1. Questions on the Proposal to regulate e-products

Your answers to the following questions will help us develop a fit-for-purpose regulatory product stewardship scheme. There are 44 questions. You can use this document to submit an organisation-wide response with input from multiple people. When you have completed this document register your details at the Have Your Say consultation page and upload your submission by Sunday 23 July 2023.

Introduction

1. I am a(n): [Check up to 3 boxes below]

- ☐ Consumer
- ☐ Manufacturer or distributor
- ☐ Retailer
- ☐ Recycling scheme
- ☐ Installer
- ☐ Recycler
- ☐ Industry body
- ☐ Academic
- ☐ Commercial power generator
- ☒ Other [Explain in the text box below]

Product stewardship scheme

2. How concerned are you about solar PV system waste? [Check 1 box below]

☐ Very concerned

☒ Concerned

☐ Neutral

☐ Unconcerned

☐ Very unconcerned

3. How concerned are you about waste from electrical and electronic equipment? [Check 1 box below]

- ☐ Very Concerned
- ☒ Concerned
- ☐ Neutral
- ☐ Unconcerned
- ☐ Very unconcerned

4. Do you think government intervention (such as regulation) is needed for Australia to better manage small electrical products waste?
[Select **Yes**, **No** or **Maybe** from the **Choose an item** drop down below]

maybe

[Type a response in the text box below if you answered **Yes** or **Maybe** at question 4]

BSC supports the Governments efforts to address ewaste stewardship, however BSC believes some additional regulatory reform is needed to maximise the impact and cost effectiveness of stewardship outcomes. One small change which would radically improve the stewardship outcomes of the RAWR Act would be to introduce a new category of industry led schcmes by:

- requiring all manufacturers/importers of designated products are obliged to participate in stewardship initiatives i.e. remove free riding; and
- setting criteria for accreditation of schemes that must include tracking, independent verification, auditing, and public reporting.

This approach is further explained in an information sheet that can be found at: https://bcycle.com.au/wp-content/uploads/2023/07/B-cycle-Issues-Paper-Stewardship-Reform-20230726.pdf

5. Do you think government intervention (such as regulation) is needed for Australia to better manage solar photovoltaic system waste?
[Select **Yes**, **No** or **Maybe** from the **Choose an item** drop down below]

maybe

[Type a response in the text box below if you answered **Yes** or **Maybe** at question 5]

It is our understanding that recycling of PV panels represents a signficant market failure and as such we would support limited regulation for this aspect. BSC does not see a market failure for inverters. As previously agreed by Environment Ministers, BSC believes battery energy storage systems would best be included in an industry led scheme specifically designed to manage batteries, such as B-cycle.

6. Do you think there is sufficient information available to consumers on how their choices can reduce e-waste and how to safely manage e-waste?
[Select **Yes**, **No** or **Maybe** from the **Choose an item** drop down below]

no

[Answer question 7 below if you selected **No** at question 6]

7. What additional information do you think should be made available to consumers?
[Check any or all the boxes below]

- ☒ Information on the difference my purchase and disposal choice can have on human health and the environment.
- ☒ Accessible information on how I can easily dispose of my unwanted e-waste.
- ☒ Easily understood information on the impacts if my e-waste goes to landfill.
- ☒ Information on the rules relevant to me in my state/territory and what I should do to comply with these rules.
- ☐ Other. Type a response in the text box below to explain.

8. Select one or more of the following objectives you think the scheme should focus on.
[Check any or all the boxes below]

- ☒ Reduce waste to landfill.
- ☒ Increase the recovery of reusable materials.
- ☒ Provide convenient access to e-stewardship services across Australia.
- ☒ Support Australia's transition to a more circular economy.
- ☒ Foster shared responsibility across the lifecycle of covered products.

9. What objectives should be included or excluded? Type your response in the text box below.

Ensure products imported into Australia meet stewardship objectives including product quality, safety, and recyclability.

2. Scheme administration

10. Explain any concerns about the scheme model proposed in the discussion paper? Type your response in the text box below.

BSC is concerned that the current proposal will undermine existing successful industry led stewardship schemes, B-cycle and MobileMuster, rather than building on them.

In the case of e-waste and batteries, in particular, there are two clear market failures, namely:

+ lack of a clear regulatory signal from governments that importers / manufacturers or designated products are required to participate in stewardship thus leaving schemes open to undermining by free riding; and
+ lack of an appropriate price signal, including the cost of recycling for goods sold in the market.

11. What do you think are the key benefits from the scheme model proposed in the discussion paper? Type your response in the text box below.

The model excludes most batteries covered by the B-cycle scheme in recognition that the B-cycle Scheme is addressing the core market failure arising from collection and recycling costs for those products.

12. Is there a different scheme model you believe would be more effective?
[Select **Yes** or **No** from the **Choose an item** drop down below]
yes
If you answered **Yes** at question 12, type your response in the text box below to describe the model and its benefits.

Yes, BSC believes the Department could consider targetted regulatory intervention to focus on the one market failure that all new schemes face – that of engagement of liable parties.

Liable parties' responsibilities

13. Do you agree that only first importers and producers should be liable parties?
[Select **Yes** or **No** from the **Choose an item** drop down below]

Yes

[Answer question 14 below if you answered **No** at question 13]
[Answer question 15 below if you answered **Yes** at question 13]

14. What other participants in the supply chain should be considered liable parties, and why? Type your response in the text box below.

A better question is how would we ensure the entire supply chain is engaged in Scheme design and administration. Given the difficulties in engaging digital retail platforms, BSC strongly urges the Department to consider adding them as liable parties for e-stewardship.

15. The Scheme administrator is responsible for setting fees paid in advance by liable parties. If any, describe what role government should have in setting fees?
Type your response in the text box below.

Government should have no role in setting fees as this is an industry responsibility. BSC proposes limited regulation in which the accredited Scheme would determine the appropriate fees (with annual CPI increases) necessary to deliver the stated objectives of the Scheme. This would allow the fees to be tailored to the product, and adjusted up or down as needed and as economies of scale are achieved. Fees should always be made transparent...whether set by government or by a scheme.

16. How could eco-modulated fees be incorporated into the proposed scheme?
Type your response in the text box below.

This is a complex issue that requires a significant body of work, as it involves multiple and often opposing value judgements and is product specific. The paper is focused on recycling rather than addressing the stewardship objects of the Act. Ecomodulation is one way to exand the scope towards a circular economy, but other could also be employed, such as import controls, product standards (refer to the EPEAT standards for an effective example), procurement goals, market development activities, and think tanks to focus on these topics.

In relation to the degree to which the Scheme incorporates embedded batteries, battery energy storage systems, or plug and play systems, it may be necessary to include a chemistry based modulated fee system that addresses the different cost requirements for recycling the range of chemistries that are entering the market. The reason we suggest this be considered is that some chemistries allow for a return on recycling, whereas others that are becoming more prevalent, for example LSP batteries, are economically cost prohibitive to recycle.

17. Financial reserves will accumulate from the fees collected from liable parties for solar photovoltaic (PV) systems because there may be decades between when the products are placed on market and when they become waste. If any, describe what role government should take in managing these funds.
Type your response in the text box below.

None, this should be the responsibility of the Scheme.

Scope

18. Are there any small electrical and electronic equipment products you believe should not be covered under the scheme?
[Select **Yes** or **No** from the **Choose an item** drop down below]
yes
[Answer question 19 below if you answered **Yes** at question 18]

19. Which products and why? Type your response in the text box below.

The proposed scheme design for SEEE has not addressed the overlap in scope with existing schemes or how to manage it. The following batteries are already in scope for the authorised B-cycle Scheme:

+ loose batteries
+ replacement batteries of parallel importers (e.g. phones, laptops, drones, e-bikes, power tools, consumer electronics etc
+ light Mobility importers (e.g. e-bikes, e-scooters etc...)
+ Portable Energy Storage (RV, caravan, camping, powerbanks, marine products etc...)

- products excluded from Regulation (e.g. loose batteries with Air Conditioner remote controls, Batteries in medical devices (vapes) etc...

The BSC believes that these products should continue to be in-scope for B-cycle, given the unique characteristics for handling of batteries to ensure safety and compliance with the Australian Dangerous Goods Code. In addition positive outcomes have been achieved in relation to:

- the rapid establishment and ongoing expansion of our network of convenient and extensive drop off points
- controls for safety and storage of batteries
- robust traceability requirements with independent verification of collection and recycling outcomes.

The proposed scheme does present a serious problem for B-cycle as a number of items listed in Appendix B also contain removable batteries which consumers do, and will continue to dispose of at B-cycle Drop off Points.

Power tools batteries and loose batteries in products which are listed in the Schedule at Attachment B are proposed to be removed from B-cycle and the inclusion of energy storage batteries is foreshadowed despite the governments having previously agreed that they should be included in B-cycle and provided funding to assist with industry consultation to achieve that goal.

The list of products in Attachment B does not recognise the complexity of the market for small appliances. A very large number of the products listed are produced and imported in versions which can be powered as wire, embedded batteries (sealed) or loose batteries in the product (i.e. readily removed by the consumer). It is essential that the meaning of embedded battery be defined. Given the stated intent of Government, expressed by officials not to regulate to address free riding for loose batteries, the proposed scheme would enable importers to go "scheme shopping" to get lowest cost irrespective of the need for fire safety and dangerous goods handling for batteries. Such scheme shopping would most likely lead to a lowering of standards and increase the likelihood of fires and health and environmental issues with batteries.

20. Are there small electrical and electronic equipment products that you would like to see added to the list of included products in the discussion paper?

[Select **Yes** or **No** from the **Choose an item** drop down below]

No

[Answer question 21 below if you answered **Yes** at question 20]

21. Which products and why? Type your response in the text box below.

22. Can you suggest a better method than Harmonised System (Import) codes for defining in-scope products? Type your response in the text box below.

Whilst this approach has some merit, it is also quite bureaucratic. Alternatively, the Government could use import codes to identify liable parties and write to the relevant scheme and importers, indicating that they are required to participate in the Scheme. However rather than administering the reporting and validation of import data, it would best be managed using self-declaration with importer audits through a Trust such as an independent accounting firm. This Trust would then manage the funds as a trust and provide the funds to the relevant scheme for disbursement without disclosing any market share

information to the scheme. This method is used by multiple voluntary schemes. The role of government is to require Schemes to independently verify the effectiveness of this process and to receive their third party annual financial audit report. Additional controls such as brand audits at end of life can be used to vary assumptions and identify free riding brands.

23. Should the scheme cover all parts of a solar PV system?

[Select **Yes** or **No** from the **Choose an item** drop down below]

no

Please explain. Type your response in the text box below.

Given the different life cycles and recycling processes required for battery energy storage systems, BSC advocates for exclusion of these from the proposed PV scheme.

24. Are there any products, or specific solar PV products, that should not be covered?
Type your response in the text box below to explain which products and why?

Given the different life cycles and recycling processes required for battery energy storage systems, BSC advocates for exclusion of these from the proposed PV scheme.

25. What do you think are the pros and cons of including, within the scheme, large format energy storage batteries which are attached to solar PV systems?
Type your response in the text box below.

Given the different life cycles and recycling processes required for battery energy storage systems, BSC advocates for exclusion of these from the proposed PV scheme.

26. It is proposed the scheme will cover batteries that are embedded in small electrical and electronic equipment but not loose batteries (e.g. AAA batteries). Do you have any concerns regarding the scheme approach to waste containing embedded batteries?
[Select **Yes** or **No** from the **Choose an item** drop down below]
No
[Type your response in the text box below if you answered **Yes** at question 26.]

BSC would like to emphasis that batteries present significant safety concerns that require careful and specialised management at end of life. B-cycle has introduced a comprehensive number of safety controls as part of our accreditation model to address battery related safety hazards. We would recommend that any scheme collecting embedded batteries be required to implement similar and consistent safety controls. BSC is able to contribute significant experience in safety which could apply to embedded batteries.

Targets and obligations

27. Do you believe that the set of targets and obligations detailed in the discussion paper are appropriate for a product stewardship scheme which covers small electrical and electronic equipment?
[Select **Yes** or **No** from the **Choose an item** drop down below]
no
[Answer question 28 below if you answered **No** to question 27]

28. What changes would you suggest to the proposed targets and obligations?
[Type your response in the text box below.]

BSC believes targets to be replaced with a goal of 100% recovery of material put on market as the annual performance measurement demonstrating progress with continual improvement. The challenge with targets is reflected in part in the NTCRS outcomes where arrangements met the target and then traded the over achievement into succeeding years.

BSC suggests targets could be aligned with European Directives, for example collection rate, recovery rate and materials efficiency rate (to ensure maximum recovery of valuable metals to facilitate circular economy outcomes). BSC also suggests the Department consider other stewardship targets related to transitioning to a circular economy and reducing harmful or unrecyclable products.

29. Do you think the set of targets and obligations detailed in the discussion paper are appropriate for a product stewardship scheme which covers solar PV?
[Select **Yes** or **No** from the **Choose an item** drop down below]
no
[Answer question 30 below if you answered **No** at question 29]

30. What changes would you suggest to the proposed targets and obligations?
[Type your response in the text box below.]

Establishment of a goal to achieve 100% of material put on market with annual performance measurement demonstrating progress towards this goal with continual improvement

Transitional arrangements for legacy waste from large-scale PV systems

31. Do you agree it is appropriate that owners be responsible for covering the cost of managing all legacy waste from large-scale commercial solar PV systems (100kW and above?)
[Select **Yes** or **No** from the **Choose an item** drop down below]
yes
[Answer question 32 below if you answered **No** at question 31]

32. What alternative do you suggest? Type your response in the text box below.

33. Do you think it is appropriate to impose a mandatory requirement on owners of large-scale solar PV systems (over 100kW), built before the scheme commenced, to provide information about how they are managing waste?
[Select **Yes** or **No** from the **Choose an item** drop down below]
yes
[Answer question 34 below if you answered **Yes** at question 33]

34. What information should owners of large-scale solar PV systems, built before the scheme commenced, be required to provide to the Scheme Administrator?
[Check any or all boxes below]

- ☒ Serial Numbers of deinstalled solar panels, inverters, and batteries.
- ☒ Information on the organisation/s that are responsible for the decommissioning of these systems.
- ☒ Information on the organisations that are recycling the waste from these systems.
- ☒ Information on reuse or export of products.

☒ Information on the disposal of these systems in landfill.

☐ Other. Type your response in the text box below.

[Answer question 35 below if you answered **No** at question 33]

35. Explain why not. Type your response in the text box below.

Scheme arrangements for solar PV

36. The paper suggests less than 100 kW capacity as the definition of small-scale solar PV systems eligible for free services (where they were installed prior to the scheme commencing).
What definition do you suggest from the list below? [Check 1 box below]

☐ 0-15 kW (predominantly households)

☐ 0-50kW (mostly households and small business)

☒ Agree with the less than 100kW proposed (households and businesses)

37. How can the Scheme make collecting and transporting waste from PV systems convenient, efficient and cost-effective for electricians and PV system installers?
Type your response in the text box below.

Implemented a leveraging model such as that used by the B-cycle Scheme that uses accreditation to maximise participation of different collection mechanisms.

38. What are the minimum requirements that should be set for a collection site to accept PV systems?
Type your response in the text box below.

39. Should requirements differ between types of hosts? (For example, for those hosted by local government and those hosted by PV distributers). Type your response in the text box below.

40. How could the Scheme provide incentives for recyclers to recover more valuable material over time and ensure safe management of hazardous material from solar PV systems?
Type your response in the text box below.

By applying an accreditation model that uses differential rebates to incentivise the desired outcome of increased recovery of valuable material over time and ensure safe management of hazardous materials from solar PV systems. It is also important for scheme reporting to include materials efficiency rate reporting so that the there is an understanding of what components of the product are being recovered. With this knowledge, rebates or other incentives could be used to prioritise recovery of valuable material over time and ensure safe management of hazardous materials.

41. The Scheme could allow liable parties, that have imported or produced solar PV systems and components, other options to manage their liability. This could apply when components are used in a large-scale solar project, such as solar farms. These options involve either the liable party or the owner of the large-scale project providing a decommissioning plan and bond, which would allow the financial liability to be met over a longer time frame.

Do you think this approach is appropriate?

[Select Yes, No or Not sure from the Choose an item drop down below]
yes
[Answer question 42 below if you answered Yes or Not Sure at question 41]
[Answer question 43 below if you answered No at question 41]

42. If the owner chooses other options to manage their liability the liable party could be exempt from paying upfront fees to the Scheme Administrator for some components. Which of the following requirements should apply for the Scheme Administrator to provide an exemption?
[Check any or all the boxes below]

- ☐ The products or components where an exemption is being sought, must solely be used in a large-scale solar PV system project, such as a solar farm.
- ☐ A decommissioning plan that details how the system will be decommissioned, in-scope products will be recycled, and residual and hazardous waste will be managed must be provided to the Scheme Administrator.
- ☐ A plan of how requirements of the scheme that would otherwise apply would be met. For example, obligations under the scheme.
- ☐ A plan on how the commitments of the decommissioning plan will be transferred if the system is sold before decommissioning.
- ☐ The owner provides an appropriate bond, surety or guarantee for the commitments made in the decommissioning plan.
- ☐ Other (please specify)

Explain why not. Type your response in the text box below.

43. Are there any other comments you would like to make in response to the paper?
Type your response in the text box below.

1. BSC notes that the scope (products list in Appendix B, for example Power tools 0601 Household tools) would result in B-cycle covering the costs of free riders whose loose batteries in product are recycled by the Scheme, but their importers have chosen not to participate. BSC requests the Department consider the introduction of offset rebates to be paid to sister schemes that receive removable batteries from consumers.

2. BSC proposes the Scheme regulation addresses this through a provision of a % of fees paid monthly to the BSC by the Scheme administrator to cover the B-cycle cost of recycling these batteries. % to be determined by the Scheme administrator based on periodic auditing or other appropriate means to determine the appropriate %.

3. BSC urges the Deparment to consider adding digital retail platforms as liable parties for e-stewardship to prevent the continued and blatant free riding of this sector.

4. Having multiple schemes for the same or similar product could result in double dipping by recyclers who may claim this product under both schemes unless very clear tracking and reporting processes are established. To solve this, *BSC proposes inclusion of an additional reporting requirement in the e-Stewardship regulation that clearly establishes the sharing of mass balance and reporting by product type to the Scheme administrator and between partner schemes such as B-cycle to remove the potential for double dipping. This would include mass balance and reporting requirements to the Scheme administrator and to account for the recycling of these products on an annual basis.*

5. BSC believes that battery energy storage systems from PV systems be excluded from the proposed Scheme because of the unique need for specialised controls for ensuring battery safety and compliance during transport and recycling.

6. B-cycle will receive batteries from the proposed plug and play batteries from small scale PV systems. BSC requests that these batteries be excluded from the Scheme and redirected to B-cycle to reduce the potential for doubling up.

7. BSC encourages the DCCEEW to consider augmenting this approach with limited regulation as a fourth category for industry led schemes as described in the BSC Issues Paper found at https://bcycle.com.au/wp-content/uploads/2023/07/B-cycle-Issues-Paper-Stewardship-Reform-20230726.pdf but essentially includes the following:

Regulatory reform to introduce a new category of stewardship to avoid the pitfalls, while increasing on the ground improvements to address the core challenge in order to better deliver on the objects of the Act to achieve stewardship.

Consistent with the Recycling and Waste Reduction 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.

Such schemes would be required to identify outcomes in the Scheme Action Plan, designed to further the objects of the Act.

Government would notify importers of their obligation to participate in a scheme and then importers self-declare their imports similar to the process used by existing Schemes. This has the advantage of reducing departmental and industry costs needed to administer the current co-regulated approach. A number of activities could be used to maximise the success of this requirement:

- industry communications & education
- annual auditing by the scheme
- brand audits by recyclers
- penalties for non-participation.

For regulatory reform to work in creating a level playing field, it will be essential to clearly define the responsibilities of an independently accreditation Scheme. For this reform to be effective, the scheme accreditation would need to better defined and include:

- scheme governance arrangements reflecting the product supply chain
  - a three-year action plan that defines:
  - funding arrangements (e.g. a levy or another financial arrangement with annual CPI increases)
  - scope of all products in a category
  - circular economy obligations at each stage of the product life cycle
  - goal to recover all products put on the market
- key performance indicators e.g.:
  - accessibility
  - collection rate
  - recovery rates
  - materials efficiency rates
  - communications and education.
- scheme protocols with independent verification and auditing (third party) of Scheme outcomes
  - standardising approach to reporting collection and recovery rates
  - published annual reporting
  - research to confirm market participation, life cycle impacts, circularity outcomes.

8.	These accreditation requirements would need to be refined with input from industry and government to ensure the object of the act and stewardship principles are achieved.

<END>