

Packaging Regulation Reform

Ai Group submission to the Australian Government
Department of Climate Change, Energy, the Environment
and Water

NOVEMBER 2024



Table of Contents

Executive Summary	1
Member preferences on the presented options for reform	2
Regulated Entities and Liability	2
Regulated entities	2
Application of requirements.....	2
Business-to-Business (B2B) Packaging	3
Design requirements	3
General comments.....	3
Proposed chemicals for elimination/disincentivisation.....	3
Design for recyclability	4
Eco-modulated fees.....	4
Labelling requirements	4
Clear and consistent recycling labelling.....	4
Recyclability grade label.....	5
Other issues related to labelling.....	5
Labelling requirements	5
General comments.....	5
RC material sources	5
Additional obligations listed in the paper	6
Other issues raised in the consultation	6
Support for businesses to meet the proposed obligations.....	6
Consumer education.....	6
About the Australian Industry Group	7

Packaging Regulation Reform

Executive Summary

Ai Group welcomes the opportunity to contribute to the Department of Climate Change, Energy, the Environment and Water's (the Department) process to reform packaging regulations.

Packaging regulation reform is an important step towards a more circular economy but must be weighed against the real-world uses and needs of businesses and consumers who sell and buy packaged goods.

Key messages from our submission include:

- While there are supporters in industry of each of the options presented by the Department, the greatest number support option three – an Extended Producer Responsibility (EPR) scheme.
- Packaging's foremost purpose is to protect the product it is applied to. Design for circularity is important as we attempt to decarbonise our economy, but it should be achieved while fulfilling that primary purpose.

A whole-of-life approach, that includes product protection and/or preservation and safety alongside end-of-life considerations, should be taken.
- We would not support the proposed regulations being applied uniformly between business-to-business packaging and business-to-consumer packaging.
- There has been broad support for the inclusion of a collection and recycling obligation, as long as all packaging value-chain actors have clearly defined roles and responsibilities and not just brand owners
- Significant transition time would be required to allow all regulated entities to be able to develop fully compliant packaging and systems, while not sending large stockpiles of existing packaging to landfill.
- Consumer education and behaviour change initiatives are key to ensuring any reform results in a functional system that minimises contamination of collection streams and delivers high-quality outputs.
- Packaging cannot be separated from other circular economy concerns. The Department should consider closely how policy in the wider circular economy – from all levels of government – will interact with this regulation, and vice versa.
- Packaging regulation reform also needs to consider how the other regulatory requirements – e.g. FSANZ food safety requirements, TGA safety and labelling requirements – will interact with the proposed regulation.

Member preferences on the presented options for reform

Ai Group has a diverse membership and has heard support for all three options from different member organisations.

Most who have provided feedback to us have supported option three in the paper – an Extended Producer Responsibility (EPR) scheme. Some members have noted that their support for option three is subject to the development of detailed policy under this option.

Others have supported option one, or a modified option two that encompasses elements of option three – primarily through the establishment of recycling infrastructure supported through the inclusion of eco-modulated funding mechanisms that all supply-chain participants contribute to.

There has been unanimous support for any incoming regulatory changes to be a two-staged approach. Members have supported the banning of chemicals listed in Table C.1. for the first stage.

Regulated entities and liability

Regulated entities

Members would like to have the definition of regulated entities clarified.

Some members have expressed support for continued use of the Australian Packaging Covenant Organisation's (APCO) definition.

Others have suggested if an EPR scheme were to be created, the entire supply chain – from manufacturers to reprocessors – would need to be included in the scheme. This concept should consider the varying levels of control different supply chain partners have. Retailers on-selling global products may not have any influence on packaging design, while manufacturers, brands and retailers with white-label products can directly influence the design of packaging.

It has also been noted that Small and Medium Enterprises (SMEs) may need additional time and support to achieve compliance.

Application of requirements

Some members have suggested the most effective point in the supply chain to apply any requirements under option 2 or 3 would be on the packaging manufacturers, while others have suggested brands are most effective. A reasonable compromise is to apply requirements to the supply-chain partner with control over packaging design decisions.

Concerns have been raised around parallel imports that have not been manufactured for the Australian market.

Parallel imports would need a sensible approach that would not generate additional waste via complete repackaging, while ensuring regulated entities make every effort to be compliant. One member has suggested a threshold approach similar to the National Greenhouse and Energy Reporting Scheme may be most applicable. Considerations such as volumes of packaging, product types and labelling could be included, where those with the highest liability are

prioritised in stages.

Business-to-Business (B2B) Packaging

There has been no support for B2B packaging to be under the same set of requirements as business-to-consumer (B2C). The consultation paper focusses on the B2C context, which is indeed an incredibly important aspect of the system. Where product is primarily manufactured for consumer sale and is used by businesses in addition to that, it should comply with the regulatory requirements.

However, B2B-only packaging has many wildly varied applications and circumstances, and should be considered in those contexts and treated differently as a result.

Design requirements

General comments

Packaging's primary purpose is to protect the product it is applied to.

Packaging plays a role in:

- food safety and shelf-life extension
- handling safety, in the case of sharps and chemicals
- ensuring products remain undamaged and untampered
- safely storing products
- ensuring accessibility for those with physical challenges

Design for circularity is important as we attempt to decarbonise our economy, but it should be achieved while fulfilling the primary purpose.

Any obligations on design should reflect that packaging should be functional first and foremost. The Department should consider how any design for recyclability requirements interact with existing packaging requirements such as Hazard Analysis Critical Control Point (HACCP) and TGA requirements for tamper-evident or child-resistant packaging.

A whole-of-life approach should be implemented that factors in the aspects outlined above, as well as end-of-life outcomes. This will ensure that regrettable substitutions do not eventuate, and higher volumes of ineffectually protected product do not end up in end-of-life processes prematurely.

As per our remarks regarding liable parties, some members have raised concerns that they are unable to influence the design of packaging for brands they stock, but do not own or directly import.

Proposed chemicals for elimination/disincentivisation

Members support in principle the proposed ban on chemicals listed in Tables C.1 and C.2 of the consultation paper (pg. 75).

However, we would like the definition of “chemicals that impede recycling” clarified, as there is none proffered in the paper and full support would be subject to the detail.

Design for recyclability

As noted above, this is a secondary objective.

While we acknowledge the Department is working on harmonisation of curbside collection systems across the country, any definition of ‘recyclable’ would need to be clear and nationally applicable.

Members have broadly supported the inclusion of a design obligation. There have been mixed views on the assessment methodology. Some members would be happy to see an improved, more user-friendly version of the APCO PREP tool and Sustainable Packaging Guidelines, while others have raised concerns about the lack of a clear definition for recyclability.

Packaging formats deemed problematic have not been detailed in the paper. We would note that formats some deem problematic often have genuine reasons for that design, including:

- improved shelf-life of product
- lightweighting to increase material efficiency
- lightweighting to reduce embedded carbon
- lightweighting to reduce transport-related carbon emissions

We would also caution that what can be considered problematic – barring the chemicals noted above – today may be recyclable in the future, given technological innovations.

Compostable packaging should be accepted in suitable applications, provided it is certified to AS 4736-2006 and AS 5810-2010.

Eco-modulated fees

Some members have supported the concept of an eco-modulated fee. Others note that overly complicating the methodology will have significant implications for businesses that are regulated entities. Any eco-modulation mechanism should be simple for businesses to understand and apply, but also recognise packaging materials have different densities.

One member has voiced hesitancy on the suggestion of a volume-based calculation due to their packaging being primarily cardboard/paperboard, which is higher in volume and lower in weight than some other less recyclable alternatives, and is already 100 percent curbside recyclable.

Labelling requirements

Clear and consistent recycling labelling

There is broad support for the continued use of the Australasian Recycling Label (ARL), as many businesses have spent large amounts of time and money to qualify for the ARL.

Others have raised that the bar for the ARL is higher than the bands in table 14 of the consultation paper, and that imposing the exact methodology used by APCO would make legitimate uses of packaging where lightweighting or shelf-life has been prioritised unable to comply with the label.

Recyclability grade label

Members do not support the suggested introduction of consumer-facing recyclability grade labelling. This would not enhance the decision-making process for the majority of customers and would already be implied by the ARL on pack already.

Labelling on pack already has many functions to fulfill, including:

- ingredient and allergen identification
- product safety information
- country of origin information
- instructions for use.

Some packaging is already minimal to reduce material use, and adding unnecessary information will either perversely increase packaging use to allow for additional information or make the information too small to be readily legible by consumers.

Other issues related to labelling

One member has noted they have invested in machinery that cuts packaging to the size of a product, to minimise unnecessary packaging volume. There may be flow on impacts from the need to adjust labelling to meet requirements that will render the company unable to use this machinery.

Recycled content requirements

General comments

In principle, no members have opposed the introduction of recycled content (RC) requirements.

Many have noted that there will need to be lead in time before they are introduced for recyclers and reprocessors to have sufficient capacity of material to meet demand.

Members have also called for any thresholds to be applied as an aggregate across a regulated entity's total packaging.

There are technical thresholds for RC, which one member said they have reached, and any additional RC would weaken the structural integrity of the packaging.

RC material sources

One member has highlighted the inefficiency inherent in only acknowledging post-consumer RC. In their context as a food packaging manufacturer, their input must be certified under the

Hazard Analysis Critical Control Point (HACCP) system. Any offcut or malformed product that cannot be used is reprocessed onsite for them to immediately reuse.

If such businesses could only qualify their claims with post-consumer RC, material currently internally recycled would instead have to be sent out to a recycler, then a reprocessor, and then requalified for HACCP certification. This would lead to a significant cost to the business, which has already invested in machinery to process this in-house, and would add additional transport and processing carbon to the input.

One member has also suggested minimum contents of Australian RC. Others consider that RC of any national origin should be accepted, for reasons of cost, flexibility, or trade law and policy.

One member has suggested traceability of RC could be enhanced with digital labelling.

Additional obligations listed in the paper

Members have supported additional obligations around collection and recycling.

They have expressed hesitance regarding the packaging reuse and refill systems proposed in the paper, particularly the lack of a clear definition for 'reusable'.

Other issues raised in the consultation

Support for businesses to meet the proposed obligations

Members have raised that they would need support to meet incoming obligations proposed in the paper, including:

- Clear guidance documents and technical support to assist businesses to understand and comply with new requirements
- Realistic timeframes and transition periods for implementation
- Simple, robust and user-friendly reporting systems that enable businesses to comply with less administrative burden
- Nationally aligned requirements, including for single-use plastics
- Material availability and affordability

Consumer education

Consumer education, particularly regarding the ARL and collection methods, will be key to the success of any reform.

Consumers are a source of contamination in the collection phase, and the overseeing body will need to drive significant uplift in consumer understanding of any labelling and alternate collection methods. Ai Group advocates alternate collection methods remain or are instated for some types of packaging that can contaminate higher-value streams – such as oil containers and chemical containers.

About Australian Industry Group

The Australian Industry Group (Ai Group®) is a peak national employer organisation representing traditional, innovative and emerging industry sectors. We have been acting on behalf of businesses across Australia for 150 years.

Ai Group and partner organisations represent the interests of more than 60,000 businesses employing more than 1 million staff. Our membership includes businesses of all sizes, from large international companies operating in Australia and iconic Australian brands to family-run SMEs. Our members operate across a wide cross-section of the Australian economy and are linked to the broader economy through national and international supply chains.

Our purpose is to create a better Australia by empowering industry success. We offer our membership strong advocacy and an effective voice at all levels of government underpinned by our respected position of policy leadership and political non-partisanship.

With more than 250 staff and networks of relationships that extend beyond borders (domestic and international) we have the resources and the expertise to meet the changing needs of our membership. We provide the practical information, advice and assistance you need to run your business. Our deep experience of industrial relations and workplace law positions Ai Group as Australia's leading industrial advocate.

We *listen* and we *support* our members in facing their challenges by remaining at the cutting edge of policy debate and legislative change. We *provide solution-driven* advice to address business opportunities and risks.

Australian Industry Group contacts for this submission

Molly Knox

Advisor – Industry Policy

M: +61 458 510 902

E: molly.knox@aigroup.com.au

Louise McGrath

Head – Industry Development and Policy

M: 0419 527 718

E: louise.mcgrath@aigroup.com.au

© The Australian Industry Group, 2024

The copyright in this work is owned by the publisher, The Australian Industry Group, 51 Walker Street, North Sydney NSW 2060. All rights reserved. No part of this work may be reproduced or copied in any form or by any means (graphic, electronic or mechanical) without the written permission of the publisher.

