

# Submission to the National Reform of Packaging Regulation Consultation

Australian Beverages Council Limited

4 November 2024



## About the Australian Beverages Council Limited

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 to small and micro beverages companies whose drinks are enjoyed nationally as well as around the world. These drinks include carbonated soft drinks, energy drinks, sports and electrolyte drinks, frozen drinks, bottled and packaged waters, juice with no added sugar and fruit drinks, cordials, iced teas, ready-to-drink coffees, flavoured milk products and flavoured plant milks.

Collectively, the ABCL's Members contribute more than \$9 billion annually to the Australian economy and support more than 63,000 full time equivalent employees. The industry pays more than \$1.5 billion in tax per annum along its supply chain 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 our drinks.

## Executive Summary

We thank the Department of Climate Change, Energy, Environment and Water for the opportunity to present the non-alcoholic beverages industry's perspective on the proposed reform of the NEPM Used Packaging legislation. As stewards of Australia's most comprehensive and successful EPR, container deposit schemes (CDS), there are a wide variety of learnings that can be applied to the development of a scheme to cover the remainder of packaging in the Australian market.

To ensure that a new EPR scheme for packaging is successful, the ABCL submits that these core considerations must be followed to ensure the best chance of success:

- **The materials in CDS eligible containers should be exempted from any and all fees in the new EPR scheme.** The government's proposed national EPR scheme must complement CDS, not undermine it. The beverages industry already pays for its container recovery, both through funds paid to dedicated return points and to Material Recovery Facilities (MRFs) for the containers they retrieve from kerbside bin collections,
- **The beverages industry must have priority access to CDS-collected materials.** To achieve a true circular economy for the beverages sector's containers, it is vital a domestic "bottle to bottle" recycling pathway is facilitated, with bans on the offshoring of the sector's valuable materials and domestic prioritisation of food grade applications (as opposed to downgraded uses such as textiles or non-food grade containers).
- **Ensuring the transition to a circular economy is one of "circular responsibility" through MRF, collection and sortation standards** that ensure the highest quality materials are returned to industry for inclusion as recycled content.
- **A nationally harmonised kerbside recycling inclusion standard**, enabling investment certainty, underpinning any move to standardise recycling labelling, and significantly raising the quality of recyclate recovered from kerbside.
- **A "caps on" directive for all recyclable bottles recovered in CDS and kerbside** to enable greater material recovery and reduce litter rates.
- **Ongoing, close consultation with industry through 2025** on the development and further refinement of the legislation, with an aim to ensure a swift and successful implementation of the finalised policy.

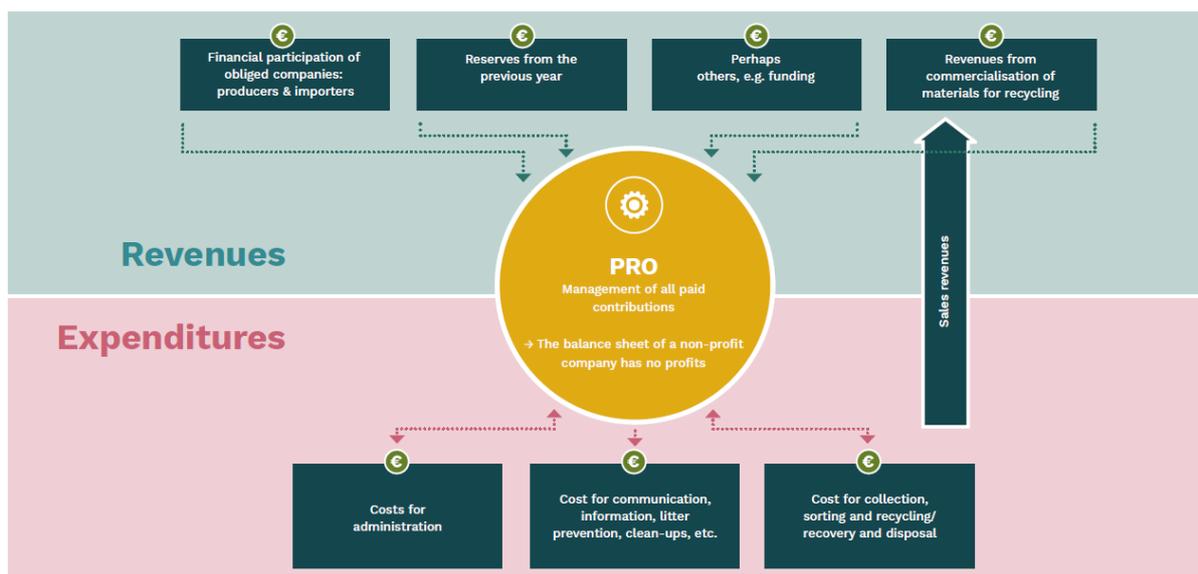
The ABCL recognises that having an existing legislated EPR scheme in state-by-state CDS is not ideal. At the same time, the high quality of recycled materials our scheme produces is a direct result of the beverages industry's targeted funding and intervention, and our members would be unwilling to disrupt what is the most successful recovery system for food grade materials in the country. Without strong policy intervention,

including the harmonisation of kerbside standards and an accompanying MRF standard that produces CDS quality recycle, the ABCL does not see a scenario where the structure of Australian CDS can change.

Finally, we strongly recommend that Australia aligns with best practice both domestically and internationally by adopting a **not-for-profit EPR model**. Not for profit EPR models maximise outcomes, ensure manufacturer equity by reflecting true costs in its pricing, and by its structure's nature, enables more data transparency due to a much smaller suite of commercial considerations.

### Not-for-Profit Extended Producer Responsibility

Should the government proceed with Option 3, the ABCL strongly supports enacting a not-for-profit scheme coordinator model for the new extended producer responsibility organisation.



Not for profit systems ensure that industry funds are directed to targeted interventions in a structured and transparent way. In for profit systems, the segmented nature of the scheme significantly hinders progress. With one singular not for profit organisation, the government can set targets, appoint board members, provide direction, and maximise outcomes more effectively.

## 7.1 Questions on the reform options

### What reform option do you prefer?

The ABCL believes that of the options presented, Option 3 is best suited to fulfil the stated objectives of minimising packaging waste and pollution and building a circular economy for packaging.

If the government chooses to develop Option 3 and create a national EPR scheme, we submit that there are critical delineations that must occur between this system and the multiple mandated container deposit schemes (CDS) that already cover packaging recovery nationally for the beverages sector. For the ABCL, it is critical to our members that we ensure packaging regulatory reform does not create perverse outcomes in what is currently the most successful EPR scheme in the country.

To ensure the ongoing success and stability of CDS, an EPR with high consumer brand loyalty, we believe there are a few points critical for the government to adopt in reform:

- The government's proposed national EPR scheme should complement CDS, not undermine it. As the beverages industry already pays for its container recovery, both through funds paid to dedicated return points and to Material Recovery Facilities for the containers they retrieve from kerbside bin collections, the materials in CDS eligible containers should be exempted from any fee in the new EPR scheme. To be clear, this is not to say that the beverages industry should not participate in a federal EPR scheme. Rather, we submit that it is only the sector's non-CDS eligible containers and secondary/tertiary packaging which should fall within this new scheme's scope.
- Because of the ongoing disharmony between kerbside collection guidance (ARL) and an already legislated CDS refund mark, until both kerbside collection and CDS collection systems are completely harmonised with each other the Australasian Recycling Label should not be mandated for the beverages sector. CDS already has a legislated labelling mark for materials which will be recovered through the scheme. As we will later elaborate, there are still critical faults in the ARL labelling methodology that create conflicting and often confusing information to consumers on CDS eligible containers.
- As the only (about to be) nationwide EPR scheme funded in its entirety by industry to collect, sort and resell the sector's materials, it is essential that CDS-collected recycled materials are returned to the domestic beverages industry. To achieve a true circular economy for the beverages sector's containers, a domestic "bottle to bottle" recycling pathway must be facilitated, with bans on the sale of the sector's valuable materials overseas for downgraded uses such as textiles. By supporting priority access to CDS collected materials (as well as extending this concept to other categories as they adopt their own EPR schemes), the federal government

can ensure that Australia truly “walks the walk” when it comes to the circular economy, combatting against greenwashing while also supporting the growing domestic waste and recycling sector.

### **How effective do you think the reform options would be in achieving the reform outcomes?**

The ABCL believes that the proposal under Option 3 is a good base to begin forming a producer responsibility scheme. Building on this foundation, there are additional points of development which the ABCL believes are critical to make Option 3 effective in the long term. These include:

- Leveraging the design, experience and best practices of the CDS as implemented in Queensland and Western Australia. These schemes represent the most successful EPR schemes currently operating in Australia and have years of market-specific institutional knowledge.
- Ongoing consultation with peak bodies and industry throughout 2025 will be critical to ensure Option 3 is designed and implemented with maximum efficiency, cost effectiveness and with the best chance of success. Without the ability to “sense-check” the practical implications of proposed reform with industry, government risks going off track and hindering industry efforts to reach packaging targets and circular economy goals.

In order to meet the proposed recycled content thresholds, it will be critical that the Government works to:

- Support regulation which deters downcycling and encourages multiple material rotations at its highest use, which in the case of the beverages industry is food-grade recyclate<sup>1</sup>.
- Prioritise access to food grade rPET for local industries participating in the Australian circular economy as a whole, but with an initial goal of ensuring bottle to bottle recycling for those paying for their bottles to be recovered through CDS.
- Mandate the separation and collection of CDS-eligible containers in government buildings, hospitality spaces (HORECA), the commercial and industrial sectors and enact further proposals to ban outright the disposal of recyclable materials from landfill. We agree with the philosophy in Germany, where CDS’s success is underpinned by a [landfill ban on CDS containers \(and recyclables more generally\)](#), with fines up to €100,000 enforced.
- Use the opportunity of this once in a decade reform to integrate requirements to improve practices in sortation, collection, and Material Recovery Facilities.

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<sup>1</sup> When discussing packaging materials, “food-grade” and “food contact” are industry-standard catchall terms that include both food and beverage applications. When we utilise these terms, we are referencing beverages manufactured by ABCL membership.

Materials are only recyclable if there is recycling infrastructure operating “in practice and at scale” in the jurisdictions in which they are used. If we as a nation are to achieve the ambitious packaging reform goals as they are laid out in this consultation, all parties in the circular economy must raise the quality of their production and outputs simultaneously. There is no time to waste, and discussions on who should raise their standards first are unproductive when we can all just get started.

- Consider opportunities to incorporate additional product categories into CDS that utilise food grade glass, aluminium, PET and HDPE. Particularly relevant to plastic and glass, the processing infrastructure and source-separated nature of collections means that CDS-collected materials yield a significantly higher quality and quantity of recyclate than kerbside<sup>2</sup>. The government should consider writing enabling clauses in the legislation allowing for the possibly of expanded CDS scope in the future.

### **What are the most important packaging reform principles to achieve the outcomes?**

To summarise and enhance the points above, we consider the following principles key to achieving successful outcomes:

- Ensuring the transition to a circular economy is one of “circular responsibility”, where the regulation of the waste and recycling sector is as ambitious as reforms to the design of packaging. For example, in CDS this would entail tying the 10c refund amount claimed by MRFs to a collection standard equal with the return point network.
- Ongoing, close consultation with industry through 2025 on the development and further refinement of the legislation, with an aim to ensure a swift and successful implementation of the finalised policy. Separately, there should be consultation with stakeholders and industry representatives of those mandated to recover through CDS, ensuring that there are no unforeseen consequences or cross over.
- A nationally harmonised kerbside recycling standard and CDS scope with a “caps on” directive for all recyclable bottles, which is essential to reaching any recovery targets set by government. If the government expect the beverages industry to design its containers to enable the most advanced standards of recovery, so too must the waste and recycling industries provide a standardised, high-level collection and recycling service that returns food-grade recycled material to industry.

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<sup>2</sup> South Australia’s 2021 CDS review found that 99% of CDS-recovered glass was retained as food-grade cullet, compared to 11% recovered from kerbside ([Recycling Makes Cents, 2021](#))

## **What support and/or systems would businesses need to meet the reform options and packaging obligations?**

There is a variety of support and systems needed by businesses to meet the presented reform options and packaging obligations. This is one of the key reasons why the ABCL supports Option 3 (with the modifications outlined in this submission), as we believe it best empowers brands to successfully achieve the government's stated goals. Within Option 3, we believe these points are essential to ensure a successful transition:

- Industry must be provided with ample time to transition to and/or develop new solutions, as well as to run out old stock without simply consigning it to landfill.
- There must be ample grant programs, capital investment incentives and other green financing to facilitate the transition to new, more sustainable packaging configurations.
- There must be a review mechanism triggered in year 2 of the proposed "minimum post-consumer recycled content" thresholds to ensure that all available recycled content in the country hasn't been monopolised by companies complying with the non-food grade requirements in year 1. **If there is a critical shortage of recycled material in the system to fulfill year 3 requirements with no change to the year 3 obligation, the probability of fraud or unsafe practices across all mandated product categories increases.** For Australia, this could cause an unacceptable, critical breakdown of food safety practices.
- In Australia, ensuring that material collected through container deposit schemes is returned to beverage can ensure the above shortage scenario doesn't come to fruition, enabling safe, sustainably packaged beverages well into the future.

## **Under Option 1, what, if any, education for businesses and consumers would improve packaging reform outcomes?**

In the interest of being concise, we want to make clear that we do not believe Option 1 could achieve the packaging reform outcomes presented by the government, and subsequently should not be pursued. We will therefore limit our input into questions concerning this option.

Commenting on recycling education in general, we believe it is near impossible to have a successful national recycling campaign without a nationally harmonised kerbside standard, at a bare minimum. The ABCL has long championed the idea of a "Slip, Slop, Slap"-type campaign for recycling, which to be successful, must be underpinned by harmonised recycling instruction across the country, in both kerbside and CDS. We would welcome any education initiatives after this harmonisation, particularly in relation to participation in CDS and a "caps on" message across all recycling streams.

## Under Option 2:

### Would an industry organisation be needed to support businesses and, if so, what would its role be?

The lack of centralised support for businesses in Option 2, while increasing legislative obligations, is the fatal flaw preventing Option 2 from successfully going forward. Not all categories, particularly emerging products, have the luxury of an industry organisation or other network to assist them in achieving packaging regulatory reform goals. Traditionally, the role of an industry organisation is to assist where needed with resources and supplementary support, not to take the responsibility of facilitating an entire systems-wide change. This is why we believe, that for materials that do not have an existing, legislated producer responsibility scheme in place, Option 3 is the most suitable.

### Do you support the proposed progressive bans based on packaging recyclability measured by total weight? If not, what alternative do you suggest?

The following comments apply to the application of a recycling grading standard in either Option 2 or 3.

“Recyclability” is a very complex concept based on the interplay of factors. Putting the discussion of infrastructure and circular responsibility to the side, there are copious examples of materials that, despite being lightweight, still do considerable damage to recycling outputs. Two examples of material contaminants in plastic-focused mechanical recycling are expanded polystyrene (EPS) and soft plastics, which lead to the landfilling of whole batches of materials if detected, even in trace amounts. For a variety of additives such as carbon black or oxo-degradables, the same applies.

While engaging with ABCL members about the possibility of a recycling grading scale predicated on “recyclability”, the overwhelming question was *“how would I assess which design recommendations are a must have vs nice to have?”*. If the recycling scale was assessed and graded by weight, members could unknowingly prioritise the wrong components in their packaging innovation, slowing the overall improvement of recycling outcomes.

Another issue with a blunt focus on weight is there is no variation in the assessment of combined vs separable components. For example, a composite can is made from paper and steel, two very recyclable materials. Combined without the ability to separate, and they become unrecyclable in both the paper and metal recycling streams. In this example, weight has no bearing on recyclability, it is the composition of the item.

The ABCL believes that there is no blunt metric which will gauge recyclability of packaging, **particularly** when there is no harmonised kerbside or CDS standard enforced in Australia. When kerbside and CDS are nationally harmonised, items are then either recyclable or not, there are no shades of grey. The ABCL strongly believes that a

progressive ban on packaging by weight would cause too many perverse outcomes to be viable.

### **Under Option 3:**

#### **What functions could potentially be performed by an EPR scheme administrator?**

#### **What activities could EPR scheme revenue be used for to support material circularity, noting that there may be limitations on what activities can be funded due to legislative or other constraints?<sup>3</sup>**

To understand the potential functions of an EPR scheme coordinator, we would encourage the government to consult closely with, and model, the multiple CDS currently in operation across Australia, **particularly the not-for-profit schemes in Queensland and Western Australia**. These organisations understand the practicalities of operating producer responsibility schemes in Australia, which has significant differences in geography, in particular distance, to other markets such as the EU.

Utilising the ABCL's experience in container deposit schemes, we submit that some of the EPR scheme administrator functions could include:

- Working to efficiently resolve packaging reform implementation issues, and generally ensuring that policies are achieving their intent in practice through outreach and education of businesses captured under the legislation.
- Ensuring that the EPR model and the regulations underpinning it complement other policy activity at a federal, state and local level to prevent contradictory policy directions.
- Ensuring that material flows support the government's circular economy objectives. For example, as noted above, currently a significant quantity of food grade rPET is being exported, depriving local producers of valuable recycled material to incorporate into their packaging.
- Facilitating nationwide education campaigns in media, schools, industrial settings, hospitality and public places. In CDS, this is a large use of the beverage industry's funds outside of day-to-day operation of the scheme.
- Subsidies or assistance in collecting materials that are in settings with historic difficulties like remote and regional areas, multi-unit dwellings, public places, construction and industrial settings, and HORECA. Again, the historical knowledge contained in Australia's container deposit schemes would provide immeasurable assistance on this topic.
- Appreciating government's desire to enable R&D which finds replacements to problematic packaging formats, we do not believe this EPR scheme is the appropriate place to enable such activities. Typically, EPR schemes do not take

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<sup>3</sup> In this submission, any grouping of questions indicates that the answer below covers multiple questions.

research and development of either industry specific or industry agnostic alternative packaging materials under their scope.

- The ABCL supports the current government program that facilitates innovation of this type, the Cooperative Research Centre (CRC) grant program. In June of this year, the [“Solving Plastic Waste CRC”](#) received a commitment of \$40 million in grant funding from the government, and \$101 million in industry cash and in-kind contributions for targeted research into “developing improved product designs, new materials, technologies, and processes, and by exploring new business models and economic systems”. The CRC structure requires that any IP created has rights shared between the CRC, contracted research institution and industry partner, ensuring that innovations can be used beyond one company or project for the greater good. As R&D is not a typical EPR scheme activity, we suggest this scope stays with the experts in the CRC system.

### **Which EPR fee modulation approach (as outlined in Box 6) do you prefer?**

### **If some regulations could be introduced early to provide industry certainty, would you support a two-stage approach to regulation? What early requirements would you support?**

Ultimately, we do believe that the advanced modulation model in Box 6 will be most suitable to encourage businesses to transition to more recyclable materials. But as stated previously, this system could only be successful, and we submit equitable, if the following complementary actions are implemented either prior to, or simultaneously with packaging reform:

- **National harmonisation of kerbside recycling collections<sup>4</sup>:** Fundamentally, no material is “recyclable” if it lacks infrastructure in place to capture and process it. Additionally, a nationally harmonised kerbside collection standard would mitigate some of the existing issues in creating a harmonised kerbside/CDS applicable ARL, provide the regulatory certainty that would enable investment at both the product design and collection phases, and increase the quality and quantity of recovered recycled material for domestic reuse,
- **A “caps on” mandate across kerbside and CDS collections:** This would further enable the priorities outlined above, and we believe lead to an increase in HDPE recycling rates while decreasing caps in the litter stream.
- **Mandated MRF and sortation standards:** As industry participants coming into this scheme in good faith, the ABCL contends that it is paramount the materials placed on market are actually captured, and do not become “sustainable” packaging in landfill. If industry is to expend the resources, both human and

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<sup>4</sup> The ABCL recognises that not all Australians have access to kerbside recycling and supports initiatives to extend this service or to find suitable alternatives.

capital to redesign packaging in line with a standard that increases its recoverability, it must be recovered, without exception.

- **Consistent single use plastic (SUP) regulations nationally:** The current federated system of single use plastics regulations is confusing and contradictory. Without an agreement to harmonisation, this variation could hinder the government's ability to achieve its goals.

**The ABCL maintains that national harmonisation of kerbside collections (including “caps on”) and complementary, mandatory MRF standards are the most important enabling action to achieve many of the government’s priorities.** Without these actions, the implementation of eco-modulation will be simply punitive, without any benefits to the maintaining of closed loop recycling systems.

The ABCL recognises that having CDS exist as the only mandated EPR scheme outside of this legislation is not ideal. At the same time, the quality of recycled materials our scheme produces is a direct result of the beverages industry’s targeted funding and intervention, and our members would be unwilling to disrupt what is the most successful recovery system for food grade materials in the country. Without the harmonisation of kerbside standards and an accompanying MRF standard to process the materials that come out of kerbside, the ABCL does not see a scenario where the structure of Australian CDS can change.

## **7.2 Questions on the packaging obligations**

**How supportive are you of the proposed packaging obligations on design, labelling and recycled content as outlined in sections 5.9 to 5.11?**

**How effective do you think each of the packaging obligations would be in delivering the objectives of the reform?**

The ABCL’s positions on the core components are as follows:

### **Design Standards –**

- We are largely supportive of any efforts to harmonise what is colloquially known as the single use plastic (or SUP) bans across the country. The disharmonised nature of these reforms has placed significant burden on manufacturers, retailers, small businesses, and the public. By harmonising SUP bans and agreeing on a methodology to assess the suitability of plastic alternatives (both functionally and from a lifecycle perspective), industry can transition confidently, and alternative products can achieve the economies of scale needed to enter the Australian market.

- We generally support the design elements in Box 9, particularly the ones that are material-specific and evidenced based, such as excluding carbon black, oxo-degradables, irregular container closures, and unwelcome additives.
- We caution the government on targeting too many items, items with only a small amount of impact on the recycling stream, and items which have not been targeted on an international level. Similar to the feedback we received on the recyclability grading scale, ABCL's SME members in particular felt overwhelmed by this list, believing that the new scheme would mandate that they instantly understand the recyclability of components such as adhesives and inks, when that information is not widely understood or accessible outside of technical circles. A beverage brand misunderstanding packaging requirements and specifications could lead to a variety of unintended consequences including product safety breaches, unintentional greenwashing, increased environmental impact and unnecessary expenditures.
- For a comparative example, the ABCL would not suggest to its members that all decarbonisation actions are equal. We would encourage members to prioritise the most direct and significant reduction opportunities such as reducing their overall fuel use, and not have them focus on items of small significance, like the impact of a single, flickering light. For design standards to be successful, they must work in a similar way. The significant items must be what attracts the most impactful eco-modulated fees. Penalising items of minimal impact, or items which will only have positive impacts after waste and recycling industries upgrade equipment, should be delayed until such time as they will make the most positive impact on the system. Policy should focus on the items that are clear and quick wins across the most prevalent types of packaging.
- We would also like to point out in relation to Box 9, that "rigid steel" containers are a valued and valuable type of beverage packaging that is accepted in all container deposit schemes and kerbside recycling. We encourage the government to only disincentivise steel if it creates a contaminant for a package when combined with another material, **not** fully steel beverage containers.

## Labelling –

- While there is a compelling policy rationale for a harmonised recycling label such as the ARL, for CDS-eligible containers, there are still significant issues with its adoption.
- The ARL is first and foremost a kerbside recycling instruction. Its evaluation methodology, computer systems, and visual tool, are all orientated towards kerbside recycling and create conflict with mandated CDS recycling instruction.
- We have worked tirelessly with APCO over the past four years to establish an alternative to the ARL which incorporates both kerbside and the CDS recycling instruction. The lack of harmonisation of caps collection, the ongoing difficulty of the PREP tool to be able to incorporate new recycling pathways, and the existing legislative obligations of CDS labelling continue to be barriers to the adoption of a harmonised recycling guidance for CDS-eligible beverages. Until key stakeholders, including APCO, the state/territory governments and their EPAs agree to implement these changes, a mandated ARL for CDS-eligible beverages is not achievable.
- **It is for these reasons that while we cannot support the mandatory adoption of the ARL on CDS-eligible beverages packaging at this time, we do support developing a combined CDS/kerbside recycling label within the framework of existing CDS legislation.** This combined label would only possible once kerbside collections are harmonised, CDS is harmonised, and interoperability is achieved between both systems.

## Recycled Content –

While we unequivocally support the use and increased integration of safe, food-grade recycled content into beverages packaging, there are a variety of Australian market realities that will need to be overcome for the beverages industry to reach the recycled content goals as presented:

- In a fully functioning, domestically focused circular economy for plastics, CDS-collected PET bottles would be recycled into new rPET beverage bottles here in Australia. In practice, these materials are often monopolised by large players in other segments of the shopping trolley or exported by intermediaries as flakes and pellets to be manufactured into single-use products, like textiles, for global sale. ABCL members, particularly SMEs find themselves unable to procure

recycled content domestically, forcing them to search overseas where often standards are more relaxed and instances of fraud more prevalent.

- Acknowledging the global nature of supply chains (particularly aluminium), we encourage the Government to take account of the potential for disruption to the supply of recycled material due to geopolitical or unforeseen global events. Force majeure events beyond industry's control could jeopardise the ability to meet minimum thresholds. This should be a key consideration in the regulatory regime.
- In addition, to support the viability of existing recycling infrastructure, government must work with industry to ensure that local businesses who recycle domestically into rPET food grade containers, have priority access to post-consumer food grade rPET to keep them in operation. Allowing a full free market would lead to these valuable materials being offshored with only our nation's trade figures benefitting at the expense of domestic industry struggling to meet recycled content goals.
- We maintain that it is fundamental that all domestic recycled materials, particularly food-grade recyclate is treated as a national resource to be carefully and responsibly managed. This is critical to the beverage industry's ability to comply with any recycled content requirements.
- **We reiterate that there must be a review mechanism triggered in year 2 of the proposed minimum post-consumer recycled content thresholds to ensure that there is sufficient material available to companies.** If there is a critical shortage of recycled material in the system with no change to recycled material mandates, the probability of fraud or unsafe practices across all categories increases. For Australia, this could cause an unacceptable, critical breakdown of food safety practices.

The success of recycled content targets will largely depend on the government's adoption of the proposed measures outlined above. Specifically, when it comes to minimum recycled content thresholds, ensuring a stable local supply of food-grade materials, particularly rPET will be essential for businesses to meet these requirements.

At the ABCL, we keenly watched as the UK implemented its plastics packaging tax (PPT). Regrettably, it has demonstrated what can happen when circular economy policy is developed with only a target in mind, as opposed to being conceived as a comprehensive, systems wide change. The UK's lack of enabling policy to underpin a

strong domestic recycled material market has led to a variety of perverse outcomes that are still bearing fruit to this day:

- The limited availability of recycled material in the UK, coupled with an inadequate tax level, has led to many businesses ([approximately 40%](#)) absorbing the tax as opposed to actually increasing their use of recycled materials.
- Like Australia, in the UK demand pressures can be exacerbated by industries which consume, but don't contribute to the circular flows of food grade recycled material in the market, such as textiles. When recyclers are permitted to sell high-value materials to businesses that downgrade it or send it overseas, there is a net loss to the domestic circular economy. This particularly disadvantages SMEs who cannot compete with unnaturally inflated prices.
- In the UK, the tax revenue from the PPT went into consolidated revenue as opposed to being used to facilitate better circular economy outcomes. This is, in the ABCL's estimation, perhaps the largest mistake of the legislation, and why we encourage the government to adopt an EPR that is based on the not-for-profit scheme coordinator model found in Australia's CDS. This model facilitates greater transparency and ensures surplus funds are directly invested into initiatives that raise material circulation rates.

Recycled content thresholds that are set without a calibration to local levels of available material could be functionally unachievable and potentially undermine industry's ability to invest in sustainable packaging machinery, recycling technologies and waste infrastructure by misdirecting funds. We implore the government to take regular stock of, and recalibrate thresholds to, the availability of locally produced recycled material to ensure this policy objective's ongoing success.

### **What activities would you need to undertake to prepare for the proposed packaging obligations?**

While we would need a finalised proposal to provide comprehensive comments, we anticipate packaging reform to necessitate the following preparations:

- Upgrades to manufacturing and processes
- Development, testing, procurement, and transition to new packaging materials
- Development and transition to new labels

- Implementation of new processes around traceability including data collection, material segregation, implementation of certification standards, and ongoing auditing and assurance

Government funding and tax incentives to support required upgrades will be essential to support this transition.

### **How soon do you think your business would be able to meet the proposed packaging obligations?**

Given that the current time frame for packaging reform and the passage of legislation is proposed to end in 2026, industry will need until **at least 2030** to develop new packaging, transition machinery, and draw down existing stock. A transition prior to 2030 could risk perverse outcomes such as the landfilling of materials, the inability of small companies to procure compliant product, and the increase in instances of free riding.

### **What would your major anticipated costs and risks associated with the proposed packaging obligations be?**

The non-alcoholic beverage industry's core costs mirror the preparation points outlined above. In the ABCL's estimation, risks primarily lie where there is still ambiguity in the proposal:

- We wish there was more detail in the consultation on how this new EPR scheme is going to ensure it complements, but does not conflict with the beverages industry's already established and legislated extended producer responsibility scheme, CDS. It is a primary goal of the ABCL to ensure that any policy change in this space does not damage arguably the most successful recycling scheme in the country. We take seriously the privilege of being stewards of this system and work tirelessly to ensure its ongoing and sustainable success.
- Mandating recycling labelling that is based in kerbside collection, without specific attention paid to the legislative and [ACCC Greenwashing Guide](#) obligations of beverages manufacturers, could place our sector in the unwinnable position of being unable to meet legislative obligations that are in conflict with each other.
- Inadequate transition periods to meet obligations could lead to the perverse outcomes mentioned in the previous question.
- As previously stated, we hold significant concern that recycled material will simply not be available for many companies to procure. With the current economic stresses on all primary inputs to business, a tax without a resultant positive outcome may be too much for some companies to economically bear.

- If there continues to be lack of details on obligations too close to the implementation of standards, businesses will be unable to inform investment decisions as well as adapt and comply to the regulation in a timely manner. Larger businesses in the non-alcoholic beverages sector plan capex up to a decade ahead of time. Smaller businesses can take a couple of years to procure funding for significant capex such as what is proposed. It is likely that some smaller businesses would be made insolvent if forced to fund these changes.
- The consultation paper does not contain a discussion of how restructuring Australia's packaging regulation and labelling regime will fundamentally change the way businesses sell products between Australia and New Zealand, covered under the Closer Economic Relations trade agreement (CER). For food and beverage, under the FSANZ Act, Food Standards Australia New Zealand (FSANZ) ensures that labelling and regulatory directives are harmonised across both countries, enabling economies of scale through the ability to sell cross jurisdictionally. The adoption of a mandatory recycling label that does not harmonise with New Zealand recycling guidance would not only flout the intentions of both agreements but also lead to businesses needing to split stock keeping units (SKUs) and restructure how they sell their products. Both of these are costly measures. This could be anything from a simple paperwork change to an entire reorganisation of the warehousing and operations of a business. In an ideal state, Australian and New Zealand recycling guidance would be harmonised, enabling one clear recycling label to accompany all the mandatory labelling requirements currently required of the non-alcoholic beverages sector (currently sitting at approximately 15).

**What would be the major anticipated benefits associated with the proposed packaging obligations and who will receive them?**

- These proposals have great potential to create and facilitate the ongoing operation of a thriving domestic circular economy in Australia. If the measures proposed in this paper and our submission are further developed in close concert with all partners in the circular economy chain, Australia could establish itself as a circular economy leader in the region.
- The regulatory certainty of concise, evidence-based regulation that accounts for individual product requirements (e.g. food safety), enables businesses to invest in transitioning their existing operations with certainty, assuring the costs of transition are not fully passed to consumers at the retail shelf. This is another

reason why it is essential to continue development of these proposals in close concert with industry, and with adequate timeframes to mobilise and deploy capital.

**Are there any other anticipated risks, costs and benefits to you under the different options not covered by the questions above?**

If there is not enough time and funding given to transition, costs will have to be fully passed onto consumers at the retail shelf.

**What other obligations should be considered to support a circular economy for packaging?**

As outlined above, we strongly support any policy measures that ensure that food grade recycled material remains on shore and is utilised by participants already in its circular chain. It is essential that all enacted policy deters downcycling, instead preferencing repeated cycles at its highest use such as “bottle to bottle” or “can to can” recycling. For material streams that do not have onshore processing such as aluminium, we support incentives that encourage packaging manufacturers to return these materials to Australia after recycling.

**Should mandatory obligations be placed on collectors, recyclers and reprocessors? If so, what should they be, and do you have supporting evidence?**

**We strongly believe that any successful circular economy policy must couple brand obligations with equivalent requirements on the packaging, waste and recycling sectors.**

Waste and recycling providers rightly highlight that some materials and designs hinder collection and recycling. However, these companies also have collection procedures, equipment, processing, and sales practices that exact an equivalent effect on the beverages sector’s ability to retain wherever possible, the sector’s valuable, domestically recycled materials for reuse.

Obligations in a functioning circular economy do not rest on one party, nor do they end when you reach a certain benchmark or step in the chain. Every step has an obligation to ensure the ongoing health and stability of the entire system, and this includes the waste and recycling industries. If it is the federal government’s policy intention to facilitate the *“transition to, and maintenance of, a circular economy for packaging in Australia, (where) packaging is designed to reduce waste and be recyclable, is collected and recycled at scale, and circulated in the economy for as long as possible at its highest value and best use”*, then there must be obligations placed on the waste and recycling industry to:

- **Retain domestic material at its highest possible grade, with resale preference given to participants who fund the associated EPR scheme, other domestic buyers, and then other overseas buyers, in that order.** In this model those who fund CDS will have first preference for materials collected via CDS; then for those who fund the new EPR scheme, preference for their materials collected from that scheme, etc.
- **Improve MRF sortation practices, with an aim of elevating their outgoing recyclate quality to the level obtained through traditional CDS return point infrastructure.** As an example, some MRFs recovering containers through the kerbside recycling stream can claim a full 10c refund per container for collecting beverage containers without having to sort them. These businesses should be strongly encouraged to sort these containers for the fee they receive. This would unlock a further stream of clean PET, LPB and HDPE for use in recycled packaging.
- **Adopt a national approach aligning all kerbside collection and CDS recovery to accept the same eligible containers with 'caps-on'.** We support providing funding to enable associated upgrades in infrastructure.

**Should obligations be imposed to incentivise the uptake of packaging reuse systems?**

**Which industries or packaging formats should be prioritised?**

**Should uptake be mandated or incentivised through eco-modulation?**

**Should reuse standards be introduced for suitable reuse packaging formats?**

- We appreciate the consultation paper taking a pragmatic approach on reuse and targeting B2B packaging as an existing area of development and opportunity. In the ABCL's experience, we know of at least two successful B2C reuse solutions that failed to get past trial stages in Australia, principally due to our vast geography. The consultation also rightly points out the lack of an international standard around sanitation and redeployment of food-grade reusables, which is of particular concern to ABCL members as our packaging plays a key role in the hygiene and safety of beverage products.
- As a general principle, reuse systems should not be mandated in a way that undermine well-functioning existing circular systems, like bottle to bottle or can to can recycling enabled through CDS. Priority should be placed on packaging formats that do not have existing EPR schemes, packaging that does not come in contact with food and beverages, and packaging that accompanies a circular transportation route (such as third-party logistics routes).

- Any translation of international standards for reuse systems in Australia must be underpinned by nationally agreed definitions surrounding what qualifies as a reusable packaging item, the amount of loss you can have in a closed loop system, and labelling standards, among others. If states attempt to move individually or adopt varied standards, reuse systems will never be able to grow past the coffee cup library at the community cafe.
- We also caution on mandating or adopting alternative materials or standardised reusable packages without first undertaking lifecycle assessment and investigation of the circularity characteristics of different material types, as well as both controlled and real-world temperature and product integrity testing. There is a wide array of perverse outcomes that could come from rushing the deployment of a new type of food contact packaging which include but are not limited to, a lapse in food safety, consumer injury, any increase in carbon emissions, an increase in the amount of overall materials sent to landfill, and a loss of consumer trust in Australia's food safety and recycling systems.
- For the reasons listed above, the ABCL believes any move to food-contact material reuse targets should be voluntary and developed in close concert with industry, packaging technologists, food safety experts and FSANZ.
- Further to this, we have never seen an eco-modulated reusable packaging system in practice, so are unable to provide comment on its operation at this time. The ABCL welcomes engaging with the Department on this topic if it is explored.

## **Design for recyclability**

### **Option 2: Progressive national bans on packaging below minimum recyclability by weight threshold**

As previously outlined, the ABCL does not support any bans on packaging based on a weight threshold, as weight of an item is not proportional to its impact in the recycling process. Please see our comments on page 9 for more detail.

### **Options 2 and 3: National ban on limited set of problematic packaging inputs (e.g. carbon black, oxo-degradables, PFAS)**

The ABCL supports limiting national bans to problematic items or additives that unequivocally damage outputs from the recycling stream, where established by a current, real-world evidence base.

### **Option 3: National EPR fees linked to design recyclability grades**

The ABCL believes that while it is feasible to establish a framework for national EPR fees linked to recyclability, **it cannot capture packaging that is already under an existing, legislated EPR scheme such as CDS.** In addition, we strongly recommend that the recycling grading structure undergoes considerable further development and consultation with industry before it can be endorsed.

While a “one size fits all” approach to grading and incentivising the eco-design of packaging is desirable, it’s hard to see how engineering a framework across every use of a material would not lead to negative consequences. In PET for instance, there is a wide variability of material quality based on its intended use, desired visual characteristics, need to contain pressurised or carbonated items, amongst others. While for some sectors an additive may be aesthetic, in another it may imbue an essential quality like heat or moisture resistance to protect food, beverages, or medicinal products. This isn’t to say that a harmonised guidance is not achievable for some materials such as paper and fibre, but we would strongly caution against making a single harmonised grading qualification a hard deliverable across all materials.

### **Recyclability labelling**

#### **Options 2 and 3: Mandatory on-pack recyclability labelling**

It is important to note that eligible beverage containers are already required to bear legislated CDS recycling labelling and around fifteen other mandatory label items (mostly spanning nutrition and ingredients). The fluid and non-harmonised nature of mandatory label changes, the often-tight timeframes for change, plus the risk of overwhelming and confusing consumers, provide concerns for industry. As such, we would encourage the government to adopt a more business-friendly, co-ordinated timeframe for implementing new labelling requirements. As stated previously and specifically to the beverages sector’s materials contained in CDS, it is also critical to ensure that all labelling does not conflict with our sector’s existing obligations.

In addition, we support the concept of including additional packaging information off label, such as behind a QR code. This is for two key reasons:

- Consumers have difficulty finding key information if it is too crowded with other items. In this instance labels become “white noise” and therefore unread. The Department of Health and Aged Care and FSANZ have already witnessed this with the Health Star Rating and the Nutritional Information Panel which are largely ignored by most consumers. Introduction of any additional labelling, certification, etc. must be launched with extensive public information campaigns to ensure consumers understand what it is and how to use it.

- Some information, such as recycled content composition and recycling grading, could be non-static information due to batch variability or seasonal product variations. By forcing these often-non-constant items on pack, businesses could need to landfill large print runs and materials due to unexpected changes.

## Recycled content

### Options 2 and 3: National mandatory minimum recycled content thresholds

Due to the current state of plastic recycled material availability in the Australian market, we strongly oppose establishing plastic-focused minimum recycled content thresholds without ongoing monitoring of available material levels, strong underlying policy to encourage the domestic reutilisation of materials, and preferential access to materials for those who pay for their packaging to be recovered e.g. through CDS. We believe there will come a time where plastic-specific minimum recycled content thresholds are possible, but fear that without significant and bold moves by the federal government to secure domestic recycled material, this standard will be unachievable for most companies.

We also have serious concerns that the quality food grade material our sector pays to have recovered through CDS will be snapped up by the non-food grade packaging when these targets come into force. Until all plastics packaging is funded for recovery, we are of the firm belief that packaging paid for by the beverages sector should remain within a beverages sector recycling loop, ensuring circularity is met at the highest level.

There is no room for error with food contact materials. Any lapse in process or material quality can lead to catastrophic consequences for Australian consumers. Maintaining a domestic, closed loop system for a recycled material like PET is, we submit, the **best way by far to ensure the material providence, quality and consistency** needed to have packaging come in contact with beverages. If this valuable Australian recycled material is monopolised by companies who do not need materials to come in contact with food or beverages, brands may be forced to seek food contact material from overseas, which significantly reduces our ability to ensure material quality, safety and providence.

Given the above, the ABCL strongly recommends that circular economy policy includes two critical actions:

- Priority-access to CDS collected materials by beverage manufacturers who provide funding to CDS and;
- Strong policy signals to retain domestic recycled feedstock on shore for reuse.

### **Option 3: National EPR fees incentivise more recycled content use above minimum thresholds**

- We support the intent of Option 3 however, require further detail before providing a definitive view. We again submit that all brands with CDS-collected materials, whose kerbside collection is already paid for (through MRFs receiving a processing fee from CDS items collected from kerbside), should be exempted from any and all incentivised fees through this new system, including any administration costs.
- If the Government does move forward with Option 3, we again strongly encourage it to draw on the success of the Western Australia and Queensland CDS model, including to ensure industry is closely engaged at each stage.
- There is no incentive that can overcome a lack of recycled material in the market. We implore the government to shore up the domestic supply through proactive policy reform.

### **7.3 Questions on scope and liability for reforms**

#### **Should packaging regulations be applied uniformly to both business-to-consumer (B2C) and business-to-business (B2B) packaging?**

While there is clear opportunity in the B2B space for reusable packaging, the fundamental differences between B2B and B2C packaging makes it difficult to apply uniform packaging regulations across both categories. Where possible, packaging reform should leverage the unique opportunities of packaging categories, material types, and applications.

#### **Do you have packaging that could not comply with the proposed obligations on design, labelling and recycled content as outlined in sections 5.9 to 5.11? Why is this? For example, are there conflicting obligations?**

- As it currently stands, there is no widely commercialised HDPE or PET plastic beverage cap that incorporates recycled material. We know of previous R&D attempts to integrate recycled content into caps in this market, but the precise specifications required to produce a perfectly sealed cap, particularly in a carbonated beverage, makes it functionally impossible to source an ongoing supply of consistent quality at this time.
- If the ARL remained a kerbside only instruction, as it largely is now, and didn't fully harmonise with container deposit schemes, the beverages sector would have continued difficulty using this label on CDS-eligible packaging.

## **What point in the supply chain is the most effective point to apply the proposed packaging obligations on design, labelling and recycled content as outlined in sections 5.9 to 5.11?**

We strongly believe that the most effective point to apply many of the proposed packaging obligations is not on brands, but on the manufacturers creating the packaging. If a packaging manufacturer was required to sell packaging to the Australian market at a certain standard, it would not only remove a large amount of ambiguity in procurement, but it would naturally enhance the value proposition of domestically sourced packaging over imports. **The government would be significantly more likely to reach its circular economy goals if obligations were applied on packaging manufacturers, not brands.**

We do wish to understand as this proposal continues to develop how imported, finished products and unfilled packaging will be captured to meet updated requirements and avoid free riders. We also recommend that the government consider the issue of “parallel imports”, where third party distributors import a product that is not labelled for this market, alongside the company’s own operations in this market.

## **7.5 Questions on recycled content thresholds**

**With reference to Table 17: Proposed minimum post-consumer recycled content thresholds, what do you think about:**

**The designated material categories used?**

**Differentiating between non-food and food grade packaging?**

We are satisfied with the designated material categories used and the differentiation between non-food and food grade packaging.

**The proposed thresholds for year 1 and year 3?**

The achievability and practicality of these thresholds will depend in large part on the domestic recycled material market when they are launched. **As outlined earlier, we strongly recommend there is a mandatory review of the existing recycled material market in year 2, to ensure there are no perverse effects on food safety when requirements come in at year 3.** Due to the variable nature of recycled material availability, we are unable to speculate on the achievability of these thresholds without data.

**What requirements, further to those outlined in the National Framework for Recycled Content Traceability, would need to be specified to support traceability and verification for mandatory recycled content thresholds in packaging?**

Due to the nature of recycled material, data on material provenance, recycled content composition and other “intangible” attributes cannot be established by testing

packaging post-manufacture. This means that the creation and carriage of composition data is solely reliant upon the beginning of the traceability chain, in particular the resource recovery and packaging manufacturing industries. If these industries are not mandated to comply with the data requirements of this program, any program based on the framework will struggle to be successful. **Fundamentally, the resource recovery and packaging manufacturing industries are gatekeepers to the success of any recycled content traceability system.**

**Do you support a mandatory recycled content label for packaging? If so, what level of detail should be included?**

Given the reasons outlined above, we do not believe it is suitable to have a mandatory recycled content label for packaging. We believe that this information is better placed behind a QR code to allow for variability and disruption in recycled content supply without nullifying the ability to use packaging runs or destining them for landfill.

## **7.6 Questions on why packaging reform is needed, its objectives and outcomes**

**How important is it to you that packaging is designed to be recycled or reused and then recycled or reused in practice?**

**Do you support the proposed packaging reform objective outlined in Section 4.1?**

We hope that this submission has conveyed the ABCL's strong support for the objectives of packaging regulatory reform. The recycling of packaging in practice **must** go hand and hand with the transition to more sustainable packaging design. We believe that this is not just essential, but mandatory for packaging regulatory reform to succeed. It is now the responsibility of everyone within the circular economy chain to lift their standards together, in the service of a more sustainable future for packaging.

**The ABCL firmly believes that a harmonised CDS, a harmonised kerbside recycling scope, MRF, sortation and recycling standards, a harmonised "caps on" directive, and priority access for recycled materials collected within a legislated EPR scheme, amongst other priorities as outlined in the executive summary, are essential to Option 3's success.** We look forward to continuing engagement on this legislation as it is developed in 2025 and beyond.