

Committee Secretary
Senate Standing Committees on Environment and Communications
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Dear Mr Palethorpe,

The Australian Packaging Covenant Organisation (APCO) welcomes the opportunity to provide a submission to the Environment and Communications Legislation Committee's Inquiry into the Recycling and Waste Bills 2020.

APCO strongly supports the approach taken to both product stewardship and the regulation of waste exports through the Bills. This submission will cover:

- The framework for packaging product stewardship in Australia
- APCO's approach to achieving the 2025 National Packaging Targets
- Comments on provisions regulating the export of waste materials
- Comments on the product stewardship provisions.

The framework for packaging product stewardship in Australia

APCO is a not-for-profit organisation established to administer the Australian Packaging Covenant (the Covenant) on behalf of the Australian, State and Territory Governments, and its industry Signatories. The Covenant is part of a compulsory, co-regulatory product stewardship framework established under the *National Environment Protection Council Act 1994* and the *National Environment Protection (Used Packaging Materials) Measure 2011* (the Used Packaging NEPM) to reduce the harmful impact of packaging on the Australian environment.

Under this framework, obligations are placed on liable parties, which are brand owners in the packaging supply chain with an annual turnover greater than \$5 million. There are three ways in which liable parties can acquit their obligations, by:

- Becoming a Signatory to the Australian Packaging Covenant (these Signatories also become Members of APCO)
- Submit to direct regulation by state and territory governments in relation to:
 - o The recovery of used packaging materials.
 - o The re-use, recycling or energy recovery of packaging materials
 - o Demonstrating that the recovered materials have been re-used or exported
 - o Demonstrating that reasonable steps have been taken to advise consumers as to how the packaging is to be recovered.
- Being part of an industry or sectoral arrangement that produces equivalent outcomes to those being achieved under the Covenant.

Responsibility for enforcing the Used Packaging NEPM rests with the Commonwealth and state and territory governments in relation to companies operating within their jurisdictions. A summary of the

implementation frameworks, targets specified for non-Signatories to the Covenant, and enforcement provisions in each jurisdiction is provided in Table 1 below.

Table 1: Summary of implementing instruments for the Used Packaging NEPM

Jurisdiction	Summary of implementation frameworks	Targets for non-Signatories to the Covenant
Commonwealth	Section 7 of the NEPC Act requires the Commonwealth to implement the NEPM in respect of companies with over 50 per cent government ownership such as Australia Post.	Not specified.
New South Wales	The NEPM is implemented by the Protection of the Environment Operations (Waste) Regulation 2014.	80 per cent of all packaging material must be recovered. 100 per cent of new and existing packaging must be reviewed using the SPGs by June 2020.
Victoria	The NEPM is currently implemented by the Waste Management Policy (Used Packaging Materials) 2012. From 1 July 2020, this will be replaced by provisions in new Environment Protection Regulations.	70 per cent of packaging materials must be recovered.
Queensland	The NEPM is implemented by the Waste Reduction and Recycling Regulation 2011.	70 per cent of packaging materials must be recovered.
Western Australia	The NEPM is implemented by the Environmental Protection (NEPM—UPM) Regulations 2013.	Recovery targets are differentiated by material type: Aluminium 75%; Glass 60%; Paper and cardboard 80%; HDPE 60%; PET 60%; Other plastics 35%.
South Australia	The NEPM is legally enforced by the Environment Protection (Used Packaging Materials) Policy 2012.	Not specified.
Tasmania	The NEPM is a state policy under the <i>State Policies and Projects Act 1993</i> .	Not specified.
Australian Capital Territory	A new instrument to implement the NEPM in the ACT has not yet been put in place following commencement of the <i>Waste Management and Resource Recovery Act 2016</i> .	Not specified.
Northern Territory	There is provision under the <i>Waste Management and Pollution Control Act 1998</i> to enforce the NEPM if needed.	Not specified.

The Used Packaging NEPM and the Australian Packaging Covenant require industry to address all used packaging materials, including waste plastic, paper and glass as well as metal.

The current Covenant, which is the fourth iteration, was agreed by the National Environment Protection Council in November 2016 and commenced on 1 January 2017. A number of significant improvements were implemented through the fourth Covenant, including:

- Refocusing the goals of the Covenant to areas where industry can have the most influence, including improving the design of packaging to deliver greater sustainability, and collaboration along the supply chain;
- Establishing independent governance through an independent Chair and Directors, and oversight by a Government Officials Group comprising senior representatives of all jurisdictions;
- Establishing APCO as an independent body, directly accountable to Ministers for the performance of the Covenant; and
- Streamlining procedures for delivery of key elements of the Covenant, including the Sustainable Packaging Guidelines (SPGs), Signatory reporting, and identification of liable parties.

The improvements made to the Covenant by the National Environment Protection Council in 2016 have enabled APCO to make considerable progress and develop considerable momentum since 2017.

One area of progress is the engagement of industry working towards the aims of the Covenant. From July 2018 to June 2020, the number of Signatories to the Covenant increased by 73%, from 873 organisations to 1511. These include companies representing more than 150 unique sectors across the packaging supply chain, including packaging manufacturers, brand owners, and retailers; they contribute in excess of \$360 billion in annual revenue to the Australian marketplace. As Signatories to the Covenant, APCO's Members have committed to achieving the outcomes of the Covenant.

Another area of progress has been the development and adoption of ambitious but achievable targets and the establishment of strategies, resources and processes to achieve them, which have been driven by APCO and its Members. On 27 April 2018, at APCO's request, Australia's Environment Ministers announced a historic target to make 100 percent of packaging in Australia reusable, recyclable or compostable by 2025 or earlier, and committed governments to working with APCO to achieve this. Under APCO's leadership, industry has taken this commitment further through the adoption of additional 2025 National Packaging Targets. The four targets, to be achieved by 2025, are:

- 100% of packaging to be reusable, recyclable or compostable
- 70% of plastic packaging recycled or composted
- 50% average recycled content across all packaging, with specific targets for certain material types; and
- Phase out problematic and unnecessary single-use plastic packaging through redesign, innovation or alternative delivery methods.

These targets were formally adopted as part of the Covenant framework on 1 January 2019, through their inclusion in APCO's Strategic Plan 2017-2022, and in November 2019 were agreed by Australia's Environment Ministers as part of the National Waste Policy Action Plan. Each target will cover all packaging made, used or sold in Australia, including business-to-business and imported packaging.

APCO's approach to achieving the 2025 National Packaging Targets

A critical challenge in designing product stewardship interventions is recognising that the impact chain is not owned by a single entity, actor nor stakeholder. Rather, delivery of outcomes across the impact chain relies on diverse types of participants, each with numerous entities and stakeholders, sometimes in the thousands and in the case of consumers, the millions.

Table 2 below gives a high-level overview of key steps in the impact chain, and corresponding outcomes that would underpin the transition to a circular economy.

Table 2: Desired outcomes at key stages of the impact chain

Impact chain	Desired outcome
Design and production	Packaging designed for circularity
Use and reuse	
Disposal and recovery	Improved collection and recycling systems
Markets for recycled materials	Expanded markets for used packaging

Many existing product stewardship schemes solely address a single step in the impact chain, such as recovery. However, to realise the potential of product stewardship to support the transition to a circular economy, all three of the outcomes described in the table above need to be achieved.

The Collective Impact model is a proven framework for delivering system changes that are dependent on such complex multi stakeholder environments. It provides a collaborative, measurable and agile product stewardship model, with the capability to engage the complete packaging impact chain and drive tangible action from critical stakeholders.

APCO has implemented the Collective Impact model to deliver the 2025 National Packaging Targets, however this model can also be applied to the full range of product stewardship issues and initiatives. Within this model, APCO plays the critical role as the backbone organisation, which involved working with other actors and stakeholders in the impact chain to ensure alignment and coordination. Further detail on the model and APCO's implementation of it can be found in *Our Packaging Future*, which is available at <https://www.packagingcovenant.org.au/documents/item/3214>.

APCO has identified seven Strategic Intervention Points (SIPs) across the impact chain. Action at each of these intervention points is needed in order to achieve the outcomes described above. The seven SIPs and the outcomes they address are:

- Outcome 1: Packaging designed for circularity:
 - SIP 1: Design: Sustainable Packaging Guidelines (SPG). Maximum impact is achieved when the 10 SPG principles are successfully integrated into as many APCO Members' operations as possible.
 - SIP 2: Production: Single-use, unnecessary and problematic plastics phased out. Phasing out of SUP formats will drive awareness and activity at the design stage of production to ensure plastic packaging is created to be recyclable, reusable or compostable and reduce the impact on litter.
 - SIP 3: Use: Australian Recycling Label. Optimal consumer behaviour for disposal is closely correlated with the consistency of information about recyclability, an evidence based and credible labelling and consumer information program is essential in supporting these outcomes.
- Outcome 2: Improved collection and recycling systems:
 - SIP 4: Disposal – Material Standards Consensus on materials specifications at the disposal stage for both input and output materials is essential to drive appropriate design approaches and material quality that will optimise the market value of materials.
 - SIP 5: Recovery: Conversion capacity: Achieving the 2025 NPT's requires action from many stakeholders ensuring the use of appropriate systems and packaging formats to support the recovery and conversion capacity of all materials disposed at the end of life.

- Outcome 3: Expanded markets for used packaging:
 - SIP 6: Market creation: Market value optimised: Optimise the value of materials at the end market stage, to create clean, high-value material streams is fundamental in ensuring an economically sustainable circular economic approach to packaging.
 - SIP 7: Market creation: Recycled content: Requiring 50% of all packaging in Australia to contain recycled content drives a high-value end market option for packaging materials and ensures the financial sustainability of the circular economy model.

The delivery of the 2025 National Packaging Targets requires action at each of these SIPs, and that requires the collaboration of many stakeholders and has a range of interdependencies. APCO has a coordinating strategy-setting and administration role to drive collaboration throughout the supply chain between all three tiers of government, APCO's Members, the waste and recycling sector and other stakeholders. Targeted legislative interventions by governments are important, such as state and territory action on single use plastics and the Commonwealth Recycling and Waste Reduction legislation that is the subject of this inquiry.

Comments of the provisions giving effect to the waste export ban

APCO supports the regulation of waste exports and the approach to its implementation established by the Bills.

APCO's whole-of-supply chain approach across the priority areas of packaging design, improved collection and recycling systems and the expansion of markets for used packaging materials means that APCO and its Members are well placed to address the challenges of driving the necessary improvements in local processing.

The key challenge arising from the regulation of waste exports will be in the timing: achieving the clean streams of value-added recycled materials required to comply with the export ban within the timeframes set out in the Bills, without resorting to stockpiling or landfilling of more difficult waste streams, will require work to be brought forward that could otherwise have been phased over the period to 2025. This will include work to bring online new packaging materials and formats, improve collection and sortation by establishing more specialised collection systems or improving sortation at material recovery facilities, and driving demand for recycled materials through the development of end-markets.

APCO's work to support industry to prepare for the waste export bans will be most effective with full participation by all participants in the packaging supply chain. Currently those companies that are part of the packaging supply chain and are therefore liable parties under the Used Packaging NEPM, but are not Members of APCO, are not contributing sufficiently to the solution. In addition, all APCO Members will need to continually improve their implementation of the Covenant's Sustainable Packaging Framework, including by:

- using the Packaging Recyclability Evaluation Portal (PREP) and the Australasian Recycling Label (ARL)
- participating in closed-loop collaborations to ensure effective pathways are in place from placement of packaging onto the market through to recovery and processing into value-added materials at end-of-life
- ensuring effective recycling of B2B packaging
- procuring recycled materials.

There are three key things that governments can do to support industry to deliver the necessary changes that are need to ensure the Bills can be effectively implemented in relation to plastics, glass and paper and paperboard:

- i. In relation to plastics, APCO encourages governments to support the ANZPAC Plastics Pact. Information on the Pact is available at <https://www.packagingcovenant.org.au/who-we-are/the-anzpac-plastics-pact>.
- ii. Governments could support the development of targeted solutions for local waste streams. In addition to the investment of funding, which we are pleased to see has already started, this would involve development of local material flow analyses to identify challenges and opportunities, and working with industry to develop, pilot and implement solutions including reuse models, collection, recycling and local markets for recycled materials. APCO would welcome the opportunity to work with interested local, state, territory and Commonwealth government agencies to progress these initiatives.
- iii. All governments (Commonwealth, states and territories) need to deliver on their obligations under the NEPC framework to enforce compliance with the Used Packaging NEPM. Together, the NEPM and the Covenant provide a framework to engage the whole supply chain in effective action, but governments have been reluctant either to enforce the NEPM in relation to those companies that withdraw from or fail to join the Covenant, or to establish the program management capability needed to deliver effective regulatory compliance outside of the Covenant. Governments should immediately commence both a comprehensive review of the NEPM, and establish effective compliance programs at a State and Territory level.

Comments on the product stewardship provisions

APCO strongly supports the approach taken to product stewardship in the Recycling and Waste Reduction Bill 2020.

In particular, we welcome provisions that give effect to recommendations of the review of the Product Stewardship Act, including:

- Inclusion of product design in the objects of the Recycling and Waste Reduction Bill 2020 (Section 3)
- Inclusion of recommended actions and timeframes and provision for consultation in relation to the Minister's priority list (Section 67)
- Provision for the Minister to table information in Parliament about the performance and coverage of accredited voluntary arrangements (Section 68)
- Opportunity to seek accreditation of voluntary arrangements at any time
- Greater rigour in the administration of voluntary product stewardship accreditation, including by requiring administrators of accredited arrangements to notify the Minister of certain events (Section 72)
- Greater flexibility for the Department to manage the Product Stewardship Logo (Section 73)
- The application of compliance and enforcement provisions to the accrediting authority for voluntary arrangements, which will be an important accountability mechanism in the event that a central clearinghouse is established (Section 106)
- Provisions for mandatory product stewardship rules in relation to product design and the durability, repairability and reusability of products (Section 92)

One area to which we encourage the Government to give further consideration either through this process or in implementing this legislation and other programs, is ensuring that action is encouraged

and support across the full impact chain of products and materials. In particular, action is needed to support the production of high quality recycled materials and the development of end markets for those materials.

While the current draft legislation addresses product design and some elements of recovery, APCO encourages the Australian Government to consider how the product stewardship framework might better drive action across the full impact chain, including at the SIPs described above, both through addition of reference to material standards and end markets to the legislation and through the design of voluntary and co-regulatory schemes. APCO looks forward to discussing this further with all governments, including in relation to the possible establishment of a central clearinghouse and other matters raised in the Government response to the review of the Product Stewardship Act.

Another area where we encourage the Government to consider action is in relation to labelling. APCO has identified mandatory uptake by APCO Members of the Australasian Recycling Label, and the Packaging Recyclability Evaluation Portal that provides the evidence base for determining the recyclability of packaging, as a critical success factor for achieving the 2025 National Packaging Targets. This has been communicated to APCO's Members and stakeholders through APCO's *Strategic Plan 2017–2022 Version 2 - January 1, 2019*, which is available on APCO's website at www.packagingcovenant.org.au/documents/item/2153. We note that provision exists to consider labelling under the Recycling and Waste Reduction Bill 2020 (Section 92).

Conclusion

Once again, thank you for the opportunity to provide a submission on the inquiry into the Recycling and Waste Reduction Bills. APCO supports the approach taken through these Bills on these important matters and looks forward to continuing to work with the Commonwealth, state and territory governments towards improved outcomes on recycling, waste reduction and the transition to a circular economy.

Yours sincerely,

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