



AUSTRALIAN CHAMBER OF
COMMERCE AND INDUSTRY

20 April 2011

Committee Secretary
Senate Standing Committees on Environment and Communications
PO Box 6100
Parliament House
CANBERRA ACT 2600

Dear Sir

The Australian Chamber of Commerce and Industry (ACCI) would like to thank the Senate Standing Committees on Environment and Communications for the opportunity to provide comments on the *Product Stewardship Bill 2011* which is currently before the Australian Senate.

The Australian Chamber of Commerce and Industry (ACCI) speaks on behalf of Australian business at a national and international level.

Australia's largest and most representative business network, ACCI develops and advocates policies that are in the best interests of Australian business, the Australian economy and community. We achieve this through the collaborative action of our national member network which comprises: all State and Territory chambers of commerce; 27 national industry associations; and bilateral and multilateral business organisations. In this way, ACCI provides leadership for more than 350,000 businesses.

ACCI is particularly cognisant of the burden placed on small to medium enterprises by the introduction of new legislation and regulations. These businesses are very vulnerable to new regulatory burdens and costs. As such, whenever there is a proposal to revise the regulatory framework, it must be tested against the principle that there not be a net increase in the regulatory burden on business and only regulated to the minimum extent necessary.

Product Stewardship Bill 2011

Cost to Business

ACCI believes that the intention of the Bill, which essentially is to protect the environment, is laudable. As the Minister stated:

"Product stewardship involves the shared responsibility for reducing the environmental, health and safety impacts of manufactured goods and materials across the life of a product."

However, as is so often the case it will be business which bears the bulk of the burden of implementing this scheme. Whilst the intention is on the *shared responsibility* of reducing waste generated by the community, two out of the three types of product stewardship allowed for in the Bill, the co-regulatory and mandatory provisions, will place the obligation of compliance on manufacturers, importers, distributors and others. In fact, under the mandatory provisions, *regulations may establish prescriptive product stewardship requirements and establish offences or civil penalties to apply if those requirements are not met.*

ACCI believes that this legislative scheme is unacceptably open-ended and potentially heavy-handed. In an unbalanced way it places the burden on business for

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an issue which should be the responsibility of the broader community. The Minister in his second reading speech acknowledges that many industries have voluntarily accepted responsibility for the disposal of products that they manufacture and are involved voluntarily in product stewardship schemes. Encouraging the establishment of voluntarily accepted industry-by-industry schemes would be more acceptable than the mandated schemes for as yet unidentified products being enacted under this legislation.

This issue has been effectively dealt with previously on an industry-by-industry basis by adopting, through legislation, individual approaches to product stewardship. Different products and materials have been covered over time as needs have emerged and arrangements have been tailored to suit different circumstances. This legislation unnecessarily adds another layer of regulation on business for an issue which should be the subject of more targeted regulation and with broader community responsibilities.

Ministerial Powers

ACCI is also concerned that the *Product Stewardship Bill* will give the Minister responsible for this legislation unprecedented power to become a lawmaker in their own right. It will be the Minister who decides unilaterally which industry will be liable for doing what when it comes to the waste and disposal of any product currently available to the public. The Minister will be authorised through this legislation to write regulations that will bind any manufacturer, importer, distributor or user of products. The Minister can decide whether any of these parties will be responsible for a product's disposal and the waste it creates either on a compulsory or voluntary basis.

The business community accepts that it must meet reasonable obligations when it comes to waste and sustainability issues but this legislation creates unknown levels of liability and will add to the uncertainty of doing business.

ACCI strongly advocates a system that deals with specific sustainability issues that emerge on a case by case basis. These issues should be resolved in dialogue with industry and the affected parties with new laws tailored to overcome the identifiable problem.

Finally, ACCI would like to make clear its disappointment with one key aspect of the consultation process to date. ACCI was represented on the *Product Stewardship Framework Legislation Stakeholder Reference Group* coordinated by the Department of Sustainability, Environment, Water, Population and Communities. However we are advised the Stakeholder Reference Group was not provided with a copy of the legislation before it was introduced into the Parliament.

On legislation such as this, detail matters. Full and open consultation is what was required in the development of this statutory scheme. In our view, a fresh round of consultation is required to ensure that any product stewardship scheme has the full co-operation of the group that will have primary responsibility for its success – the business community.

Yours sincerely

Peter Anderson
Chief Executive