Ms Carolyn Jackson

Deputy Secretary, Environment and Climate Change

Department of Environment, Land, Water and Planning

8 Nicholson Street

MELBOURNE VIC  3000

18 May 2022

Dear Ms Jackson

regulatory impact statement for THE Circular Economy (Waste Reduction and Recycling) (Container Deposit Scheme) Regulations 2022

I would like to thank your staff at the Department of Environment, Land, Water and Planning (the Department) for working with the team at Better Regulation Victoria to prepare the Regulatory Impact Statement (RIS) for the *Circular Economy (Waste Reduction and Recycling) (Container Deposit Scheme) Regulations 2022* (the proposed Regulations).

As you know, the Commissioner for Better Regulation is required to provide independent advice on the adequacy of the analysis provided in all RISs in Victoria. A RIS is deemed to be adequate when it contains analysis that is logical, draws on relevant evidence, is transparent about any assumptions made, and is proportionate to the proposal’s expected effects. The RIS also needs to be clearly written so that it can be a suitable basis for public consultation.

I am pleased to advise that the final version of the RIS received by us on 18 May 2022 meets the adequacy requirements set out in the *Subordinate Legislation Act 1994*.

**Background**

In early 2020, the Victorian Government committed to introducing a container deposit scheme (CDS) by 2023, as part of its commitment to reform Victoria’s recycling system. This scheme will provide cash to consumers when they return suitable drink containers for recycling. Currently, all Australian jurisdictions except Victoria and Tasmania have an operational CDS.

The Department estimates that approximately 3.3 billion beverage containers are used in Victoria annually, of which approximately 89 per cent would typically be covered by a CDS, and that beverage containers make up nearly half the litter stream in Victoria. It explains that the key harms of litter in Victoria are environmental damage, particularly to marine life, risks to human health from sharp glass or metal litter and the ingestion of microplastics, reduced public enjoyment of community spaces and the economic costs of cleaning up litter. Furthermore, the Department explains that significant amounts of valuable material is lost to the economy through contaminated recycling streams that are unable to be recycled.

The *Circular Economy (Waste and Recycling) Act 2021* (the Act) was enacted in late 2021, and it established Recycling Victoria (RV), which will regulate the CDS. The Act outlines a split responsibilities governance model, in which Recycling Victoria oversees a scheme coordinator and at least one network operator. The Department explains that the scheme will be funded by the beverage industry through contributions to the scheme coordinator based on beverage supply in the state, with contribution amounts determined by the scheme coordinator. The Department explains the scheme coordinator and network operator(s) will be appointed following a competitive tender process.

The Department explains that the scheme coordinator’s role will include monitoring and reporting network operators against performance requirements outlined in the proposed Regulations, registering eligible containers, and managing the scheme’s finances. The Department explains the network operator(s) primary role will be to establish and maintain the network of refund collection points.

**Options**

The Department explains in the RIS that non-regulatory options such as information campaigns, litter clean-up programs and additional public bins had been considered and, in the Department’s view, would not sufficiently act to reduce litter or improve the rate of resource recovery. In the RIS, the Department analyses five options for the design of the CDS:

* **Option 1** is the most consistent with other jurisdictions, it would:
  + provide a 10‑cent refund for eligible containers;
  + include most beverage containers between 150mL and 3L, excluding milk containers, wine and spirit bottles, juice bottles over 1L, and cordial bottles; and
  + set minimum access standards for the number of refund collection points network operators provide, so that Victorians in both metro and regional areas can participate in the scheme.
* **Option 2** is the same as Option 1, except it would extend the scope of eligible containers to include wine and spirit bottles.
* **Option 3** is the same as Option 1, except it would provide a 20-cent refund.
* **Option 4** is the same as Option 1, except it would have lower minimum access standards, resulting in about 32% fewer refund collection points.
* **Option 5** is described as the maximum regulation option, it would:
  + provide a 20-cent refund amount;
  + extend the scope of eligible containers to include wine and spirit bottles; and
  + set higher minimum access standards, resulting in about 18% more refund collection points.

**Analysis**

To determine its preferred option, the Department uses a two-step process beginning with a cost-benefit analysis (CBA) to analyse the quantifiable costs and benefits of each option, followed by a second step consisting of a qualitative analysis of how well the different options meet the Government’s non-financial objectives.

The Department explains that the physical flows of containers from consumption through to disposal and through the waste and recycling system are the key driver of the costs and benefits of each option, and conducts a material flows analysis (MFA) to understand these flows.

The Department uses a CBA to value the costs and benefits of the physical flows of containers as well as the costs of establishing and running the CDS. The CBA analyses costs and benefits for each year of the 20 year modelling period. Future costs and benefits are discounted to their current value in 2021-22 dollars. The net present value (NPV) is calculated as the total benefits less the total costs over 20 years in terms of current dollars. Similarly, the benefit-cost ratio (BCR) is calculated as the ratio between the total benefits and the total costs in terms of current dollars.

The key costs identified in the CBA are:

* collection point and transport costs associated with the CDS infrastructure;
* household participation costs such as sorting and dropping off containers;
* scheme administration costs incurred by the coordinator and operator(s);
* government costs to establish and regulate the scheme; and
* industry compliance costs such as registration and labelling.

The key benefits identified in the CBA are:

* benefits of avoided litter, valued based on willingness to pay;
* increased value of recyclable materials due to better separation;
* avoided collection, transport and processing costs associated with non-CDS waste infrastructure; and
* avoided landfill costs due to reduced volumes of waste to landfill.

Summing the costs and the benefits, the Department estimates that:

* Option 1 has a NPV of $269 million and a BCR of 1.33;
* Option 2 has a NPV of $283 million and a BCR of 1.32;
* Option 3 has a NPV of $342 million and a BCR of 1.35;
* Option 4 has a NPV of $232 million and a BCR of 1.30; and
* Option 5 has a NPV of $385 million and a BCR of 1.36.

The Department notes there is uncertainty around the impacts of a CDS on litter rates, so it undertakes a break-even analysis to determine what level of litter reduction would be required for the benefits to exceed the costs. It estimates that each option will need to reduce litter rates by between 32 and 39 per cent for benefits to exceed costs. In the CBA, each option is estimated to reduce litter rates by between 40 and 57 per cent. As such, the Department indicates there is a high likelihood that implementing any of the five options will have a net benefit for the community.

The second step in the analysis assesses the options against three criteria:

* A BCR significantly greater than 1;
* National consistency; and
* High community access standards.

The Department explains that although Option 1 does not have the highest NPV or BCR, it is the preferred option as it is the only option that meets all three criteria.

The Department notes that its CBA indicated a greater net benefit for implementing a higher refund amount, expanded scope, and higher access standards than Option 1. However, the Department explains that these could be considered at a later stage, as part of a nationally co-ordinated approach.

**Implementation and Evaluation**

The Department explains that there are several steps involved in implementing the proposed CDS:

* the Department will appoint a scheme coordinator and one or more network operators following a tender process and amend planning provisions to allow for infrastructure installation;
* the scheme coordinator and network operator will establish a network of collection points and enter into commercial contracts with other industry participants; and
* Recycling Victoria will establish guidelines, an online portal and database for container registration, as well as monitor the scheme and ensure compliance.

The Department explains that the scheme will be evaluated on several different measures including the:

* redemption rate;
* end fate of materials collected;
* litter reduction rate;
* network accessibility; and
* customer satisfaction and awareness.

These measures will be collected by the scheme coordinator or network operator(s) and reported to Recycling Victoria. In addition, the Government will conduct an independent review of the pricing impacts of the scheme during its first 12 months of operation.

Should you wish to discuss any issues raised in this letter, please do not hesitate to contact my office on (03) 7005 9772.

Yours sincerely



Anna Cronin

Commissioner for Better Regulation