conservation of materials used in the products, or increase the recovery of resources from waste products for recycling and/or energy recovery; and***
 - ii. contribute to reducing the amount of greenhouse gases emitted, energy used or water consumed in connection with products and waste from products;***

RECOGNITION OF EXISTING SCHEMES

It is important that the Product Stewardship Bill accommodate and provide for existing national product stewardship legislation, such as the National Environmental Protection and Heritage Measures and the associated Australian Packaging Covenant (APC). The Covenant is an important and useful model in a national approach to packaging product stewardship. It has a proven and successful record of establishing a means for all relevant parties in the product chain to share responsibility for the products they produce, handle, purchase, use and discard.

The APC has demonstrated an ability to provide genuine improvement to the packaging waste management system and identify best practice both for waste minimisation and recovery based on a co-regulatory and cooperative approach. From 2003 to 2009, packaging recycling rates increased from 39% to 57% (a 46% increase). Tonnes of packaging waste to landfill fell by 728,000 tonnes during the same period.

The APC represents a successful partnership between industry and government, based on the principle of shared responsibility, incorporating all links in the packaging supply chain and all spheres of government to achieve a nationally consistent response to the lifecycle management of packaging.

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Co-regulatory approaches such as the APC represent an excellent model on which to base future waste management strategies for selected waste streams. It has the support of all key stakeholders that can contribute solutions to waste management problems, i.e. industry, local government, state and Commonwealth governments and non government organisations. It provides a valuable forum where parties can collaboratively work towards achieving goals and targets in a constructive and proactive way.

The APC clearly articulates the objectives of consumer packaging waste management and the respective roles of government; provides the basis for an effective and efficient approach to packaging waste issues; advances the environmentally sound management of materials and products through whole-of-life-cycle strategies to minimise waste and improve resource recovery (for example through better design); addresses identified market and governance impediments; and provides the ability to address emerging issues and priorities.

CONCLUSIONS

The AFGC supports the objective of the Product Stewardship Bill as critical activity in the Government's overall objective of reducing waste and maximising resource efficiency.

However, the Bill should be revised to include a greater reference to and consideration of equity and transparency for business as its fundamental principles.

The AFGC seeks adoption of a transparent risk/impact assessment process and additional criteria for coregulatory and mandatory approaches to provide a more credible and robust basis on which to consider product stewardship schemes. These two important amendments will ensure costs and regulatory burden are not imposed on industry and/or the wider community un-necessarily.

The Bill should provide for the comprehensive supply chain wide approach which has been successful to date in reducing the impact of packaging waste on the environment at minimal cost via a cooperative arrangement that is the Packaging Covenant.

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APPENDIX A

AFGC MEMBERS AS AT 7 MARCH 2011

Arnott's Biscuits Limited
Asia-Pacific Blending Corporation P/L
Barilla Australia Pty Ltd
Beak & Johnston Pty Ltd
Beerenberg Pty Ltd
Bickfords Australia
BOC Gases Australia Limited
Bronte Industries Pty Ltd
Bulla Dairy Foods
Bundaberg Brewed Drinks Pty Ltd
Bundaberg Sugar Limited
Byford Flour Mills T/a Millers Foods
Campbell's Soup Australia
Cantarella Bros Pty Ltd
Cerebos (Australia) Limited
Cheetham Salt Ltd
Christie Tea Pty Ltd
Church & Dwight (Australia) Pty Ltd
Clorox Australia Pty Ltd
Coca-Cola Amatil (Aust) Limited
Coca-Cola South Pacific Pty Ltd
Colgate-Palmolive Pty Ltd
Coopers Brewery Limited
Danisco Australia Pty Ltd
Devro Pty Ltd
DSM Food Specialties Australia Pty Ltd
Earlee Products
Eagle Boys Pizza
FPM Cereal Milling Systems Pty Ltd
Ferrero Australia
Fibrisol Services Australia Pty Ltd
Fonterra Brands (Australia) Pty Ltd
Food Spectrum Group
Foster's Group Limited
Fruco Beverages (Australia)
General Mills Australia Pty Ltd
George Weston Foods Limited
GlaxoSmithKline Consumer Healthcare
Go Natural
Goodman Fielder Limited
Gourmet Food Holdings
H J Heinz Company Australia Limited
Harvest FreshCuts Pty Ltd
Healthy Snacks
Hela Schwarz
Hoyt Food Manufacturing Industries P/L
Hungry Jack's Australia
Johnson & Johnson Pacific Pty Ltd
Kellogg (Australia) Pty Ltd
Kerry Ingredients Australia Pty Ltd
Kimberly-Clark Australia Pty Ltd
Kraft Foods Asia Pacific
Laucke Flour Mills
Lion Nathan National Foods Limited
Madura Tea Estates

Manildra Harwood Sugars
Mars Australia
McCain Foods (Aust) Pty Ltd
McCormick Foods Aust. Pty Ltd
McDonald's Australia
Merisant Manufacturing Aust. Pty Ltd
Nerada Tea Pty Ltd
Nestlé Australia Limited
Nutricia Australia Pty Ltd
Ocean Spray International Inc
Parmalat Australia Limited
Patties Foods Pty Ltd
Procter & Gamble Australia Pty Ltd
Queen Fine Foods Pty Ltd
QSR Holdings
Reckitt Benckiser (Aust) Pty Ltd
Sanitarium Health Food Company
Sara Lee Australia
SCA Hygiene Australasia
Schweppes Australia
Sensient Technologies
Simplot Australia Pty Ltd
Spicemasters of Australia Pty Ltd
Stuart Alexander & Co Pty Ltd
Sugar Australia Pty Ltd
SunRice
Swift Australia Pty Ltd
Tasmanian Flour Mills Pty Ltd
Tate & Lyle ANZ
The Smith's Snackfood Co.
The Wrigley Company
Tixana Pty Ltd
Unilever Australasia
Vital Health Foods (Australia) Pty Ltd
Wyeth Australia Pty Ltd
Yakult Australia Pty Ltd
Yum Restaurants International

Associate & *Affiliate Members

Accenture
Australian Pork Limited
ACI Operations Pty Ltd
Amcor Fibre Packaging
*ASMI
AT Kearney
BRI Australia Pty Ltd
*Baking Association Australia
CAS Systems of Australia
CHEP Asia-Pacific
CSIRO Food and Nutritional Sciences
CoreProcess (Australia) Pty Ltd
Dairy Australia
Food Liaison Pty Ltd
FoodLegal
*Foodservice Suppliers Ass. Aust.
*Food industry Association QLD
*Food industry Association WA
Foodbank Australia Limited
*Go Grains Health & Nutrition Ltd

Grant Thornton
GS1
Harris Smith
IBM Business Cons Svcs
innovations & solutions
KN3W Ideas Pty Ltd
KPMG
Leadership Solutions
Legal Finesse
Linfox Australia Pty Ltd
Meat and Livestock Australia Limited
Monsanto Australia Limited
New Zealand Trade and Enterprise
RQA Asia Pacific
StayinFront Group Australia
Strikeforce Alliance
Swire Cold Storage
Swisslog Australia Pty Ltd
The Food Group Australia
The Nielsen Company
Touchstone Cons. Australia Pty Ltd
Valesco Consulting FZE
Visy Pak
Wiley & Co Pty Ltd

PSF Members

Amcor Packaging Australia
Bundaberg Brewed Drinks Pty Ltd
Schweppes Australia Pty Ltd
Coca-Cola Amatil (Aust) Limited
Fosters Group Limited
Lion Nathan Limited
Owens Illinois
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