



LIQUOR STORES ASSOCIATION NEW SOUTH WALES



# SUBMISSION

*By the Liquor Stores Association NSW*

**To:** Independent Pricing and Regulatory Tribunal

**In response to:** NSW Container Deposit Scheme  
*Monitoring the impacts on container beverage prices and competition*

**Date:** March 2018

**Liquor Stores Association of New South Wales Incorporated**

PO Box 6261, Alexandria NSW 2015 T: 02 8335 3200 F: 02 9317 2051 W: lsansw.com.au  
Suite W3G, Building 2, Sydney Corporate Park, 75 - 85 O'Riordan Street, Alexandria NSW 2015

*Member of the  
Australian Liquor  
Stores Association*



13 March 2018

NSW Container Deposit Scheme Review  
Independent Pricing & Review Tribunal  
PO Box K35  
Haymarket Post Shop, NSW 1240

Via online: [www.ipart.nsw.gov.au/Home/Consumer\\_Information/Lodge\\_a\\_submission](http://www.ipart.nsw.gov.au/Home/Consumer_Information/Lodge_a_submission)

**LSA NSW SUBMISSION: NSW Container Deposit Scheme**  
***Monitoring the impacts on container beverage prices and competition***

To Whom It May Concern,

The Liquor Stores Association NSW (LSA) welcomes the opportunity to provide a submission in response to the Independent Pricing & Regulatory Tribunal's (IPART) Issues Paper on the NSW Container Deposit Scheme (CDS): *Monitoring the impacts on container prices and competition*.

As per the Issues Paper, we understand that IPART has been asked by the NSW Premier to monitor and report on, for the period from 01 November 2017 to 01 December 2018:

1. The effect of the CDS on prices of beverages supplied in a container;
2. The effect of the CDS on competition for beverages and the performance and conduct of suppliers;
3. Any other market impacts on consumers that arise from the commencement of the CDS.

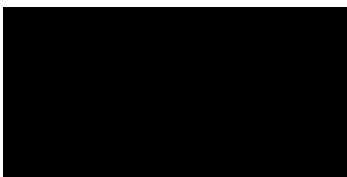
As the industry representative representing over 2,500 packaged retail liquor businesses throughout NSW, LSA is well-placed to provide comment on the impact of the CDS since its official commencement in December 2017.

LSA maintains that a CDS is not the best solution, or most effective method of managing litter, and believes the overall effectiveness and success of the CDS has been severely undermined by a combination of poor execution and inadequate communication with industry stakeholders and the wider public.

Issues concerning the implementation of the CDS have since resulted in significant adverse effects on businesses in the retail liquor sector which has been the source of great frustration and anxiety for the business owners themselves.

Please find LSA's submission enclosed herewith, and I would be happy to provide any further information to support this submission, if required.

Yours sincerely,



**Michael Waters**  
**Executive Director**



## **ABOUT THE LIQUOR STORES ASSOCIATION NSW (LSA)**

LSA has been the consistent voice of the NSW Retail Liquor Industry since 1961, and is a united industry body representing all NSW packaged liquor retailers, whether they are an independent retailer, licensed general store or supermarket, corporate chain or online-only liquor retailer.

LSA's mission is *"to support, represent and provide leadership to its members for a responsible, sustainable, diverse, and professional retail packaged liquor industry"*.

In order to achieve our mission, the LSA:

- Advocates for the interests of members and the industry;
- Effectively communicates with members and stakeholders;
- Provides members with access to commercial services;
- Maintains and elevates industry standards;
- Conducts professional development activities; and
- Develops the business of the association.

LSA's membership represents over 75% of the NSW retail packaged liquor market.

Ordinary Members include some of the most recognised and trusted companies and brands in the industry, ranging from independent family owned licensed general stores and supermarkets, independently owned and run liquor stores operating under banner groups such as Cellarbrations, Liquor Stax, Local Liquor, Liquor Legends, Porter's Liquor, Super Cellars and more, corporate chain liquor retailers, as well as online-only liquor retailers.

Associate Members include banner groups, wholesalers, beverage manufacturers and suppliers, and other service providers.

Our sector directly employs around 17,500 people in NSW, including many trainees and apprentices who go on to make a career in liquor retailing, and also underpins additional indirect employment by suppliers and service industry activity estimated at in excess of an additional 6,500 people.

The NSW retail liquor industry is a significant contributor to the economy with an annual turnover of around \$7 billion, generating an estimated \$2 billion in alcohol taxation, over \$700 million in State Payroll and GST revenues, plus over \$2.5 million in annual licence fees.

LSA works proactively with all stakeholders involved in the retail liquor industry - retailers, banner groups, wholesalers, beverage manufacturers and suppliers, other peak industry bodies, the many other service providers associated with the sector, as well as all applicable State Government departments and agencies concerning the retail packaged liquor sector.

LSA is a member of the [Australian Liquor Stores Association](#) – representing the national interests of the retail liquor industry, the [National Retail Association](#) – Australia's largest and most representative retail industry organisation, and [Associations Forum](#) – Australia's leading organisation, assisting associations in governance, operations, membership and finances.



## KEY CONSIDERATION: A CDS IS NOT THE BEST SOLUTION

LSA maintains a CDS is not the most efficient method of managing litter. A CDS negatively impacts on:

1. *Businesses* – both suppliers / manufacturers and retailers, who are required to pay considerable costs upfront to fund the scheme as well as ongoing regulatory and administration costs to forecast and reconcile container and financial movements and register applicable products; and
2. *Consumers* – who with an established an successful kerbside recycling program, will absorb the costs that are passed through the supply chain.

NSW is the only jurisdiction globally to introduce a CDS after implementing effective kerbside recycling.

[Keep Australia Beautiful \(KAB\)](#) do an annual 'Litter Index', providing insight into waste litter nationally. In KAB's most recent survey, they undertook a case study into beverage containers and whether the South Australia (SA) and Northern Territory (NT) schemes had led to a noticeable reduction in litter following the schemes' introductions and how ongoing adjustments to refund rates impacted the litter stream.

For the NT scheme, introduced in January 2012, their surveys subsequent to 2012/13 have all shown an increase in beverage container litter "which may suggest the scheme is losing traction"<sup>1</sup>.

SA changed its scheme in September 2008 when the refund increased from 5 cents per container to 10 cents. To quote from the report again "The 2015/16 survey has shown a significant increase in beverage container litter, the rationale for which is still to be determined. It is however interesting to note the high degree of inverse correlation between the NLI data and the recycling rates reported by the SA EPA".

Both these results indicate that a 10c refund scheme is not the magic bullet to reducing container litter that many perceive it to be, and beverage containers are not the major contributor to the waste stream that many people assume. Cigarette butts, paper, plastic and takeaway food containers contributed more to the overall litter item count than beverage containers, as outlined in KAB's national litter table below:

	Items	Volume
Cigarette butts	28,671	3.28
Paper/Cardboard (not counted in CDS/Takeaway food)	11,291	627.786
Takeaway Food	10,608	1530.292
"Other" plastic	4,840	6.041
Beverage Containers	4,497	2529.950

The challenge for beverage containers is that they take up a large amount of the litter volume. In NSW, beverage containers represent 44% of litter by volume, with the government indicating that the CDS aims to capture 43% of this number (18.9%). This means citizens are now forking out \$1 billion to deal with less than 19% of the litter problem in NSW (by volume), but just 9% of total littered items.

Unfortunately, most jurisdictions do little to reduce litter in industrial areas. Available government data shows investments in cigarette and litter bins and litter signage in retail, shopping centres, recreational parks, car parks and beaches, yet minimal where majority of litter takes place, namely industrial areas.

At top of mind should be designing a scheme which complements, not conflicts with the already successful kerbside recycling system.

Convenience is key – if yellow bins are located conveniently at the time of needing to dispose, then not just beverage containers, but cardboard, wine glass, large format milk and fruit juice containers, fast food, cigarette packets, etc can all be collected and recycled.

<sup>1</sup> <http://kab.org.au/wp-content/uploads/2016/12/NLI-15-16-Overview-KAB-APC-Nov-16.pdf>



## KEY CONSIDERATION: BACKGROUND & CONTEXT

*May 2016:* The NSW Government announced that a container deposit scheme will be implemented in NSW by July 2017 – this was a key election commitment, contributing towards achieving the Premier's goal to reduce the volume of litter in NSW by 40% by 2020.

*23 August - 21 September 2016:* The government consulted on the proposed Bill, and its discussion paper received over 130 submissions.

*18 October 2016:* The Waste Avoidance & Resource Recovery Amendment Act 2016 was passed by the NSW Parliament.

*16 November 2016:* The tender process for the appointment of Scheme Coordinator and Network Operator commenced, to be undertaken by the NSW Environment Protection Agency (EPA).

### **LSA launches discussion paper:**

In January 2017, the LSA released its [Discussion Paper: Impacts of the NSW Container Deposit Scheme](#), to assist members to better understand the CDS and its broader implications for the retail liquor industry.

### **LSA supports industry consortia Exchange for Change:**

Industry joint venture Exchange for Change, consisting of Lion, Coca-Cola Amatil, Coopers Brewery, Asahi Beverages and Carlton & United Breweries were bidding for the role of Scheme Coordinator.

*06 February 2017:* LSA wrote a letter of support for Exchange for Change's bid, which was successful.

### **Industry seeks extension on CDS commencement:**

*15 February 2017:* LSA, together with other peak industry bodies AHA and Restaurant & Catering, wrote to the Minister for the Environment, voicing industry's concern with the proposed July 2017 CDS commencement date, and requested an urgent meeting.

*16 February 2017:* Mounting industry pressure succeeded and the Minister announced the CDS would now commence on 01 December 2017 – a five month extension.

*21 March 2017:* LSA and the other peak industry bodies finally met with Minister Upton, and discussed community and industry communication strategies and commitments in the lead up to implementation.

LSA believes that the compressed timelines involved in the delivery of the CDS has severely limited its effectiveness and success to date, significantly impacting both industry and consumers. The revised 01 December 2017 commencement date was unfeasible – a 01 July 2018 commencement was recommended, so as to align with the ACT and QLD, given the complexity and magnitude of the scheme.

### **Industry Consultation:**

*15 June 2017:* LSA was invited by the EPA to attend an information session, where they updated stakeholders on the CDS implementation, now officially to be known as 'Return and Earn'.

*04 August 2017:* EPA hosted a second session, where they announced the respective appointment of Exchange for Change and Tomra-Cleanaway as Scheme Coordinator and Network Operator.

*18 August 2017:* Exchange for Change published its estimated costs for beverage suppliers.

**LSA's The Regulatory Panel:**

27 September 2017: LSA hosted its annual The Regulatory Panel event, which focused on the structure and operation of the CDS, where the EPA, Exchange for Change, and Tomra-Cleanaway, were invited to equip members with critical information to assist them prepare for the impending CDS – unfortunately, attendees were left reeling after many questions asked were simply not able, or willing to be answered.

Further, LSA had negotiated with Exchange for Change and the EPA for key education tools and materials to be produced and launched on the day, designed to assist liquor retailers, their staff and their customers in the lead up to the commencement of the CDS. However on 26 September 2017 (less than 24 hours prior) Exchange for Change informed the LSA that the Minister's office had advised them they would now not be allowed to distribute the POS flyer as was previously committed to.

**LSA launches key communication materials for liquor retailers:**

13 October 2017: [LSA issues a media release](#), and launches key communication materials for liquor retailers, ahead of the imminent commencement of the CDS.



The Australian Government Regulatory Impact Statement (RIS) said it best<sup>2</sup>:

*The CDS options modelled in option 4 all impose substantially negative net costs to the economy and cannot be recommended for implementation. Although the introduction of new CDS options would deliver high beverage container recycling rates and overall the greatest litter reduction due to high rates of beverage container litter collection, this comes at an unsustainable cost. This cost is driven by the roll-out of parallel, purpose-built infrastructure that diverts recycle from existing kerbside systems and must do so by handling and accounting for each unit—billions of beverage containers per year.*

For retailers to recover the full cost impact of this CDS, the final price impact per eligible container will not only include the 10c deposit, but also recovery costs of setting up and coordinating the logistics, transport, handling, regular auditing, to ensure that containers are recycled, plus managing the cash flow.

<sup>2</sup> <http://www.environment.gov.au/system/files/resources/0d61a8da-4263-4844-928c-e4f9e07472ef/files/attachmentg-other-options.docx>

For bottled water, these price rises are significant, equating to an increase of around 60%. For beer and RTDs, the increase is \$3.50-\$5.00 a case. GST is then applicable on this higher price, and even more perverse is the impact on products such as cider which also carry Wine Equalisation Tax (WET).<sup>3</sup>

A retailer's margin pressure is further impacted for alcohol beverage containers subject to a bi-annual CPI indexation excise regime.

**NSW CONTAINER DEPOSIT SCHEME:**

# cost impact

This information was published by Exchange for Change on 18th August 2017, on the Return and Earn website: [returnandearn.org.au](http://returnandearn.org.au)

**Cost Formula (1st Invoice issued 1st November 2017)**

	<b>Cans</b>	<b>Glass</b>
Per container exc. GST	+13.54c	+14.07c
GST	+1.354c	+1.407c
Per container inc. GST	+14.89c	+15.47c
Impact per carton (24)	+\$3.57	+\$3.71
Impact per carton (30)	+\$4.47	+\$4.64

**Here's an example of what that means for a 24-pack of beer bottles**

**\$40** Original price (inc. GST)  
**+ \$2.40** What consumers can 'return and earn'  
**+ \$1.31** Scheme's handling and administration fee  
**= \$43.71** Minimum new price (inc. GST)

In summary, the total estimated range of fees for the first three months will start at 13.54c and go down to 10.94c for aluminium, 14.07c and go down to 11.36c for glass, and 13.78c and go down to 11.13c for PET.

For retailers to recover the full cost impact of the scheme, including the 10c refund per approved container, plus handling and administration fees (announced by the Scheme Coordinator on 18th August 2017), the price of drinks sold in bottles, cans

and PET will increase by at least \$3.50 per carton (24) initially from 1st November 2017, in order to build a float for redemptions to commence from 1st December 2017.

Any price increase will ultimately be up to individual retailers and will depend on their cost pressures and competitive situation however the true cost of running the government scheme covers the 10c refund per eligible container, plus handling and administration fees.

<sup>3</sup> <https://www.theshout.com.au/news/cider-australia-hits-out-cds/>



*31 October 2017:* Exchange for Change held a Supplier Information Session in Sydney for Suppliers that had completed the sign-up process or were in the progress of completing. This was a session targeted at 1st Suppliers that will have a contractual relationship with Exchange for Change.

**Payment methodology:**

Requiring prepayment from industry is unreasonable, and places an unnecessary cash flow burden on beverage manufacturers and retailers, particularly putting those smaller suppliers who are already cash flow constrained, at a disproportionate disadvantage.

**Administrative and operational transparency:**

There are concerns around the lack of clarity and transparency around administration costs and recovery percentages, which has been a matter of much confusion and frustration for industry stakeholders – manufacturers, suppliers and retailers. LSA strongly recommends that the costs should not only be visible to all stakeholders, easily verifiable and comparable with what suppliers are charged, but also reflect the real cost of actually operating the scheme.

**Transitional assistance program for beverage suppliers:**

*31 October 2017:* As a result of the above-mentioned, the government had to step in (via the Office of the NSW Small Business Commissioner) to announce a Transitional Assistance Program for the NSW CDS, administering and providing interest-free loans of up to \$200,000 to eligible NSW beverage suppliers to help them survive and to manage cash flow between November 2017 and January 2018.

*01 November 2017:* First invoices were issued to suppliers.

*22 November 2017:* [LSA issues a media release](#), describing the NSW Government's CDS a shambles, calling for bipartisan support to either delay its implementation, or scrap it entirely.

**CDS officially commences:**

*01 December 2017:* Return and Earn rolls out across NSW, and second monthly invoices were issued to suppliers.

[LSA issued a media release](#), calling on the NSW Premier to either immediately delay, or scrap the scheme altogether.

Liquor store owners share the NSW public view that removing container litter from the environment is a great idea, however what's needed is a solution that reduces litter where it occurs, rather than penalising every NSW resident with a new tax.

NSW is the only jurisdiction in the world to introduce such a scheme when a very successful kerbside recycling program is already in place, and LSA is completely at a loss as to how this regime even snuck through Parliament when the RIS found that a CDS was one of the most expensive, yet the least effective option to reduce container litter.

The RIS showed it was going to be a \$1 billion hit to the pockets of NSW consumers with only negligible environmental benefits<sup>4</sup>. The big winner from the scheme appears to be the NSW Government, estimated to add another \$15 million a year to their coffers as a benefit from increased GST revenue.

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<sup>4</sup> [http://ris.pmc.gov.au/sites/default/files/posts/2017/06/ris\\_for\\_consultation\\_for\\_nsw\\_container\\_deposit\\_scheme.pdf](http://ris.pmc.gov.au/sites/default/files/posts/2017/06/ris_for_consultation_for_nsw_container_deposit_scheme.pdf)





## KEY CONSIDERATION: NSW CDS ISSUES

### Reverse Vending Machines (RVM):

A key component of the NSW CDS is the utilisation of RVM, designed to accept empty containers for a refund voucher system, however small independently owned and operated retailers are concerned the RVM policies and mechanisms are having a significant and detrimental impact on their businesses.

The container deposit refund vouchers produced by the RVM are only redeemable at that store or group of stores, thereby limiting competition and importantly, these vouchers are invariably seen by shoppers as a discount voucher for use only in those stores connected to the RVM under large scale agreement(s). As they are only redeemable at those chain stores where RVM are positioned, it creates a closed retail loop that does not allow other businesses to compete.

Small businesses are extremely concerned, particularly about the impact that the inherent design of this system is likely to have by artificially distorting consumer / shopper behaviours. This appears to be preferential treatment to large multi-site businesses at the expense of small independently owned and operated businesses, which LSA questions is anti-competitive.

By their very design, the RVMs will be unattainable for small business operators, as the system is designed for large car parks or similar spaces to accommodate a 20 or 40 foot shipping container, designed to accept empty beverage containers in return for deposit refund vouchers.

Feedback received from industry stakeholders suggests a bias away from making the technology available to independently operated outlets (retailers and hoteliers), as even where they have the space, it appears that the primary focus of the Network Operator is to satisfy their target quota with the NSW Government.

Smaller independent operators wanting to apply for an RVM fear there will be little or no capacity for small businesses to have access to them, and also no ability to accept the refund vouchers. This is likely to reduce competition, and the benefit for local communities to be serviced by small independent businesses and reducing the ability for those smaller businesses to compete.

LSA has taken this matter up with the NSW Small Business Commissioner, who intends on holding a Roundtable in early 2018 to review the first three months of the NSW CDS, and consider whether regulation changes to the scheme's operation are necessary.

LSA believes that the RVM vouchers should be generic and redeemable at any shop or business that is willing to accept them.

### Manual collection points:

LSA is supportive of the concept of 'over-the-counter' manual collection point sites, which are typically located at retail or shopfront outlets and for convenience are best suited for limited number of containers, where consumers can exchange them with the person behind the counter for a cash refund – this would complement the operation of 'generic' RVMs, giving consumers convenience and flexibility.

However, with the Network Operator rushing to meet its minimum quotas in NSW by 01 December 2017, we are seeing many small businesses who registered to be an 'over-the-counter' collection point now pulling out of this arrangement, which is a concern on many counts.

[According to a survey undertaken by NSW Labor](#), released on 10 December 2017, almost one in five registered 'over-the-counter' collection points in the container deposit scheme have withdrawn or are in the process of doing so. On top of this 9% were not yet operating, and a further 5% weren't aware they were a designated collection point.



Labor's survey covered 139 (62%) of Return & Earn's 225 over-the-counter collection points – mostly corner shops, small businesses and cafes listed around NSW. The remainder could not be reached either because there was no phone number listed for the business or the number was disconnected.

Status of 139 collection points with confirmed responses	Percentage (%)
Withdrawn or withdrawing	19%
Unaware of being a collection point	5%
Not operating yet	9%
Operating, with problems	14%
Operating, no problems	53%
<b>Total</b>	<b>100%</b>

The 20 businesses that are operating and are experiencing problems reported the following issues:

- An inability to cope with the influx of people wanting to drop off containers;
- An inability to store the large number of containers;
- An inability to keep containers clean;
- A constant interruption to their primary business; and
- A failure by the operator to deliver storage bins.

The NSW Government's failure to ensure an adequate roll-out of the 500 promised recycling collection points in this timeframe has led to significant frustration amongst both consumers and businesses alike.

Rural and regionally located businesses are the most disadvantaged by the ineffectiveness of the roll-out of RVMs, with many business owners in less densely populated areas forced to travel unreasonable distances to their nearest RVM site. Without RVMs located in close proximity to businesses, this effectively prohibits businesses from participating in the CDS at all.

**Timing, communications and engagement:**

The NSW Government rushed through their CDS, and was reluctant to let the community know that the scheme would have a big impact on the average consumer's hip pocket. They should have informed the public on key details of the scheme, including the real cost impact – as a result, NSW retailers wore the brunt of consumer backlash over this policy.

Had there been a longer lead-in time in place, LSA believes that this would have allowed for a more effective consumer awareness and education campaign achieving better cut-through.

The NSW Government's public education campaign did not start until 05 November 2017, far too late, and well after first invoices were issued by the Scheme Coordinator to suppliers on 01 November 2017, then passed on to retailers, leading to subsequent price increases that invariably caused confusion and frustration by customers at the coalface (i.e. at the retail counter).

The 01 December 2017 implementation date of the NSW CDS has created unnecessary additional burden for retailers. It is the busiest time of the year where retailers should be able to focus on trade, not on implementing a government scheme that raises prices on key items.

LSA can recall countless reports from members and industry stakeholders of non-response and extensive delays in response, from the EPA, Exchange for Change and from Tomra-Cleanaway, which is unacceptable.

In the months between September and December 2017, dozens of independent liquor retailers had either applied or contacted the Network Operator regarding their interest in becoming a RVM site or collection point. Many business owners reported that they simply did not hear back from Tomra-Cleanaway.



### **Inability for liquor retailers to collect refund:**

LSA believes that one of the most significant issues specifically affecting the retail liquor sector is the inability of operators to collect the refund on eligible containers.

Many small and medium retail liquor businesses do not have the ability to stockpile large numbers of eligible containers within their businesses to collect the refund at a later date, and unlike many on premise licensed businesses (i.e. hotels, clubs, bars, restaurants, etc), liquor retailers do not have the ability to use glass crushers to effectively dispose of recyclable containers.

Further, under the current design of the CDS, beverage containers must be undamaged in order to qualify for the refund. For a business that recycles containers using glass crushers, they have no means of accessing the refund to recuperate any of the additional costs involved.

### **Price increases, sensitivity and cross-border issues:**

An immediate impact of the CDS has been the increase in prices for beverage containers which are passed on to retailers by suppliers.

Due to the nature of the Australian market, retailers have become suppliers and distributors in their own right. This is to gain efficiencies and to deliver products consumers ask for, at a price that competes with international brands, and subsequently are faced with additional administrative burden of claiming from the scheme and registering containers in the states where schemes operate.

With so many of beverage retailers operating at a national level, with supply chains that cross any and every state and territory border, and retail outlets nationwide, administration of the CDS becomes challenging and opaque for many retailers.

The CDS treats NSW as a stand-alone market, but in reality the most efficient distribution systems are 'border blind'. The NSW CDS has caused a significant impact on cross-border supply chains for retailers, with flow-on costs for consumers and suppliers.

The failure to align the CDS rollout with neighbouring ACT and QLD also meant that businesses operating across multiple jurisdictions had to account for the differential in NSW in the cost of beverage containers. This failed execution has impacted retailers, particularly those in cross-border communities, due to extreme price sensitivities across the border, and within their local business environment.

LSA has seen some retailers stockpile products (particularly beer, ready-to-drink spirits, soft drink and bottled water) in the lead up to 01 November 2018. In addition, we have seen many retailers absorb the price increase passed on by the suppliers, or stagger the price increases (i.e. taking a hit on margin and overall profit) as a means of remaining competitive on price these past few months – this is simply not sustainable as the unilateral increases in prices of beverage containers will impact the sustainability and profitability of these businesses over the short and long-term.

When combined with ever-increasing operational business costs (i.e. rent, electricity, insurance, wages, etc), the overall impact is real for many small and medium independent liquor retailers, and the LSA has grave concerns for the future of some businesses, particularly in cross-border communities.

The arrival of this scheme is stifling employment growth in the retail liquor sector, as it reduces the capacity of business owners to take on additional employees.



## ISSUES IPART IS SEEKING COMMENT ON:

### **1. Do you agree with our proposed approach to include in our price analysis:**

- ***The retail price of all container beverage products regardless of whether they are covered by the CDS***
- ***The period before and after the introduction of the CDS?***

In principle, the LSA agrees with IPART's proposed approach to include in their price analysis the retail price of all container beverage products, including those not covered by the CDS.

In addition to 'retail price', LSA would also recommend that 'wholesale prices' where possible and applicable, be included in the analysis.

With respect to IPART's proposed approach to include the period before and after the introduction of the CDS in their price analysis, LSA is not convinced that this analysis will contribute to any reliable or meaningful conclusions, as it is already a given that price has been impacted as a result of the implementation of the CDS.

Further, the analysis proposed will not provide any insight into the changes to consumers' purchasing behaviour, and therefore, the impact of the scheme on retailers.

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### **2. Do you agree with the two proposed approaches for evaluating the impact of the CDS on beverage prices:**

- ***Measuring overall price changes (trends) using price indices for beverages published by the Australian Bureau of Statistics (ABS)***
- ***Quantifying the extent to which the costs of the CDS are passed through to beverage prices using product level price data?***

The ABS has robust methodology for measuring changes in the basket price of goods purchased by households, routinely sampling a wide range of goods and services at particular points in time and aggregates their prices into a price index.

However, as there are limitations with the use of ABS data, such as being published quarterly, and as aggregated price data, including products not covered by the CDS, applying the second approach using disaggregated price data is important.

While this proposed approach will identify price changes, the LSA does not believe it will provide any meaningful insight as to the underlying reasons. Price negotiations between suppliers, wholesalers and retailers are complex, and consider a broad number of factors.

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### **3. What are the relevant markets for our competition impact assessment?**

The beverage industry comprises a number of separate, but interlinked markets, including but not limited to: product, supply and geographical.

*Product markets include:* beverage containers between 150mL and 3L which are eligible for the 10 cent refund, including those made from glass, plastic (eg, PET, HDPE), aluminium, steel, and liquid paperboard (eg, certain milk and juice cartons).



In the retail liquor sector, these products primarily include beer, cider, ready-to-drink spirits, soft drinks, bottled water and fruit juice.

Further, it may also be applicable to consider other beverage products not covered by the CDS, such as bottled spirits for example, where consumers may substitute when relative prices change.

*Geographical markets include:* metro and regional NSW, and particularly in border communities surrounding QLD, ACT and VIC.

*Supply markets include:* beverage producers, national chain retailers, wholesalers, and retailers.

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**4. *Are there any further competition indicators to those listed in Table 5.1 that we should consider in making our assessment?***

As indicated above, there are a number of separate, but interlinked markets, making it extremely difficult to define, to then proceed to gather information on the various indicators related to competition.

LSA remains very concerned about the costs of the CDS falling disproportionately on small and medium sized businesses, and is of the view that the NSW Government has created a bad regime.

In addition to the above-mentioned, LSA would strongly encourage IPART to investigate:

1. Whether [Section 45 Competition exemption](#), in the Waste Avoidance and Resource Recovery Act 2001 is valid;
2. The subsequent approach by the Network Operator, to enter into joint venture arrangements with large retailers, to the obvious initial exclusion of small to medium retail businesses, and the impact the RVM voucher system has had on consumer behaviour;
3. The immediate and ongoing impact the scheme has had on retailers situated in cross-border communities surrounding the QLD, ACT and VIC borders.

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**5. *How has the commencement of the CDS affected competition in the container beverage industry, in particular for small and medium sized enterprises and any cross border issues?***

LSA is still concerned about the welfare of those small retail businesses situated along the border communities of QLD, ACT and VIC – jurisdictions which do not yet have a deposit scheme, and continues to work with the NSW Small Business, and Cross-Border Commissioners to see what can be done to help these small businesses.

Small and medium businesses have suffered due to their proximity to these borders. In a highly price-sensitive market, common sense would argue that a consumer would be reluctant to pay higher prices for their favourite beverage on a regular and ongoing basis, when they can conveniently purchase over the border and pay less.

LSA purports that if the intent of the CDS is to change consumer behaviour through an incentive of a 10 cent container refund, then the same argument stands, when considering price increases of \$3.50 - \$5 per carton of beer (for example).

A price sensitive consumer may choose to purchase a lower cost brand, or they may choose to purchase the same brand at another retailer across the border charging less.

**6. *Has the introduction of the Scheme Coordinator, Network Operator and other participant bodies in the CDS affected the competitive dynamic in the beverage market?***

LSA believes that an 'industry-run' Scheme Coordinator is the only stakeholder motivated to ensure both effectiveness *and* cost-efficiency. In this context, and given the experience, expertise, capability and commitment of Exchange for Change and its members, we believe that Exchange for Change was best placed to deliver the CDS and achieve Government's objectives of:

- Recognising the responsibility that the beverage industry shares with the community for reducing and dealing with waste generated by beverage product packaging; and
- The establishment of a cost effective State-wide CDS to assist the beverage industry to discharge that responsibility and to promote the recovery, reuse and recycling of empty containers.

With respect to the Network Operator, as previously indicated a key component of the NSW CDS is the utilisation of RVM, designed to accept empty containers for a refund voucher system, however small independently owned and operated retailers are concerned the RVM policies and mechanisms are having a significant and detrimental impact on their businesses.

*Note – refer to Key Consideration: NSW CDS Issues (pages 9 – 11) for context.*

Again, LSA believes that the RVM vouchers should be generic and redeemable at any shop or business that is willing to accept them.

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**7. *Do you agree with our proposed approach to monitoring complaints from customers and other scheme participants about the performance and conduct of suppliers in the beverage market?***

The nature of the CDS implies that there will be adverse price impacts or behaviours arising from the operation of the scheme.

The LSA agrees with IPART's proposed approach to monitoring complaints from customers and other scheme participants however would recommend that complaints coming from additional stakeholders – in particular retailers – are also important in this respect.

In addition, LSA would also recommend that IPART monitor complaints from customers, retailer and other scheme participants, concerning the Scheme Coordinator and Network Operator.

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**8. *Do you agree with our proposed criteria in section 5.4 for deciding whether to refer any behaviour or market outcomes that appear unfair or unjustified on consumers or scheme participants to the relevant regulator?***

In short, no the LSA does not agree with IPART's proposed criteria in section 5.4 for deciding whether to refer behaviour or market outcomes that appear unfair or unjustified on consumers or scheme participants to the relevant regulator.

As indicated above, the LSA is not convinced that this analysis will contribute to any reliable or meaningful conclusions, as it is already a given that price has been impacted as a result of the implementation of the CDS,

As such, we believe that IPART should adopt a more consultative approach with retailers in this instance, given the enormous financial and logistical challenges this CDS has imposed on the sector.