



Gladys Berejiklian MP
Premier of New South Wales

Reference: A2397294

09 FEB 2018

Dr Peter Boxall AO
Chairman
Independent Pricing and Regulatory Tribunal
PO BOX K35
HAYMARKET POST SHOP NSW 1240

Dear Dr *Peter,* Boxall

Thank you for your letter on 20 December 2017 outlining the result of public consultation on my request to the Independent Pricing and Regulatory Tribunal to monitor and report on the impact of the implementation of the NSW Container Deposit Scheme on beverage prices.

I have considered your request to revise the terms of reference to include monitoring and reporting on the effect of the Scheme on competition for beverages supplied in a container as well as the performance and conduct of suppliers. I am pleased to issue IPART with final terms of reference (attached)

This amendment is consistent with the focus of NSW Government to ensure the success of the CDS and to safeguard against potential risk that suppliers may seek to raise prices of beverages above the costs associated with the Scheme.

I look forward to a final report addressing all aspects of the attached terms of reference in December 2018.

Yours faithfully,

Gladys Berejiklian MP
Premier

cc: The Hon Gabrielle Upton MP, Minister for the Environment

Terms of Reference for IPART to monitor and report on matters relating to the Container Deposit Scheme

I, Gladys Berejiklian, Premier of New South Wales, under Section 12A of the *Independent Pricing and Regulatory Tribunal Act 1992*, request that the Independent Pricing and Regulatory Tribunal (IPART) monitor and report on the Container Deposit Scheme in accordance with these terms.

Task

IPART is to monitor:

1. the effect of the Container Deposit Scheme on prices of beverages supplied in a container;
2. the effect of the Container Deposit Scheme on competition for beverages supplied in a container and the performance and conduct of suppliers; and
3. any other market impacts on consumers that arise from the commencement of the Scheme, for the period from 1 November 2017 and 1 December 2018 (monitoring period)

IPART is to provide a report to the Premier and the Minister for the Environment regarding:

1. the effect of the Container Deposit Scheme on prices of beverages supplied in a container for the period from 1 November 2017 to 1 December 2018;
2. the framework for monitoring the Container Deposit Scheme including the behaviour of suppliers;
3. the effect of the Container Deposit Scheme on suppliers; and
4. any recommendations for actions by government to address any adverse effects or behaviours arising from the operation of the Scheme.

In undertaking the monitoring, IPART should have regard to:

1. any changes in prices of beverages before or after 1 November 2017 that purport to be in response to the Scheme;
2. any information provided by Scheme participants and consumers;
3. the behaviour of suppliers and major retailers before and after 1 November 2017 including whether beverage prices have increased beyond the amount suppliers are charged by the Scheme Coordinator;
4. the manner in which suppliers are recovering the costs of the Container Deposit Scheme; and
5. any other matters considered relevant.

Public consultation

IPART should undertake public consultation.

Timeframe

IPART is to release a progress report in April 2018 which provides a draft framework for the review and reports on the first three months of the Container Deposit Scheme. IPART is to provide a final report to the Premier and the Minister for the Environment in December 2018. The final report is to also recommend whether subsequent monitoring is necessary.

At any time during the monitoring period, if the Premier or the Minister for the Environment or IPART considers that any behaviour or market outcomes have arisen that appear unfair or unjustified on consumers or Scheme participants, IPART is to:

1. Investigate the matter immediately at its own discretion or on request from the Premier or the Minister, and
2. Provide an interim report to the Premier and the Minister as soon as practicable.

Definitions

Act means the *Waste Avoidance and Resource Recovery Act 2001*.

Beverage has the meaning given to the term under the Act.

Container has the meaning given to the term under the Act.

Container Deposit Scheme means the scheme established by the Act.

Scheme Coordinator has the meaning given to the term under the Act.

Scheme participant has the meaning given to the term under the Act.

Supplier means a supplier, as defined in the Act, who is required under the Act to enter into a supply arrangement with the Scheme Coordinator.



The Hon Gladys Berejiklian MP
Premier

Dated at Sydney *8/2/18* 2018