



4 September 2018

Container Deposit Scheme  
Department of Water and Environmental Regulation  
Locked Bag 33  
CLOISTERS SQUARE WA 6850  
[cds@dwer.wa.gov.au](mailto:cds@dwer.wa.gov.au)

**AACS submission: Response to Consultation Regulation Impact Statement re: the Western Australian Container Deposit Scheme**

To whom it may concern,

On behalf of members of the Australasian Association of Convenience Stores (AACCS), the peak body for the convenience industry in Australia, we make the following submission to the Department of Water and Environmental Regulation in response to the Consultation Regulation Impact Statement on the implementation of Western Australia's Container Deposit Scheme.

The AACCS made a submission to the initial consultation process and we wish to reinforce our numerous concerns and raise various considerations ahead of the forthcoming introduction of the scheme.

In this submission, we respond to the questions posed in the Consultation RIS that are relevant to the AACCS, our members and our industry. We also summarise various other key considerations not otherwise covered in the questions posed in the statement.

Timing is a key issue which demands close consideration. The rushed introduction of the CDS in NSW highlights the damaging repercussions of an inappropriate timeframe for the implementation of such schemes before the proper infrastructure is in place, and without a dedicated consumer education process.

In this submission, we take a close look at the failures of the NSW experience.

Other potential negative impacts we wish to raise include the costs associated with re-packaging and the potential for suppliers and retailers to be left with old stock on hand, if the window to trade through old labelled stock is too brief.

There is also the critical issue of price. If beverage manufacturers and suppliers are to be faced with additional costs to comply with the CDS, it stands to reason that at least part of this increased cost of doing business will pass to the consumer. The Consultation RIS acknowledges this reality however it fails to account for the resulting customer frustration and backlash retailers can expect to encounter once the scheme goes live.

Additionally, higher prices invariably contribute to reduced sales and channel shift to the two major supermarket chains, which are able to offset higher costs for beverages against their many other products.

In this submission we emphasise the importance of consumer and retailer education in the lead up to the scheme's introduction, as well as the critical need for the appointed scheme coordinator to work with industry to ensure its implementation does not exacerbate the burdens to be experienced by small businesses.

In particular, we must not allow convenience stores to be viewed as collection points. It must be abundantly clear to consumers that refunds will not be available from convenience stores.

The AACS welcomes the opportunity to be involved in the process of introducing the CDS in Western Australia in whatever capacity the Department deems fit. Please don't hesitate to contact me should you require anything further.

Thank you for your consideration of our submission.

**Jeff Rogut FAIM MAICD**  
**Chief Executive Officer**  
**Australasian Association of Convenience Stores Limited**

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[Redacted]  
[Redacted]  
[Redacted]

Website: [www.aacs.org.au](http://www.aacs.org.au)

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## About the AACS

Established in 1990, the Australasian Association of Convenience Stores (AACS) is the peak body for the convenience industry in Australia.

Nationally, our industry employs over 40,000 people in over 6,300 stores. The majority of these stores operate as family run businesses, often under licence or franchise agreement, or independent ownership. They regularly employ family members and people from the local communities in which they operate.

The AACS represents the interests of these small businesses; their owners, staff, suppliers and customers.

The convenience industry in Australia was valued at approximately \$8.4 billion (excluding petrol sales) in 2017 according to companies contributing to the *2017 AACS Annual State of the Industry*

*Report.* This report contains the most comprehensive information available on the convenience industry in Australia and we would be happy to provide a copy.

As an Association we enjoy strong ties with our international counterparts including the convenience stores associations in the US, Canada, the UK and New Zealand. We also visit similar stores in South East Asia to keep abreast of changing or emerging trends. For instance, 35 of our members will be visiting China on a study tour that we have organised for September 2018.

## **Response to the Consultation RIS**

In this submission the AACS focuses on three specific questions in the Consultation Regulation Impact Statement relevant to our West Australian members and with the potential to impact the convenience industry, including retailers, suppliers and manufacturers, in the state.

### **Do you believe the proposed CDS will result in an appropriate distribution of the costs and benefits between stakeholder groups?**

The AACS believes the impacts on retailers specifically have been under-represented.

While the Consultation RIS acknowledges economic costs in terms of cleaning litter, we don't believe it acknowledges properly the potential for the loss of small business trade, the potential for retailers to be left with old labelled stock on hand, and other retailer impacts such as reduced convenience and increased customer frustration.

These kinds of impacts typically lead to channel shift to the major supermarkets which already enjoy substantial competitive advantages in Australia.

### **Do you think there would be any unintended consequences from the proposed CDS? a) Yes / No b) If Yes, then please specify**

We think the scheme risks being met with significant customer frustration due to a lack of awareness of its operation as a result of insufficient advertising and education efforts. Certainly, this was the case with the CDS in NSW.

We also envisage problems due to insufficient infrastructure to deliver the scheme if, as the Consultation RIS suggests, the NSW example is to be used as a guide.

The Consultation RIS touches on collection points and cites NSW as an example: "Based on the approach adopted in New South Wales and Queensland, DWER estimates that there will be a minimum of 192 refund points distributed across the state: 101 fulltime refund points and 91 flexible refund points."

In reality, the NSW experience has been a disaster and the lack of collection points saw the scheme immediately prove counterproductive. It must be made abundantly clear that retailers are not default collection points.

The introduction of the scheme also threatens to have the unintended consequence of stifling competition.

The statement acknowledges that “Beverage suppliers (manufacturers, importers, wholesalers or retailers) that bring eligible containers into Western Australia will be responsible for funding the refund and associated costs.”

This increases cost pressure down the supply chain and in the end will be passed onto consumers, who already face significant cost of living pressure. This affects small businesses to a greater extent than the two major supermarkets, who can offset the increased costs across their many other product categories.

This trend is well established across other products subject to taxes and levies, most notably tobacco.

### **Do you think the proposed implementation process and timing are appropriate?**

The key point the AACS wishes to emphasise here is that, irrespective of the markings, logo or text decided upon, it will require beverage manufacturers or retailers that sell their own branded products to re-label and re-package their products – at their own expense. This requires time to enable old products to sell through and new products to fill the pipeline.

We believe a focus on advertising the scheme and educating the public on how it works is more important than drastic changes to product labelling. Beverage manufacturers are already preparing to bear the costs for the scheme’s introduction, so we urge the Government to be mindful of this burden and seek to minimise these impacts on businesses where possible.

We also reinforce the need for a proper comprehensive public education campaign including advertising to ensure consumers are aware of their rights and responsibilities under the scheme, and how it is intended to work.

## **The NSW CDS: a debacle**

**The CDS in NSW was plagued with issues from the start. Its rushed introduction ended up costing consumers more than expected.**

A lack of collection points in particular has caused significant problems with the NSW CDS.

And consumers have suffered. The NSW Opposition released figures showing the scheme cost consumers in the realm of \$110 million in its first three months of operation, which was unable to be refunded on the basis that there were simply not enough collection points around the state. The NSW CDS, which started December 1 last year, returned only \$8.3 million to consumers in that period, the Opposition said.

In February 2018, NSW shadow environment minister Penny Sharpe said "The lack of collection points for the container deposit scheme means consumers are paying a lot more money but they're getting very little of it back....The whole scheme is predicated on the basis that you buy a can or a bottle and you get your 10 cents back."

A CDS requires certainty around its operation before it is introduced.

This must encompass solid agreements with third party providers, ensuring stakeholders are aware of their responsibilities in delivering the scheme, and robust public education so people know how it works.

There must be a sufficient transition timeframe for manufacturers to meet new label requirements, for retailers to sell old stock, and for collection points to be put in place.

The NSW scheme has missed the mark on all these fronts.

A staged rollout of container deposit schemes is necessary to give them the best chance to succeed in changing consumer behaviour and reducing litter, without disrupting small businesses. This allows for collection points, packaging and other aspects to be scaled up over time.

## **Other key considerations**

### **Cross border issues**

In submissions we have made to other state Governments concerning the introduction of similar schemes, it has become clear that there is little appetite for harmonisation of schemes between states. This is a shame that will inevitably create cross border issues in the operation of schemes in different states.

The AACS supports any measure that would minimise the impacts on businesses that arise as a result of cross border issues.

### **Retailer participation**

The AACS believes that retailers should have the flexibility to investigate options to participate in the scheme as they see fit without being forced to comply with additional regulations.

Given that convenience stores are evolving to embrace more of a food focus in a food service environment, the handling of used containers in-store has the potential to present a health hazard to employees and consumers. Hence this is something we would not encourage. Similarly, there will be training needed for employees to be able to identify eligible containers for refunds.

### **The legislation**

The AACS believes that legislation ensuring retail outlets must at no point be expected to carry out refund services or act as collection points is necessary.

Beverage manufacturers are the ones bearing the cost of the scheme. This is unfortunate and frankly unfair. It stands to reason that to some extent these extra costs of doing business will pass to consumers. Now that this has been decided, it is essential that the Government seek to minimise additional costs on business and commit to capping the fees at their introductory levels.

### **Need for review**

At the very least, annual reviews with a mechanism to allow businesses the chance to offset negative financial impacts of the scheme against any success measured should be considered.

### **The impact of reduced sales**

All too often small businesses bear the burden, including financial loss, when Government introduces new legislation impacting the retail sector.

The AACS believes the Consultation RIS does not acknowledge to a reasonable extent the impact the proposed scheme will have on beverage retailers and suppliers in Western Australia.

Schemes – or taxes - like this raise the cost of products while contributing to a shift in consumers' shopping habits away from small businesses to the major supermarkets, which have the buying power to offset price rises in certain categories.

Small businesses suffer while the major chains benefit. Consumers suffer from reduced choice.

**Therefore, in the implementation of a Container Deposit Scheme, we urge the West Australian Government to recognise the impost of the scheme on small businesses in the convenience industry and to seek to minimise the negative financial impacts on beverage prices.**

### **An inappropriate timeframe**

The final framework for the CDS will presumably cover details surrounding new requirements for labelling, the appointment of scheme coordinators, and various other details to govern the scheme's operation.

Industry and consumers will obviously need time to consider and plan for the changes. The education program will need to be extensive and provide enough time for all stakeholders to be aware of the scheme and how it will work.

The scheme is to be introduced in early 2020. The AACS is concerned this won't be sufficient time.

**We urge the Western Australia Government to adopt a flexible approach to the timing of the introduction of the Container Deposit Scheme and if necessary, delay its introduction to ensure businesses affected are not impacted excessively.**

Our expertise in the retail operating environment gives us a detailed, actual insight into the logistical requirements of the proposed scheme.

It takes time to transition from old to new marked stock. This has been proven by the experience with tobacco plain packs, with some stores making the decision to risk losing sales by not ordering stock ahead of the introduction of plain packaging. Others were left with obsolete stock in their possession unable to be legally sold once the changeover occurred.

We include a brief case study on the introduction of tobacco plain packaging and its implications on retailers below. We cannot afford for history to repeat itself.

At this stage, no details have been made available on deposit label marks or specifications under the proposed scheme. Experience tells us that significant time is needed to change designs and produce new, compliant stock.

How this will impact the private labels stocked by some retailers is yet another unknown.

Conservatively speaking, and based on actual retail experience, a seamless transition to a scheme would take multiple years. Failure to acknowledge and account for this will undoubtedly have the direct impact of causing convenience stores to suffer financial loss.

### **Case study: tobacco plain packaging**

The AACS offers this brief case study on the introduction of the tobacco plain packaging legislation by the Australian Government in 2011-12.

It serves as an example of the unfair burdens imposed on small businesses that result from a lack of proper consultation and a refusal by Government to acknowledge the retail implications of new regulatory schemes.

The timeline provided for which retailers, manufacturers and suppliers were to comply with plain packaging was unreasonable from the outset.

Under the timeline originally outlined, retailers were to be forced to comply with the new packaging regulations by December 1, 2012. This was two months after manufacturers were to be required to cease production of tobacco with branded packaging.

This provided a window of just eight weeks for retailers to trade through stock with branded packaging. It placed immense pressure on the vast majority of convenience stores. This was compounded by manufacturers having no obligation to accept unsold stock in existing packaging back.

Repeated efforts to emphasise to Government the inappropriately brief compliance window went unheard. No formal response was ever received to address - nor even acknowledge - our members' concerns. Convenience stores - small businesses - bore a significant financial burden for which no compensation was ever received.

Some convenience stores lost thousands of dollars worth of inventory as old stock became non-compliant. Others lost thousands of dollars in sales by ordering only minimal quantities of stock during the compliance window.

Both outcomes were unfair and unreasonable. Adding insult to injury, the changeover occurred in the lead up to Christmas, the busiest time of the year for retailers.

**The AACS strongly urges the West Australian Government to avoid a repetition of the plain packaging scenario and ensure the timeline for the introduction of the Container Deposit Scheme appropriately reflects the retail implications of the changes.**

### **The importance of consumer education**

As an industry, our core focus is the service of our customers.

**Convenience stores are not collection points and this point must be abundantly clear prior to the introduction of the scheme. This depends on a strategic education program implemented well before the scheme's introduction to ensure consumers are aware.**

We strongly urge the introduction of the scheme to be foreshadowed by a comprehensive and effective consumer and retailer education program to inform consumers and retailers how the

scheme will operate, their roles and responsibilities under the scheme, and the role of other stakeholders.

Otherwise convenience stores risk being visited by consumers demanding refunds for their containers. This leads to customer frustration, threatens customer loyalty and hinders the ability of staff to serve other customers.

Obviously the development and implementation of an effective education program will take some time. This reinforces the need to consider a more appropriate timeline for the scheme's introduction.

**Scheme coordinator engagement: the need for further consultation**

We understand much of the responsibility for the successful implementation of the scheme depends on the appointed coordinator.

**The AACS also urges the West Australian Government to require the appointed scheme coordinator to commit to a genuine, two-way consultation program with industry to ensure the expected negative impacts of the Container Deposit Scheme are minimised.**

## Conclusion

With the West Australian Government's commitment to introduce a Container Deposit Scheme in the state, the AACS urges the Department to acknowledge the negative impacts on small retailers and suppliers in particular, and work with our industry to create a framework for the scheme that minimises these impacts.

This involves the revising of the introduction timeline to reflect retail implications and to avoid subjecting small businesses and their suppliers to unfair and unnecessary imposts.

The AACS reinforces its willingness to work with the Department in this regard and thanks the Department for its consideration of our submission.

**Jeff Rogut FAIM MAICD  
Chief Executive Officer  
Australasian Association of Convenience Stores Limited**

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