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Department of Sustainability, Environment, Water, Population and Communities

Co-regulatory Arrangement Application Guidelines

Disclosure

In order to assess an application for the approval of a co-regulatory arrangement considerable detail is required on the financial and operational aspects of the arrangement. It is recognised that this information, if made publicly available, could have considerable adverse consequences on the commercial interests of the applicant. As such, the department will treat applications and associated attachments on a confidential basis.

PART I – Administrator and Executive Officer Details

1. Administrator and Arrangement Details

The applicant must be the administrator. The administrator of a co-regulatory arrangement must be a body corporate.

- I. Please fill in the contact details of the administrator, including the name, any other trading names, ABN & ACN and the street & postal addresses.

2. Declaration – Administrator is a Fit and Proper Person

The administrator of a co-regulatory arrangement must be a fit and proper person. In determining whether the administrator is a fit and proper person, the Minister (or delegate) is required by the Regulations to have regard to certain matters concerning both the administrator as a body corporate and each executive officer of the administrator. Question 2 covers the matters concerning the administrator as a body corporate, while question 3 deals with the executive officers of the administrator.

- I. Please tick the applicable box for each of these five questions for the administrator. If the answer is yes to any of the questions, please attach details in a separate document; allocate it a sequence number (e.g. Attachment 1) and note the attachment number on the form.



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3. Executive Officer Declaration Forms

Further to question 2, question 3 deals with matters concerning executive officers of the administrator, to support consideration by the minister (or delegate) of whether the administrator is a fit and proper person. Subsection 51(4) of the *Product Stewardship Act 2011* defines an executive officer of a body corporate as

...a person (by whatever name called and whether or not a director of the body) who is concerned in, or takes part in, the management of the body.

You will need to provide a separate declaration form for each executive officer.

The Executive Officer Declaration Form is located at appendix 1.01 of the application form.

- I. Please provide a separate form for each executive officer of the administrator. You will need to include their full name and office held in the administrator.
- II. Please tick the applicable box for each of these five questions, for each of the executive officers. If the answer is yes to any of the questions, please attach a detailed explanation in the area provided.
- III. Please allocate and note the attachment number (e.g. Attachment 2) and the number of Executive Officer Declaration Forms attached on the application form.

4. Contact Person Details

The contact person will be the primary point of contact for the Department for day-to-day communication with the administrator, including during the assessment of this application. This may be different to the representative who signs the Administrator's Declaration at question 16.

- I. Please provide the contact person's details. You will need to include their name, position within the administrator, work phone, mobile & fax numbers, email address and postal address.
- II. Please check the tick box adjacent to your preferred method of contact.

5. Classes of Products

There are two classes of products covered under the Scheme: 1) Televisions and 2) Computers, Printers & Computer Products.

- I. Please indicate which class of products your co-regulatory arrangement will deal with. If both apply, please tick both.



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6. Arrangement Membership

The Regulations require that an arrangement provides for there to be one or more members of the arrangement. To satisfy this requirement, you will need to demonstrate that the administrator has taken substantial steps to ensure that the arrangement will have at least one member, by providing a list of prospective members and their details, including: names, trading names, ABN/ACN, applicable class of products and documentation demonstrating the status of membership negotiations.

- I. Please confirm that the arrangement will have at least one member.
- II. If the arrangement is proposed to be a single member arrangement, please include those member details in the space provided on the application form. For multi-member arrangements, you will need to provide a list of prospective members and their details using the Prospective Membership Form found at appendix 1.02 of the Application Form.
- III. Please attach your list of prospective members, allocate it a sequence number (e.g. Attachment 5) and note that attachment number on the form.

PART II – Outcomes

Subsection 25(2) of the *Product Stewardship Act 2011* requires that an application for approval of a co-regulatory arrangement must be accompanied by a written description of the arrangement that sets out how the arrangement proposes to achieve the outcomes specified for the arrangement. Part II of the application form addresses this requirement.

Existing documents prepared for other business purposes, such as internal business plans, feasibility studies, operations strategies and procedures manuals, may be provided as supporting evidence. Where such documents are included, you must also provide an explanation of how the documents satisfy the requirements, including reference to the specific parts of the documents where key information is to be found.

Each document provided must be clearly labelled and given an attachment number.

7. Reasonable Access

You will need to provide sufficient evidence to demonstrate that the arrangement will meet, by 31 December 2013, the reasonable access outcome required by the regulation 3.01(1)(a) and how it will do this. This includes providing collection services (regulation 3.02) in metropolitan, inner regional, outer regional and remote areas in accordance with regulation 3.03.

- I. The response material must address the following:



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- A detailed description of the collection services to be provided;
- A detailed description of the location and timing of these services;
- A detailed description of the facilities to be utilised in any activity related to collection services;
- A list of all third party contractors, suppliers, recyclers etc that will be employed; and
- A detailed description of logistical considerations, including with regard to vehicles, tools, resources, permitting and other relevant matters.

- II. Please attach your response, allocate it a sequence number (e.g. Attachment 5) and note that attachment number on the application form.

8. Recycling target

You will need to provide sufficient evidence to demonstrate that the arrangement will meet the recycling target required by regulation 3.04 and how it will do this.

- I. The response material must address the following:
 - Description of how the arrangement's target will be identified, including how information will be collected on the arrangement's import or manufacture share, including robust information on members' imports, exports and manufactured products.
 - Description of how the rate of collection and recycling will be managed to ensure annual targets are met.
- II. Please attach your response, allocate it a sequence number (e.g. Attachment 6) and note that attachment number on the application form.

9. Material recovery target

You will need to provide sufficient evidence to demonstrate that, by the 2014-15 financial year, the arrangement will ensure that at least 90 per cent of the weight of recycled material in a financial year is sent for further processing into useable materials.

- I. The response should include material stating how the administrator of the co-regulatory arrangement will identify and ensure material recovery targets are met as part of its recycling scheme, this may include setting out arrangements with service providers.
- II. Please attach your response, allocate it a sequence number (e.g. Attachment 7) and note that attachment number on the application form.



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PART III – Matters to be Dealt With

Subsection 25(2) of the *Product Stewardship Act 2011* requires that an application for approval of a co-regulatory arrangement must be accompanied by a written description of the arrangement that sets out the matters to be dealt with by the arrangement. Part II of the application form addresses this requirement.

Existing documents prepared for other business purposes, such as internal business plans, feasibility studies, operations strategies and procedures manuals, may be provided as supporting evidence. Where such documents are included, you must also provide an explanation of how the documents satisfy the requirements, including reference to the specific parts of the documents where key information is to be found.

Each document provided must be clearly labelled and given an attachment number.

10. Governance System

You will need to provide sufficient evidence to demonstrate that the arrangement deals adequately with governance as required by the Act and the Regulations. This must include details of (but not limited to):

- Systems for achieving the outcomes and meeting the requirements in the Regulations;
- Risk management – must include a comprehensive identification of risks and appropriate mitigation measures, including (but not limited to): occupational health and safety, demand for services, financial distress and insolvency and compliance with legal requirements including those under the *Competition and Consumer Act 2010*. It must also include procedures for ensuring that the risk management framework is actively implemented and regularly monitored by the administrator's board and/or senior management. For multi-member arrangements, an assessment must be made as to whether authorisation by the Australian Competition and Consumer Commission is required under section 88 of the *Competition and Consumer Act 2010*, and evidence of this consideration provided.
- Dispute resolution procedures – these enable disputes between the arrangement and its members to be resolved appropriately and equitably; and
- Provisions for replacing the administrator.

- I. Please attach sufficient documentation to demonstrate the arrangement's compliance with this requirement, allocate it a sequence number (e.g. Attachment 8) and note that attachment number on the application form.



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11. Financial Capability

You will need to provide sufficient evidence to demonstrate that the arrangement deals adequately with the financial capability requirements of the Act and the Regulations. This must include details of (but not limited to):

- Access to sufficient funding to ensure financial viability over time;
- Key assumptions underlying financial projections, including:
 - costing for collection, transportation, storage, recycling, administration and communication activities;
 - estimates of activity levels, including projected membership, import or manufacture share and other collection, storage and recycling or other disposal activities;
- Adaptive management framework e.g. should memberships or targets change.

- I. Please attach sufficient documentation to satisfy the above criteria and allocate it a sequence number (e.g. Attachment 9) and note that attachment number on the application form.

12. Membership Requirements

You will need to provide evidence to demonstrate that the arrangement has adequate procedures in place in relation to membership of the arrangement, including requirements related to becoming, or ceasing to be, a member, and maintenance of confidential information.

Consideration must be given to the reasonable apportionment of costs, including with regard to members' contribution to the arrangement's import or manufacture share.

Note: Under subsection 20(2)(d) of the Product Stewardship Act 2011 (the Act), only a liable party may be a member of the arrangement. Please refer to section 19 of the Act and regulation 2.01 to determine who is a liable party.

- I. Please attach sufficient documentation to satisfy the above criteria and allocate it a sequence number (e.g. Attachment 10) and note that attachment number on the application form.

13. Public Communication

A communications plan is required for providing the arrangement with protocols for communicating information about the arrangement to the public, including its activities and how its services can be accessed. This must include details of (but not limited to):



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- A website which provides details when and where collection services will be available;
- A contact number for enquiries or complaints;
- Adaptive management contingencies sufficient to manage demand and meet outcomes;
- Strategies and procedures for reasonable communication with affected stakeholders, which may include local government and regional waste management bodies.

- I. Please attach sufficient documentation to satisfy the above criteria and allocate it a sequence number (e.g. Attachment 11) and note that attachment number on the application form.

14. Environmental and Health & Safety Assessment

A plan addressing the assessment of the adequacy of the environmental, health and safety policies and practices in relation to the collection, storage, transportation or recycling of products undertaken under the co-regulatory arrangement is required. This must include details of (but not limited to):

- Comprehensive risk assessment and management protocols
- How the practices of contractors will be vetted, including ongoing monitoring
- Any relevant industry standards or code of practice
- Regular reporting mechanisms
- Emergency response procedures

- I. Please attach sufficient documentation to satisfy the above criteria and allocate it a sequence number (e.g. Attachment 12) and note that attachment number on the application form.

PART IV – Undertakings

15. Collection Services Undertaking

- I. Please consider whether the administrator will meet its obligations in relation to the collection services requirements and, if so, sign the undertaking.

16. Environment Health and Safety Undertaking

- I. Please consider whether the administrator will meet its obligations in relation to environment, health and safety requirements and, if so, sign the undertaking.



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17. Administrator's Declaration

- I. Please consider the administrator's obligations under the Act and Regulations and whether all requirements in relation to this application have been met and, if so, sign the declaration.



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Finalisation

Please ensure that you verify that:

- All of the question has been answered on the application form;
- All of the declarations are signed; and
- All necessary documentation referenced in the application is provided in an appropriate format, labelled clearly and arranged in coherent order.

The signed and completed application form may be mailed to the address below, or scanned and emailed or faxed to:

The Director
Television and Computer Regulator Team
Department of Sustainability, Environment, Water, Population and Communities
Fax: 02 6274 2849
Email: ewaste@environment.gov.au

Attachments may be emailed, or hard copies mailed to:

The Director
National Television and Computer Recycling Scheme
Department of Sustainability, Environment, Water, Population and Communities
GPO Box 787
CANBERRA ACT 2601

Further Assistance

The Department's website contains information which may be of further guidance:
<http://www.environment.gov.au/settlements/waste/ewaste/index.html#regulations>

The Co-regulatory Arrangement Fact Sheet is also available on the website.

Or alternatively, you may contact the Department by email at ewaste@environment.gov.au.