

7 August 2024

Andrew Ng
Senior Analyst, Competition Exemptions
Australian Competition & Consumer Commission
Naarm
2 Lonsdale Street
MELBOURNE Vic 2601

via: [ACCC webform](#)

Dear Mr Ng

ResiLoop Limited application for authorisation AA1000675

The Australian Council of Recycling (ACOR) welcomes this opportunity to comment on the ResiLoop Limited product stewardship scheme authorisation; noting a more strategic discussion is required with the ACCC to identify recycling sector priorities for product stewardship.

ACOR is the peak industry body for the resource recovery, recycling, and remanufacturing sector in Australia. Our membership is represented across the recycling value chain, and includes leading organisations in kerbside recycling, CDS operations, recovered metal, glass, plastics, paper, textiles, tyre and e-product reprocessing and remanufacturing, advanced chemical recycling processes, road recycling, and construction and demolition recovery. Our mission is to lead the transition to a circular economy through the recycling supply chain.

Overview

With the right measures in place, product stewardship schemes and extended producer responsibility can be an effective way to improve environmental stewardship—particularly where recycling rates are low, or materials have low or negative value—but only if these schemes are properly designed in partnership with recyclers.

Existing voluntary product stewardship schemes authorised by the ACCC and endorsed by the Australian Government predominantly cater to brand owners, however these entities represent only a part of a product's lifecycle. Many schemes appropriately emphasise the waste management hierarchy priorities of avoidance, reusability, and designing for repair, yet all products inevitably reach an end of use, where the ideal outcome is recycling.

These schemes broadly under-invest in the critical aspect of high-value recycling processing and demand generation for recycled material. Too often, cost reduction is prioritised over quality recycling outcomes in such schemes. Not only does this undermine legitimate recycling operations, but it also erodes community confidence in recycling when the system fails.

The establishment of a scheme must not be seen as an end in itself: it must be a means to delivering sustainable and economically viable circular outcomes, in partnership with the entire supply chain. Engagement with the rest of the supply chain—especially recyclers, who are the subject matter experts on recycling—is essential to ensure product stewardship schemes deliver genuine value to brand owners, government entities, communities, and recyclers, and support the transition to a circular economy.

Specific priorities relating to the authorisation of ResiLoop are as follows.

Board must include current recycler representation

There is no indication that ResiLoop's Board will include representation from the recycling sector, which is an oversight given that the scheme is centred on recycling. As the authorisation application states, 'The proposed conduct for which authorisation is sought is the operation of a voluntary, industry funded product stewardship scheme to collect and *recycle* resilient flooring waste'.

Product stewardship schemes often exclude the recycling sector—tasked with delivering the scheme's ultimate outcomes—from meaningful participation in scheme governance, development and design. Product stewardship schemes are not neutral bodies, but rather reflect the interests of brand owners over the rest of the supply chain, including recyclers.

It is essential that the entire supply chain participates in establishing a scheme's goals and ongoing operation, through adequate representation on scheme boards. To effectively deliver a circular economy, product stewardship schemes must have a governance structure that equitably represents every stage of the supply chain.

Scheme levies must fund the full cost of collection and processing

Product stewardship schemes must address the actual costs of recovery and recycling to support genuine high-order recycling outcomes, and investment in Australian recycling. Scheme funding that falls short of covering the cost of recycling fundamentally undermines genuine recycling outcomes.

In sectors where there are low recovery rates, or the free market does not support an economically viable recycling system, levies must represent the real cost of recovery and recycling, take into consideration different recycling outcomes that can deliver lower and higher value outputs, and support recycling development innovation. While end markets are key to driving recycling, there will often remain a recycling cost to be covered by a credible scheme that distributes risk equitably across the supply chain.

Ahead of authorisation, product stewardship schemes must work with the recycling sector to conduct a comprehensive assessment of the actual costs of recovery, recycling and remanufacture of their relevant material stream. This assessment should consider the entire recycling value chain, including collection, logistics, sorting, processing and markets for recycled materials, and would inform appropriate scheme fees and financing.

ResiLoop's application is unclear on how the capped levy has been calculated, or how it will fund the real cost of recycling resilient flooring in Australia. The factors enumerated as part of the levy calculation in ResiLoop's application include the number of members, sales volumes, end market demand, collection, transport, research and development, and administrative costs, but do not include the actual processing itself, arguably the most important aspect. Nor does the application detail any quantification of the cost of recycling resilient flooring in Australia.

Conclusion

In summary, ACOR recommends the ACCC require greater recycling sector involvement in product stewardship schemes established to facilitate recycling. Namely, ResiLoop should be required to include current recycling sector representation on its Board, and to quantify and fund the true cost of recycling resilient flooring in Australia. These measures, at minimum, are required to ensure the scheme delivers genuine net public benefit:

We call on the ACCC to clarify its expectations surrounding existing and future product stewardship and EPR schemes, including governance and conflicts of interest. ACOR's issues paper, '[Recyclers in Product Stewardship](#)', identifies measures to address these priorities. We look forward to discussing this further with the ACCC.

Yours sincerely



Suzanne Toumbourou
Chief Executive Officer