

1 November 2024

Environment Protection Authority
GPO Box 2607
Adelaide, SA 5001

via email: epainfo@sa.gov.au

Re: CDS Draft Amendment Bill

The Australian Beverages Council Limited (ABCL) has been the leading peak body representing the non-alcoholic beverages industry for more than 75 years and is the only dedicated industry representative of its kind in Australia. The ABCL represents approximately 95 per cent of the industry's production volume and Member companies range from some of Australia's largest drinks manufacturers whose drinks are enjoyed nationally and around the world through to small and micro companies. These drinks include carbonated soft drinks, energy drinks, sports and electrolyte drinks, frozen drinks, bottled and packaged waters, fruit and vegetable juices and fruit drinks, cordials, iced teas, ready-to-drink coffees, flavoured milk products and flavoured plant milks.

The industry contributes more than \$9 billion annually to the Australian economy and employs more than 63,000 FTEs. The industry pays more than \$1.2 billion in taxation per annum, and for every direct employee in the beverages manufacturing industry, there are 4.9 jobs required elsewhere in the Australian economy to produce and retail the drinks.

Introduction

We acknowledge South Australia's longstanding dedication to the environment through proper stewardship of materials and congratulate the South Australia Environment Protection Authority (SA EPA) on its proposal to modernise the governance of Australia's oldest and most trusted beverage container recycling institution, the Container Deposit Scheme. We are particularly encouraged by South Australia's commitment to best practice, demonstrated through the decision to transition the scheme to a not-for-profit scheme coordinator governance model. The ABCL believes that a not-for-profit scheme coordinator is the most logical governance structure to achieve the state's ambitious circular economy goals. While overall we are broadly supportive of this proposal, we recommend a few items for consideration as South Australia continues to develop and transition the scheme.

Scheme Objectives

We fully support the update in objectives as outlined in the proposal. The shift in thinking from CDS as a litter reduction strategy to a broader remit as a resource recovery and circular economy mechanism is vital to achieving both South Australia's policy objectives and the goals of a functioning and sustainable container deposit scheme.

We suggest the addition of another objective, **contributing to the robustness of Australian recycled material flows through a domestically focused material sales strategy.**

Currently, large volumes of Australia's recycled materials, particularly recycled PET (rPET) are sold to international buyers who often downgrade the material into textiles or other non-food-grade applications, creating sustainability "quick wins" for other countries rather than supporting our own circular economy. As an industry, our goal is to foster true circularity, exemplified by a "bottle-to-bottle" recycling process within Australia's domestic supply chain¹. Facilitating the flow of valuable recycled material overseas for single-use purposes such as textiles is merely a linear economy with an added carbon emitting step before landfill.

To prevent this, it is critical that the government collaborates with industry to ensure priority access to CDS-collected materials, especially food-grade rPET for domestic businesses that recycle these materials into new food-grade containers. Food-grade rPET should be treated as a national resource, carefully managed to comply with upcoming recycled content regulations and circular economy goals at both state and federal levels. Packaging materials remaining in circulation for multiple cycles within Australia's domestic system is a **minimum qualification** needed to assert that we as an Australian industry are operating in a legitimate and functioning circular economy. For beverages specifically, and in relation to CDS, responsibility for circular outcomes should not end when materials leave a waste or recycling centre.

South Australia has the opportunity to continue its well-established leadership role in producer responsibility by enshrining priority access to these materials in its new CDS legislation, ensuring its goal of *"Enabling markets for the circulation of resources, building upon our strong history and culture of leading recycling and sustainability practices, with our container deposit scheme and single-use plastics ban"*² is fully realised by the Department. Leadership from the Minister and the SA EPA in ensuring these outcomes through first of its kind policy would clearly establish South Australia as the nation's leader in positive circular economy outcomes.

¹ The ABCL recognises that some materials do not have the infrastructure to be processed on shore, in which case we support Australian material coming back to Australia for reuse in beverage containers, as much as possible.

² [SA EPA: Strategic Directions 2022-2026](#), accessed 25/10/2024.

Board Composition

The ABCL believes that this Board composition needs to be adjusted to ensure the effective operation of an industry-led producer responsibility scheme. While we acknowledge the importance of diverse expertise, there are several concerns regarding the current proposal.

Firstly, we question the necessity of including an expert in commodity trading on the Board. Historically, commodity trading within CDS has been managed through open auction portals, operating effectively and without significant issues and allowing the market to determine the price of materials. The need for a commodity trading expert would only arise if the scheme were to expand its objectives to include a specific focus on prioritising domestic circular economy outcomes in material sales, as is recommended above. In such a case, having an individual with expertise in facilitating this objective might be beneficial, but could be managed as an advisor to the Board rather than as a Director.

We also raise significant concerns regarding the inclusion of a representative from a container refund point operator association. Container refund point operators are the primary recipients of payments from the scheme. This would, at a minimum, conflict that Board member from discussions and decisions related to the location, running and management of collection points, their related contracts (both new and renewed), and payments to operators. This would conflict the Board member from Board decision making and we do not believe this makes for good governance practice. Additionally, we firmly believe it is neither good governance nor is it appropriate for a representative whose members financially benefit from the scheme to hold a position on the Board. Such a conflict compromises the impartiality and integrity that should underpin the scheme's governance structure.

Moreover, it is important to clarify that while the waste and recycling industries are valued CDS partners, they are not equal stakeholders in this scheme. The explanatory note, in our interpretation suggests that the beverage and waste industries could be considered equal stakeholders and participants in the container deposit scheme and therefore, would together make up the equal or majority board composition in an "Industry-led extended producer responsibility scheme". If this interpretation is the policy intention of the South Australian EPA, this would be a significant misunderstanding of the structure and operation of a modernised container deposit scheme.

The beverage industry is the primary participant in and funder of this scheme, bearing full financial responsibility for its efficient and effective operation. The waste and recycling industries do not pay a sunk cost into this scheme, and this scheme is not an expression of their mandated obligation to take producer responsibility of their products. Another important fact is that the waste and recycling industry are financial beneficiaries of the scheme so do not necessarily have a vested interest in a scheme's financial efficiency.

This distinction is critical. In other international markets, waste and recycling industries are active financial contributors to container deposit schemes, with a dual or tripartite funding arrangement involving a combination of beverage manufacturers, waste industries, and government. Therefore, in this market it is incorrect to frame container refund operators as within the CDS, when in reality, they are service providers who benefit from an extended producer responsibility scheme established by the beverage industry.

We also note the historical difficulties of other container deposit schemes in finding and retaining local beverage manufacturers who produce under 300,000 units annually on their Boards. We recommend that the sales threshold is raised for this position and suggest a revenue threshold of <\$10 million in revenue per annum. We also note the lack of a beverage industry association representative on the Board composition. This association member can also provide expertise into the needs of small business across their membership and the greater industry.

In conclusion, we urge the SA EPA to reconsider the proposed Board composition to ensure that the CDS remains true to the principles of industry-led producer responsibility. This can be achieved directly by adding more representation from non-alcoholic and alcoholic beverages industries, and by removing seats which are superfluous or represent financial beneficiaries of the scheme. We believe that this recommendation is absolutely critical and without a redrafting of the SA CDS board composition, SA's container deposit scheme will not be able to say that it is truly industry-led.

Appointment and Functions of Scheme Coordinator

We urge the SA EPA to refrain from setting a scheme initialisation date until the scheme coordinator is appointed and has adequate time to assemble its team. Prematurely setting a launch date risks initialising the scheme with underdeveloped networks, which can lead to a negative consumer experience and disenfranchisement, along with increased costs to government and the new scheme coordinator, at the outset. Ensuring that the appropriate number and location of the network of return points is fully operational from the launch date will be essential in maintaining public trust and engagement.

We also question whether it is necessary for the SA EPA to approve return points and donation partners throughout the scheme's duration. While we understand the EPA overseeing the transitional agreements between parties which may have historical financial relationships under the previous structure, new return points and donation partners are more effectively managed by the scheme coordinator, as is common practice in other jurisdictions across the country. We believe that the SA EPA has embedded sufficient oversight powers in the proposed legislation and does not need to extract the approval of return points and donation partners from a scheme coordinator's typical scope. This would only add to the cost of the scheme and

lengthen the time to install the right number and best type and location of collection points as South Australia's scheme continues to grow and mature. Giving this responsibility to the scheme coordinator future proofs the scheme and its operations.

Development of a Digital IT Solution

The development or adoption of a digital IT solution by the scheme coordinator is essential for the effective administration and management of the scheme. However, we do not believe that this solution must be custom-built for South Australia. Leveraging existing IT solutions used in other Australian schemes could enhance the national harmonisation efforts currently underway.

We appreciate the acknowledgement and support of the harmonisation project being facilitated through the Heads of EPA and encourage the SA EPA to advocate for an expanded scope of works under this project, specifically around import and export protocols. The ABCL has observed a significant rise in confusion and disputes related to interstate import/export protocols over the last six months. The current manual process of filing and receiving refunds from one scheme and then reporting the units to another not only makes the party deemed "first supplier" unclear, but poses a significant risk of fraud, as there is no mechanism to ensure that containers reported for export refunds are re-reported in the receiving state. We propose the development of a digital "clearing house" that can manage this process and report the transfer of units between schemes as a part of the ongoing harmonisation portal work. We believe that, in the first instance, the reimagined South Australian scheme could explore creating a digital notification mechanism within its CDS software that automatically notifies another jurisdiction's scheme when an export refund has been processed for transfer into its jurisdiction. This would require self-disclosure of a first supplier's intended export destination, which may need to be periodically audited.

Additional Points of Support

- We support the cost review mechanisms proposed to be managed by ESCOSA and funded by the scheme. We believe this arrangement could provide much needed transparency as well as facilitate trust between stakeholders in the scheme and the general public.
- We support the decision to envelop the payment of the container registration fee into the service fee paid by the scheme to the EPA and agree that it will lessen the payment burden on small suppliers and those with seasonal beverage offerings.
- We support data requirements for the annual report from the scheme coordinator to the Minister and believe the data points will increase transparency and public understanding of the scheme.

- We support powers to establish additional return point types and locations in South Australia, as is needed to facilitate greater resource recovery. In schemes such as Queensland, funding more remote and less economically viable return points, particularly ones in First Nations communities, have proven to be a true success story of what a not-for-profit scheme coordinator can achieve with unredeemed deposits. We also point to the success of Queensland's home collect program, which was able to be facilitated and subsidised by excess scheme funds.
- Home and business collect has also shown significant uptake in building types such as multi-unit dwellings, retail spaces, small businesses and schools. It is these kinds of access programs that show the greatest return on excess scheme funds only found in not-for-profit schemes.

Further, with the re-drafting of this legislation, South Australia has the chance to set itself apart as a state leader in the application of circular economy principles throughout government buildings and public spaces. We propose that South Australia mandates the separation of container deposit scheme eligible containers in all government-owned and operated buildings, facilities and public spaces. It is widely understood that in Australia, container deposit schemes lose approximately one third of containers through beverage consumption that is outside of the home. Without clearly marked container deposit scheme receptacles (often called donation stations in other jurisdictions) and procedures for separation in out of home settings, it is often impossible to recycle containers through the CDS unless a consumer brings their container home, which we have found does not usually occur. Instead, these materials are often disposed of in public waste bins ultimately ending in landfill.

By mandating the collection of container deposit eligible containers in government buildings and public places, South Australia would instantly capture a subset of unrecovered containers that is essentially largely, if not wholly inaccessible across the country. We encourage SA EPA to continue establishing pragmatic policies in line with its clear position as world leaders in sustainability, with mandating government and public-place collections as a next step in that process.

Conclusion

We thank the South Australia Environment Protection Authority for its continued dedication to extended producer responsibility and its leadership in advancing the circular economy. We appreciate the opportunity to contribute to this important consultation and look forward to ongoing collaboration in shaping a world-leading container deposit scheme for South Australia. Should you have any queries regarding the above, please contact the ABCL Head of Corporate Affairs, Cathy Cook at cathy@ausbev.org or 0406 399 211.