
Exposure Draft – Plastic Reduction Bill 2020 (ACT)

Submission by the Australian Packaging Covenant Organisation (APCO)

2 October 2020

1. APCO's role on single-use plastics

The Australian Packaging Covenant Organisation (APCO) welcomes the opportunity to provide a submission to the ACT Government on the *Exposure Draft Plastic Reduction Bill 2020*.

APCO is a not-for-profit organisation established to administer the Australian Packaging Covenant (the Covenant) on behalf of the Australian, State and Territory Governments, and its industry Signatories. The Covenant is part of a compulsory, co-regulatory product stewardship framework established under the *National Environment Protection Council Act 1994* and the *National Environment Protection (Used Packaging Materials) Measure 2011* (the NEPM) to reduce the harmful impact of packaging on the Australian environment.

At 30 June 2019, APCO had 1467 Members representing 153 different industry sectors across the packaging supply chain, including packaging manufacturers, brand owners, and retailers, with combined revenue in excess of \$360 billion. As Signatories to the Covenant, APCO's Members have committed to achieving the outcomes of the Covenant.

In 2018, these outcomes were given renewed expression and clarity through the adoption of the 2025 National Packaging Targets (2025 Targets), which are:

- 100% of packaging to be reusable, recyclable or compostable;
- 70% of plastic packaging recycled or composted;
- 50% average recycled content across all packaging, with specific targets for different materials; and
- Phase out problematic and unnecessary single-use plastic packaging through redesign, innovation or alternative delivery methods.

These targets were formally adopted as part of the Covenant framework on 1 January 2019, through their inclusion in APCO's Strategic Plan 2017-2022. On 8 November 2019, they were formally adopted by all governments as part of the National Waste Policy Action Plan. Each target covers all packaging made, used or sold in Australia, including business-to-business, consumer and imported packaging.

The 2025 Targets, particularly the target to phase out problematic and unnecessary single-use plastic packaging are aligned with the ACT Government's agenda on single-use plastics. APCO's Members and partners are engaged in a significant body of work on single-use plastics that is synergistic with the ACT's approach. In 2019, APCO undertook extensive analysis and consultation on single-use plastics, including through a national workshop in Adelaide in October,

and through a consultation paper on priorities for phasing out problematic and unnecessary single-use plastic packaging. In December, APCO published a list of priority materials and single-use packaging items for phase-out in a report, with priority given to:

- Expanded polystyrene (EPS) food and beverage service containers
- EPS packaging fill
- Non-certified compostable packaging (including oxo-degradable, landfill degradable or other claimed degradable plastics)
- Light weight plastic bags.

APCO's report also recommends the following packaging materials for further consideration:

- Rigid PVC packaging
- Rigid polystyrene
- Problematic multi-laminate soft plastics.

APCO's full report on its consultation on problematic and unnecessary single-use plastic packaging is available at <https://www.packagingcovenant.org.au/documents/item/3183>.

2. The co-regulatory framework for packaging in Australia

The Australian Packaging Covenant operates alongside the NEPM as part of a compulsory, co-regulatory framework established under Paragraph 14(1)(f) of the National Environment Protection Act, which provides for NEPMs to be made on 'the re-use and recycling of used materials'.

Under this framework, obligations are placed on liable parties, which are brand owners in the packaging supply chain with an annual turnover greater than \$5 million. There are three ways in which liable parties can acquit their obligations; by:

- Becoming a Signatory to the Covenant (these Signatories also become Members of APCO).
- Submitting to direct regulation by state and territory governments in relation to:
 - The recovery of used packaging materials.
 - The re-use, recycling or energy recovery of packaging materials.
 - Demonstrating that the recovered materials have been re-used or exported.
 - Demonstrating that reasonable steps have been taken to advise consumers as to how the packaging is to be recovered.
- Being part of an industry or sectoral arrangement that produces equivalent outcomes to those achieved under the Covenant.

Responsibility for enforcing the NEPM rests with the Commonwealth and State and Territory governments in relation to companies operating within their jurisdictions. APCO encourages the ACT Government to consider how its implementation of the NEPM could help drive plastic waste reduction and uptake of more sustainable packaging options, in alignment with both APCO's work to deliver on the 2025 Targets and the Plastic Reduction Bill.

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3. Comments on the draft Bill

APCO supports the approach to phasing out problematic and unnecessary single-use plastic items that the ACT Government has set out in the draft Bill.

List of items to be banned

APCO supports the inclusion of single-use expanded polystyrene containers and single-use plastic beverage stirrers and cutlery on the initial list of items to be banned under the legislation, and the inclusion of provision for other items to be added to the list of banned items over time.

Focusing on a small number of relatively straight forward items, with broad public support, will help businesses and the community to adjust to the legislation over time, while further work is done to overcome barriers and enable stakeholders to prepare for the addition of further items to the list over time.

We also support the provision to exempt certain products or persons from the ban on a single use plastic product.

Plastic items as part of packaging

We understand that the ACT Government intends that single-use plastic items that are part of a shelf-ready packaged product will be exempt from the ban in the first instance. While the draft Bill explicitly exempts expanded polystyrene containers that are part of sealed packaging (e.g. for noodles), it is silent on other plastic items that are part of sealed packaging, such as a yoghurt container with an attached plastic spoon. APCO suggests that such an exemption for attached items is appropriate, as further work is needed to identify opportunities to phase out these applications and work with national and international supply chains to identify alternative products. We therefore encourage the ACT Government to consider amending the Bill to make such an exemption, at this time, clear.

Definition of single-use

APCO notes that the definition in the draft Bill is different to the definitions legislated by South Australia and tabled in Queensland's legislation. While we would prefer a nationally consistent approach, we are aware that that is already beyond reach given the different approaches adopted by Queensland and South Australia. We urge all governments to work together to ensure that the definitions are applied consistently between all jurisdictions, and that this is supported through ongoing liaison between jurisdictions and development of consistent guidance materials for businesses.

Despite the differences with other jurisdictions' definitions, we consider the definition of 'single-use' in Section 7 to be quite clear. The inclusion of the phrase "designed or intended to be used once only" is preferable to merely considering whether the item is *designed* to be used once. The *intention* that the item be used only once may be more relevant to the context in which the item will be provided for use in the ACT, rather than having to determine whether the item was specifically designed, most likely in another country, to be used once only.

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The use of examples in section 7 to clarify the intent of the definition is welcome and effective, particularly the examples illustrating the concepts of ‘subsequent re-use’ and ‘multiple purposes’ and their inclusion within the definition of single-use.

Supporting measures

APCO considers that a legislative ban alone will not be sufficient to drive the behavior change that is needed to drive a broader phase-out of problematic and unnecessary single-use plastics. APCO encourages the ACT Government to continue to work on supporting programs, such as ongoing engagement with food service businesses, retailers and other businesses. We welcome the Government’s intention to establish plastic-free events in the ACT, and the inclusion of provision in the legislation to support this.

Exemption for compostable packaging

APCO notes that the draft Bill does not provide a general exemption for compostable plastics, other than for compostable plastic bags. In not exempting compostable plastics, the ACT Government is consistent with South Australia’s approach, but differs from Queensland.

We welcome the Bill’s reference to Australian Standards AS 4736 and AS 5810 as the standards against which claims of compostable plastic bags must be measured. We note that the legislation does not in the first instance require that compostable plastic bags be certified to these standards, but that the bags must be ‘designated’ compostable in relation to these standards. We encourage the ACT Government to establish a timeframe in which it expects that certification to Australian Standards will be in place for all compostable plastic bags, and to communicate that expectation to the market at its earliest convenience.

One challenge that the ACT Government will need to address in implementing the exemption for compostable bags is in addressing the impact of litter. The conditions occurring in industrial and home composting systems do not correspond with conditions in contexts where plastic litter occurs, such as waterways and highway verges, meaning that compostable plastic bags may behave in the same way as other plastic bags when littered. Therefore additional, complementary measures may be needed to address litter in some contexts, such as encouraging elimination of bags or use of non-plastic bags where there is a propensity for littering.

The Minister may wish to consider an exemption for compostable plastic items in some contexts for some items, particularly when the list of items is added to in future years. In particular, compostable food packaging and food service items can assist in the recovery of food waste for composting, where suitable consumer and business education, collection and composting systems are in place, such as events. APCO’s recent publication *Considerations for Compostable Packaging* provides information and guidance on the use of compostable packaging in niche situations, and is available at <https://www.packagingcovenant.org.au/documents/item/3222>.

Ongoing industry and community engagement

APCO welcomes the ACT Government’s ongoing engagement with industry bodies and community organisations through the ACT Plastic Reduction Taskforce. We encourage the Government to continue to work with stakeholders through this forum to support implementation of the legislation

and consideration of further, more complex single-use plastic items for potential inclusion under the legislation.

4. Conclusion

As the co-regulatory organisation charged with responsibility for managing the sustainable packaging pathway in Australia, APCO has a unique insight, ability and responsibility to support the objectives of the ACT Government to phase out problematic and unnecessary single-use plastic items. We look forward to working with the ACT Government and our other stakeholders to ensure that its objectives for single-use plastic items are achieved, both in relation to those items already identified and those more complex and challenging items to be considered over the coming years.

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