

ARA SUBMISSION

REFORM OF PACKAGING REGULATION

OCTOBER 2024

EXECUTIVE SUMMARY

The Australian Retailers Association (ARA) welcomes the opportunity to provide feedback to the Department of Climate Change, Energy, the Environment and Water (DCCEEW) on options to reform Australia's packaging regulation.

The ARA is the oldest, largest, and most diverse national retail body, representing a \$430 billion sector that employs 1.4 million Australians – making retail the largest private sector employer in the country. As Australia's peak retail body, representing more than 120,000 retail shop fronts and online stores, the ARA informs, advocates educates, protects, and unifies our independent, national, and international retail community.

We represent the full spectrum of Australian retail, from our largest national and international retailers to our small and medium-sized members, who make up 95% of our membership. Our members operate across the country and in all categories - from food to fashion, hairdressing to hardware, and everything in between.

The ARA supports the Australian Government's efforts to reform packaging regulations to improve overall effectiveness of the packaging system, recognising that the current model has not achieved the desired outcomes while exhibiting inherent challenges designed into the cost structure.

The ARA acknowledges the critical need to minimise packaging waste and associated pollution while advancing a circular economy for packaging. However, it must be done so in a way that is equitable, incentivises positive progress, and does not place unnecessary burden on the retail sector. Retailers understand the importance of designing packaging that reduces waste, is recyclable, and incorporates recycled content. The industry is eager to play an active role in this transition by supporting the collection and reuse of packaging materials, helping to close the loop and reduce environmental impacts, and driving innovation in sustainable packaging design.

OVERVIEW OF RECOMMENDATIONS

Embracing sustainability requires a holistic approach and collaboration across government, industry, and consumers. Despite the industry and Australian Packaging Covenant Organisation's (APCO) efforts, the 2025 targets for packaging design, recyclability, and the phase-out of single-use plastics will not be achieved. This highlights the critical need for a comprehensive system review, addressing gaps and reforming packaging practices.

The ARA supports a hybrid approach combining Option 2 – national mandatory packaging requirements – and Option 3 – an extended producer responsibility scheme (EPR) – for reforming packaging regulations. The ARA acknowledges the implementation of these reforms will occur over a multi-year period and suggests a principle-based approach to foster industry collaboration and impact-driven change in packaging reform. However, we note that our support of an EPR and eco-modulated fees, outlined on Option 3, would be contingent on further consultation and co-design with industry of a detailed strategy, business plan and revenue model that aims to drive change, while minimising higher costs for business and therefore higher process for consumers.

KEY CONSIDERATIONS

1. Systems change

Achieving meaningful reform in packaging in Australia requires a complete and systemic change in how the country designs, produces, collects, and recovers packaging materials. Systems change is crucial, specifically for the retail industry because it provides a holistic approach to tackling the complex challenges associated with packaging waste and resource recovery. Current practices are insufficient and inconsistent.

By developing and redesigning frameworks, the industry can create more effective and sustainable processes that promote recycling, reduce environmental impact, and support the circular economy. This shift is essential for addressing persistent issues like free-riding and consumer confusion, ultimately enabling retailers to meet regulatory obligations and respond to growing consumer demand for environmentally responsible practices. Without a comprehensive systems change, efforts to improve packaging sustainability will remain fragmented and less impactful.

2. National harmonisation

The absence of national regulations has led to inefficiencies, as states and territories adopt different approaches to the shared goal of reducing plastic use. Drawing from Option 2, national harmonisation of legislation for packaging is crucial for establishing a coherent framework that supports the transition to a circular economy and minimises waste.

Moving away from a state-based National Environment Protection Measure (NEPM) approach to packaging reform is essential to achieving a cohesive, national strategy for tackling Australia's packaging waste challenges. The current state-based framework is limited in scope and creates inconsistencies in regulations, enforcement, and outcomes across jurisdictions, leading to inefficiencies in how packaging is managed and recovered. A unified national approach would eliminate fragmented policies and drive greater alignment on targets. By shifting to a national model, Australia can streamline efforts, create economies of scale, foster innovation, and ensure a more equitable and effective response to packaging reform.

It is important to recognise the role and authority of the government to promote and mandate EPR schemes, offer tax incentives for businesses that adopt circular practices (and thereby encourage investment in eco-friendly technologies and materials), and provide grants and funding to support research and development in innovative solutions.

Additionally, a standardised approach fosters a national behavioural shift among consumers, as consistent messaging and regulations can enhance public awareness and participation in recycling initiatives. When consumers are presented with clear and uniform guidelines, they are more likely to engage in responsible waste management practices, ultimately leading to increased recycling rates.

3. Cost and financial impacts

Retailers encounter significant expenses related to packaging waste management which is often overlooked. It is essential for a cost structure that reflects these externalities to be shared across the industry. By internalising these costs, the sector can create a more sustainable and responsible approach to packaging, ensuring that all stakeholders contribute to the solution and mitigate the financial strain on individual retailers.

Incentivising sustainable packaging is crucial for the retail sector's role in reducing packaging waste. Providing tax breaks, grants, or subsidies for eco-friendly packaging initiatives will encourage greater adoption of sustainable materials and innovative designs. Additionally, recognising and rewarding retailers who successfully close the loop by recovering, reusing, and recycling materials can drive deeper industry participation and commitment to sustainability. Such incentives not only help minimise the environmental impact of packaging waste but also offer a competitive edge to retailers dedicated to responsible practices, promoting innovation and establishing new benchmarks for sustainable consumption. However, businesses will require support and resources to facilitate these impactful changes.

The current revenue-based membership fee model often creates inequities and places financial strain on members within the organisation. Transitioning to an alternative fee structure can enhance sustainability and effectiveness while fostering a more equitable environment for all participants. The existing model frequently imposes an undue burden on businesses, particularly smaller retailers, which may struggle with high membership costs. Implementing a tiered fee structure could allow smaller businesses to engage without the risk of prohibitive expenses, thereby increasing overall membership and encouraging a diverse range of voices and perspectives within the industry. This approach would not only promote inclusivity but also enrich the discussions around sustainability and packaging reform.

Free-riders pose a significant challenge to ARA members by undermining accountability, creating unfair competition, and diminishing recognition for active APCO participants. According to APCO, 25% of participants are free-riders. Adopting a hybrid model of Options 2 and 3 can review the current system and help minimise free-riders by ensuring stronger enforcement and full participation. This would involve governments implementing stricter regulations, conducting audits, and imposing penalties for non-compliance, ensuring that all stakeholders contribute fairly to sustainable packaging efforts. Mandatory participation in stewardship schemes, such as EPR, ensures all businesses are accountable for the end-of-life management of their products.

Additionally, transparent reporting systems can highlight non-participating companies, while financial incentives, such as tax breaks, can encourage compliance. By implementing these solutions, the retail sector can strengthen stewardship programs that are equitable and create a sustainable marketplace.

4. Waste and resource recovery infrastructure

A strategic approach and investment in fit-for-purpose waste and resource recovery infrastructure is essential to addressing the packaging and waste challenges faced by the retail industry. Providing certainty around ongoing investments is crucial, as it enables greater control over materials through a regulated approach, leading to cleaner waste streams. An emphasis on long-term contracts for materials can incentivise stakeholders to build the necessary infrastructure to accommodate the increasing volume of packaging waste.

Effective management of end-of-life products and waste demands a comprehensive approach, centred on strategic long-term investment in infrastructure and the development of robust, resilient systems. Current recycling practices are inadequate, particularly concerning the recycled content thresholds that must be met to encourage the use of recycled materials and stimulate markets for recovered resources. APCO reports that 84% of product packaging is now reusable, recyclable, or compostable, yet only 20% of these materials are actually being recycled or composted.

This highlights a critical flaw in the system that needs to be addressed. The gaps in recycling capacity and the limited availability of end markets for recycled materials present major barriers to attracting necessary investment in recycling infrastructure. To address these issues, improving the end-of-life management of products and packaging is essential. This will help minimise waste and reduce environmental harm, paving the way for a more sustainable and circular economy.

5. Public information campaigns

While the retail industry can improve packaging design and labelling, ensuring that packaging is recycled correctly requires action from consumers, which is outside of retailers' control. Currently, there are no national behavioural change campaigns to support these efforts, undermining the effectiveness of the retail industry's actions. Consumer confusion is a significant barrier to increasing recycling rates. The consultation paper outlines 28% of Australians find recycling and how to sort waste confusing. This confusion, coupled with the lack of national harmonisation in recycling standards, complicates recycling efforts and contributes to lower recycling rates.

To address these challenges, there must be coordinated public campaigns to simplify recycling for consumers to create behavioural change. Public information campaigns can help bridge the gap between eco-friendly packaging and consumer action, increasing sustainable practices. A strategic, national approach to behaviour change combined with improved packaging design, clearer labelling, and standardised recycling guidelines is essential to aligning efforts across government, industry, and consumers. Only through collective action can we empower individuals to make informed choices and significantly boost recycling rates, reducing waste across Australia.

RECOMMENDATIONS

The recommendations below discuss the benefits and limitations of each option.

Option 1: Strengthening administration of the co-regulatory arrangement

Based on the principles outlined, the ARA does not endorse Option 1 to maintain the existing co-regulatory arrangement and believes it is not an appropriate pathway for the future of packaging reform.

Option 2: National mandatory requirements for packaging

The ARA supports Option 2 but notes that a sole reliance on a fully regulated approach will not provide the right solution for industry. However, certain aspects of this option should be incorporated into the reform's design. The ARA supports revoking the NEPM, with state and territory governments making necessary legislative changes to align with the new framework in their jurisdiction. Industry education could raise awareness of any new regulatory obligations. Community education and behaviour change campaigns would also be essential in increasing public awareness participation.

Option 2 introduces mandatory requirements for businesses on packaging design, enforcing mandatory packaging labels, setting minimum recycled content thresholds, and banning problematic plastics. The ARA acknowledges the value of combining behavioural change campaigns with a government-backed move toward increased recyclability to drive impactful change.

The setbacks of Option 2 can impact the effectiveness of packaging reform for the retail sector. One major concern is the absence of financial mechanisms to support regulatory obligations. Option 2 requires individual businesses to fund compliance activities, adding pressure to already strained resources and increasing overall business costs. Additionally, it does not present a system to collect or distribute funds to invest in collection, reprocessing, or recycling systems, leaving gaps in the infrastructure necessary for sustainable practices. While the option allows for cost recovery from industry to cover government administrative expenses, this does not address the broader financial support of the system.

Other risks to costs and resources are the progressive bans on certain materials that may not be fit-for-purpose and can lead to unintended disposal of packaging. Lastly, Option 2 incorporates reporting and data-sharing requirements for regulated entities. While these reporting measures are essential, the approach ultimately shifts focus away from fostering industry collaboration and innovation, both of which are essential for addressing complex and industry-wide packaging challenges.

Option 3: An extended producer responsibility scheme for packaging

In principle, the ARA supports the establishment of an industry-wide EPR scheme governed by mandatory obligations under Option 3. This approach will allow to alignment of international best practices and enable wider industry participation through collaboration, and innovation. It also presents an opportunity to enhance the influence of EPR within global packaging markets.

The ARA believes that allowing regulated entities the flexibility to prioritise packaging design will improve recyclability and reduce eco-modulated fees, accommodating the vast range of businesses in the sector. Additionally, this option provides an opportunity to boost consumer recycling awareness through industry-led initiatives, thereby increasing the value and demand for end markets for recycled content.

Option 3 presents some risks, including persistent challenges in addressing free-riders. Inadequate fee setting may hinder progress or lead to undesirable outcomes, as EPR fees need to be sufficiently high to incentivise producers to enhance their packaging without merely absorbing the additional costs. Conversely, if fees are set too high, producers may be driven to use alternative materials that could have unintended market and environmental consequences. In addition, misalignment between Australian and international approaches may result in increased costs and affect competition.

However, the ARA believes if an EPR scheme is designed thoughtfully to account for these considerations, the associated risks can be effectively mitigated.

As noted though, our in-principle support of Option 3 would be contingent on further consultation and co-design with industry of a detailed strategy, business plan and revenue model that aims to drive change, while minimising higher costs for business and therefore higher process for consumers.

CONCLUSION

In conclusion, achieving sustainability in the retail sector requires a unified effort from government, industry, and consumers. The ARA's proposed hybrid approach, which combines (Option 2) national mandatory packaging requirements with (Option 3), EPR schemes, provides a solid framework for reform.

In addition to this, it is important to consider a phased approach when implementing change (of Options 2 and 3), so retailers can adequately adapt in a timely manner to avoid unnecessary costs and progress through a

prolonged implementation timeline. The retail industry will collaborate closely on these timings.

Investments in advanced recycling technologies and improved end-of-life management are critical for increasing recycling rates and reducing waste. Harmonising national legislation will streamline compliance for retailers and promote responsible consumer behaviour. Additionally, addressing free-rider issues and reassessing membership fee structures will enhance equity within stewardship programs.

Finally, robust public information campaigns are essential for educating consumers on recycling processes. Together, these collective actions can enable the retail sector to champion change, operate in a circular economy and ultimately minimise environmental impact.

Thank you for the opportunity to provide a submission to this inquiry. Any queries in relation to this submission can be directed to our policy team at policy@retail.org.au.