



Draft Determination and interim authorisation

**Application for authorisation AA1000695
lodged by
Soft Plastic Stewardship Australia Limited
in respect of
a voluntary product stewardship scheme for soft plastic packaging
Authorisation number: AA1000695**

11 August 2025

Summary

The ACCC proposes to grant authorisation with conditions to Soft Plastic Stewardship Australia Limited (SPSA) and other participants to engage in conduct relating to the establishment and operation of a voluntary industry-led product stewardship scheme for used soft plastic packaging.

The ACCC considers that the Proposed Conduct is likely to result in the following public benefits:

- environmental benefits due to diversion of soft plastics from landfill
- efficiencies through coordination and aggregation in the collection, transport, storage, sorting and/or processing of used soft plastics.

Based on current information, the ACCC does not consider that the Proposed Conduct is likely to result in a public benefit in the form of increased R&D and innovation to identify/develop end markets for recycled soft plastics.

The ACCC considers that the Proposed Conduct is likely to give rise to public detriment by foreclosing a rival soft plastic stewardship scheme's access to processing services. Accordingly, the ACCC proposes to include a condition requiring that SPSA does not enter exclusive contracts with processors, which the ACCC considers is necessary to reduce the likelihood of this public detriment arising.

The ACCC considers that the Proposed Conduct is unlikely to result in public detriment from increasing barriers to entry and expansion by service providers who do not win SPSA contracts or facilitating the sharing of commercially sensitive information and/or market sharing between competitors.

The ACCC proposes to include a condition of authorisation requiring SPSA to publish an annual report on key Scheme outcomes, to ensure transparency and public awareness of SPSA's operations and performance.

The ACCC has also granted interim authorisation to SPSA for the following aspects of the Proposed Conduct while the ACCC is considering the substantive application:

- setting, but not collecting, levies for the scheme
- arranging for services to implement and operate the scheme, including issuing requests for information and/or requests for proposals to, and negotiating (but not giving effect to) contracts with third parties
- sharing of operational information and data between SPSA and Coles, Woolworths and ALDI to allow SPSA to prepare to transfer arrangements for the current instore collection pilot program run as part of the Soft Plastics Taskforce chaired by the Department of Climate Change, the Environment, Energy and Water (Taskforce).

The ACCC proposes to grant authorisation for 8 years. The ACCC invites submissions in relation to this draft determination before making its final decision.

1. The application for authorisation

- 1.1. On 18 March 2025, Soft Plastic Stewardship Australia Limited (**SPSA**) lodged application for authorisation AA1000695 with the Australian Competition and Consumer Commission (the **ACCC**). SPSA is seeking authorisation on behalf of itself, its initial members and current and future participants of a voluntary industry-led product stewardship scheme (Scheme) for used soft plastic packaging for certain conduct relating to the Scheme for a period of 8 years.
- 1.2. This application for authorisation was made under subsection 88(1) of the Competition and Consumer Act 2010 (Cth) (the **Act**). If granted, an authorisation provides the relevant parties with protection from legal action under the specified provisions in Part IV of the Act in respect of the specified conduct. The ACCC has a discretion to grant authorisation, but must not do so unless it is satisfied in all the circumstances that the conduct would result, or be likely to result, in a benefit to the public and that benefit would outweigh the detriment to the public that would result, or be likely to result, from the conduct (ss 90(7) and 90(8) of the Act (the **authorisation test**)).

The Applicant

- 1.3. The Applicant is SPSA on behalf of itself and its initial members listed below. SPSA also seeks authorisation for any future members and current or future participants in the Scheme (**Scheme Participants**).
- 1.4. SPSA's initial members are:
 - ALDI Foods Pty Limited (**ALDI**)
 - Coles Group Limited and its related bodies corporate (**Coles**)
 - Woolworths Group Limited and its related bodies corporate (**Woolworths**)
 - Nestle Australia Ltd
 - Mars Australia Pty Ltd
 - McCormick Foods Australia Pty Ltd(collectively, the **Initial Members**).
- 1.5. SPSA and the Initial Members propose to establish a voluntary, industry-led product stewardship scheme, managed by SPSA, to focus on recycling used soft plastic packaging materials. The intention is that the Scheme will eventually have broad industry participation across retailers and consumer brands that supply products with soft plastic packaging.

- 1.6. SPSA is a not-for-profit entity. Scheme Participants are eligible to join SPSA as members but are not required to do so.

SPSA's board and governance

- 1.7. SPSA's board currently consists of the following members:
- Sandra Martinez, Nestle Australia Ltd
 - Laurie Kozlovic, Woolworths Group
 - Bill Heague, Mars Food Australia
 - Brooke Donnelly, Coles
 - Paris Golden, McCormick Foods.¹
- 1.8. SPSA's constitution provides that the board must have a minimum of 4 directors, and a maximum of 10 directors, with the board to be made up of:
- up to 3 proprietary brand owner directors
 - up to 3 retail brand owner directors
 - up to 1 industry association proprietary brand owner director
 - up to 1 industry association retail brand owner director
 - up to 2 independent directors.²
- 1.9. SPSA is proposing to establish a Stakeholder Advisory Council, comprising up to 12 representatives from groups such as processors, recyclers, government agencies, environmental non-governmental organisations, consumer groups, brand owners, retailers, academics and independent experts. The Stakeholder Advisory Council will also include a nominated director from the SPSA board.³

The Proposed Conduct

- 1.10. On 3 June 2025 and 22 July 2025 SPSA varied the description of the proposed conduct for which authorisation is sought.⁴
- 1.11. SPSA is seeking authorisation for the following conduct:

¹ SPSA, [Board and governance](#), SPSA website, accessed 21 July 2025.

² SPSA, [Application for authorisation](#), ACCC, 18 March 2025, Schedule 4: SPSA Constitution, p 68.

³ SPSA, [Application for authorisation](#), ACCC, 18 March 2025, p 24.

⁴ SPSA, [Amendment to application \(interim authorisation\)](#), ACCC, 3 June 2025; SPSA, [Amendment to description of proposed conduct](#), ACCC, 22 July 2025.

- SPSA setting and collecting, and the Scheme Participants agreeing to pay, the Scheme Levy⁵ and Minimum Levy,⁶ which may be passed on by a Scheme Participant as part of their price and may be eco-modulated in the future
- SPSA developing, setting and imposing membership terms and conditions and Scheme Participants agreeing to these terms and conditions
- agreements between SPSA and each of Coles, Woolworths and ALDI (being members of the Taskforce)⁷ (as required) to allow SPSA to take over and expand on the instore collection program being run by the members of the Taskforce including transferring arrangements with service providers to SPSA
- the sharing of operational information and data between SPSA and Coles, Woolworths and ALDI (being the members of the Taskforce) (as required) to facilitate SPSA's operations, including to transfer the arrangements for the Taskforce instore collection program run by Coles, Woolworths and ALDI to SPSA
- SPSA arranging for and acquiring services to implement and operate the Scheme, including by entering into and giving effect to contracts with third parties for the collection, transport, sortation, storage, processing and recycling of used soft plastics and third-party services for invoicing, collecting and managing and auditing packaging data
- SPSA and Scheme Participants discussing and agreeing communications to consumers and the public in relation to the Scheme, including marketing and educational activities
- SPSA and APCO⁸ sharing market analysis, modelling, research and packaging placed on market data and agreeing communications to APCO members for the purpose of the Scheme

(the **Proposed Conduct**).

1.12. SPSA is seeking authorisation for 8 years.

1.13. SPSA has also requested interim for a subset of the conduct. The request for interim authorisation is considered further in section 6.

Rationale for Scheme design

1.14. SPSA intends to bring together retailers and consumer brand owners that supply products with soft plastic packaging to reduce the volumes of soft plastics being

⁵ Scheme Levy means the amount payable per tonne of business-to-consumer soft plastic packaging placed on market by a Scheme Participant, where the Scheme Participant is not eligible to pay the Minimum Levy. The SPSA Board will determine the Scheme Levy by dividing the total anticipated Scheme costs for the relevant year by the total tonnes of soft plastic packaging placed on the market by Scheme Participants in the previous calendar year. SPSA, [Application for authorisation](#), ACCC, 18 March 2025, p 18.

⁶ Minimum Levy means the amount payable by a Scheme Participant where the annual packaging placed on market by a relevant Scheme Participant is below a certain threshold. At Scheme commencement, it is proposed that the minimum levy will be \$1,600 for Scheme Participants that place less than 10 tonnes of soft plastic packaging on the market per annum. SPSA, [Application for authorisation](#), ACCC, 18 March 2025, p 20.

⁷ 'Taskforce' refers to the Soft Plastic Taskforce formed when REDcycle collapsed. See paragraphs 2.4-2.8 for more information.

⁸ APCO is the Australian Packaging Covenant Organisation. See paragraphs 2.14-2.18 for more information.

disposed of in landfill and increasing collection and recycling rates, developing domestic soft plastic recycling capacity and end markets.

How the Scheme will work

1.15. The Scheme initially intends to focus on business-to-consumer soft plastic packaging, such as shopping bags, fresh produce bags and food wrappers, bags and pouches.⁹ SPSA submits that the Scheme may expand in the future to include business-to-business plastic materials such as commercial and industrial shrink and pallet wrap.¹⁰

1.16. SPSA has provided the following list of packaging which will initially be in scope of the Scheme:

Figure 1: SPSA application, schedule 3: Soft Plastic Packaging

In-Scheme Packaging	Out-of-Scheme Packaging
<p>Soft plastics or flexible plastics that can be scrunched into a ball, such as:</p> <ul style="list-style-type: none"> • Shopping bags; • Fresh produce bags; • Food wrappers, bags and pouches; • Lidding film; • Over-wrap; • Cling film; • Sandwich bags; • Bags and wrap for clothing, household goods, and hardware etc; • Postal bags; • Bubble wrap; • Plastic sleeves intended to be removed by the consumer; and • Multipack wrap (ie, plastic wrap used to group multiple sales units intended to be taken home by the consumer). 	<p>Business-to-business packaging and soft plastic labels, such as:</p> <ul style="list-style-type: none"> • Plastic labels on rigid packaging (such as plastic, glass or cardboard packaging); • Stickers on fresh produce; • Shrink wrap or pallet wrap, including shrink wrap used for shelf-ready packaging intended to be removed by the retailer prior to sale; • Packaging on Products being exported from Australia; and • Pre-consumer / waste packaging at factories.

Source: SPSA, [Application for authorisation](#), 18 March 2025, Schedule 3.

1.17. SPSA submits that it is intended that the Scheme will include a range of collection channels for in-Scheme soft plastics such as both instore and kerbside collections and the potential for drop off facilities.

⁹ Business-to-consumer soft plastic packaging is defined by APCO as ‘Packaging used for the containment, protection, marketing, or handling of product where the end-customer, prior to the packaging reaching end-of life, is a consumer (i.e., a person). Includes the primary packaging that is sold to end-consumer, and possibly some secondary packaging, but excludes any B2B packaging that is part of the packaging system.’ Business-to-business packaging is defined by APCO as ‘Packaging used for the containment, protection, or handling of product where the end-customer, prior to the packaging reaching end-of-life, is a business or institution. Typically includes the secondary and tertiary packaging that is used to move products between businesses prior to sale to end-consumers but can also include primary packaging if the business is the end-user.’ APCO, [Australian packaging consumption & recovery data 2022-23, version 1: December 2024](#), APCO, accessed 29 July 2025.

¹⁰ SPSA, [Application for authorisation](#), ACCC, 18 March 2025, p 11.

- 1.18. It is intended that the existing instore collection program operated by Coles, Woolworths and ALDI in various stores in NSW, Victoria and Queensland will be transferred to SPSA to manage. SPSA submits that its intention is to expand instore collections as the Scheme matures.
- 1.19. At the time of lodging the application, SPSA proposed to take over the kerbside collection pilot programs run by the Australian Food and Grocery Council (**AFGC**) through the National Plastics Recycling Scheme. On 3 June 2025, SPSA wrote to the ACCC to advise that the AFGC was ending the National Plastics Recycling Scheme pilot program.¹¹ SPSA advised it intends to enter new contracts with National Plastics Recycling Scheme service providers for the operational continuity of the kerbside pilots and amended the conduct for which (interim and substantive) authorisation is sought to remove references to the AFGC kerbside collection pilot program.
- 1.20. Under these new contracts, where councils participate in kerbside collections, SPSA will fund the costs incurred in implementing and operating kerbside collections, including providing information in kerbside 'starter packs' and incremental education, transport and sortation costs.¹²

Funding

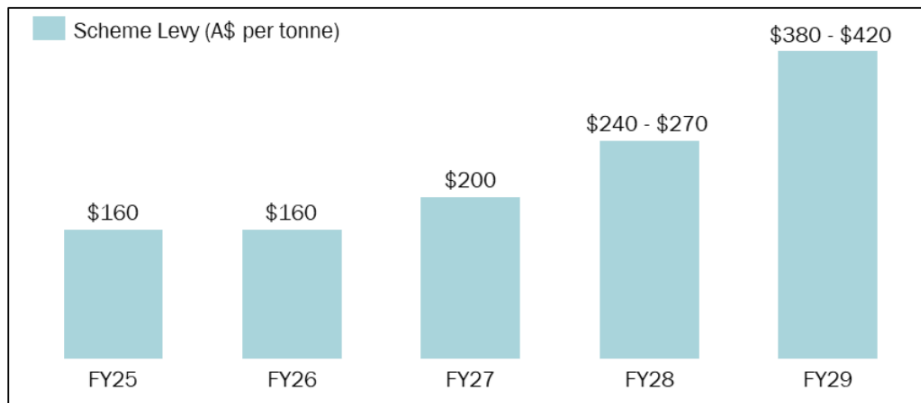
- 1.21. It is intended that the Scheme will be primarily funded through a Scheme Levy, to be paid by all Scheme Participants. SPSA is proposing a Minimum Levy for certain eligible Scheme Participants, which is discussed further below.
- 1.22. SPSA's board will determine the Scheme Levy prior to the end of each financial year. SPSA's board can amend the levy at any time, provided that a minimum of 3 months' prior notice is provided to Scheme Participants.
- 1.23. The levy will be calculated by dividing the total anticipated Scheme costs for the relevant year by the total tonnes of soft plastic packaging placed on the market by Scheme Participants in the preceding calendar year. 'Placed on the market' means the first time the material is sold to an Australian wholesaler or retailer. Levies are only to be paid by manufacturers or 'first suppliers.' Retailers are only liable to pay the Scheme Levy on their own brand products that use soft plastic packaging.¹³
- 1.24. The initial Scheme Levy will be \$160 per tonne of soft plastic packaging placed on the market. The Scheme Levy is projected to increase as shown in figure 2.

¹¹ SPSA, [Amendment to application \(interim authorisation\)](#), ACCC, 3 June 2025.

¹² SPSA, [Response to ACCC request for further information](#), ACCC, 20 June 2025, pp 6-7.

¹³ SPSA, [Application for authorisation](#), ACCC, 18 March 2025, p 18.

Figure 2: estimated Scheme Levy (FY25-FY29)



Source: SPSA, [Application for authorisation](#), 18 March 2025, figure 5, p 18.

- 1.25. Scheme Participants who place 10 tonnes or less of soft plastic packaging on the market will be eligible to pay a minimum levy, initially \$1,600 per annum.
- 1.26. SPSA submits that the intention in the future is that levies may be eco-modulated to incentivise design for recyclability and increased use of recycled content in packaging. SPSA also submits that eco-modulated levies would assist industry in preparing for any mandatory regulation of packaging design and minimum recycled content standards.¹⁴
- 1.27. SPSA submits that each Scheme Participant can independently decide whether to pass the levy cost on through the supply chain, such as through inclusion in supplier invoices or in a bill of materials.
- 1.28. If the levy is passed on through the supply chain, SPSA submits that the (price) impact would be minimal. Figure 3 shows SPSA's table indicating the potential impact of the levy on various food and grocery products which use soft plastic packaging.

¹⁴ Eco-modulation involves taking into account the environmental impact of packaging placed on the market, to incentivise packaging which promotes better environmental outcomes, such as sustainable packaging design.

Figure 3: Potential Scheme Levy impact at \$160/tonne (individual food and grocery products)

Packaging item examples	Packaging item examples – indicative price ranges	Packaging weight range	Estimated Levy per item
Small snack foods (eg, chocolate bars)	\$2-3	0-90 grams	≤1 cent
Frozen vegetables; rice; cheese; pasta	\$3-11		
Medium dry pet food (1.8kg); protective film from sectors including department and discount stores, fashion, hardware, nursery, automotive, homewares, whitegoods and electrical.	\$11-20+		
Large dry dog food bags (8-12kg); protective film from sectors including department and discount stores, fashion, hardware, nursery, automotive, homewares, whitegoods and electrical.	\$35-100+	90-180 grams	1-3 cents

Source: SPSA, [Application for authorisation](#), 18 March 2025, Table 2, p 19.

- 1.29. SPSA proposes a payment of \$16 million to be set-off against the levy contributions of Coles and Woolworths over an 8 year period (**REDcycle Stockpile Cost Set-off**). SPSA submits the payment is intended to cover some of the costs relating to the remediation of the stockpile of soft plastics left after REDcycle’s return-to-store soft plastics collection program ended (see paragraphs 2.4-2.8). These costs include those incurred by Coles and Woolworths to date and costs through to completion of processing of the REDcycle stockpiled materials.¹⁵ SPSA submits that the REDcycle Stockpile Cost Set-off value will increase over time so as to share the costs more equitably as the Scheme acquires more participants. Whilst the terms of that payment are still under discussion, SPSA submits that among other things, Coles and Woolworths must remain Scheme Participants for the duration of 8 years. If Coles or Woolworths cease to be a Scheme Participant at any time during the 8 years, they will not receive the REDcycle Stockpile Cost Set-off for the year(s) they are not Scheme Participants.¹⁶
- 1.30. SPSA submits that it may also seek funding from other sources, such as federal and state governments.

Estimated soft plastic collection volumes

- 1.31. SPSA estimates the Scheme will collect and recycle in the range of <1% to 4-5% of the volume of business-to-consumer soft plastic packaging placed on the market over an 8-year period under a ‘base case’ scenario. SPSA expects all business-to-consumer soft plastic packaging to fall within the scope of its Scheme.¹⁷ In terms of estimated

¹⁵ SPSA, [Application for authorisation](#), ACCC, 18 March 2025, p 21.

¹⁶ SPSA, [Response to ACCC request for information dated 15 July 2025](#), ACCC, 21 July 2025.

¹⁷ SPSA, [Response to ACCC request for further information](#), ACCC, 20 June 2025, p 14.

volumes collected and recycled, SPSA estimates for each financial year the Scheme operates are extracted in figure 4.

Figure 4: Scheme collection and recycling base case range (tonnes) as a percentage of total soft plastic packaging placed on market (business-to-consumer) FY25-FY33

	FY25	FY26	FY27	FY28	FY29	FY30	FY31	FY32	FY33
Tonnes	<500	1,500 -	4,000 -	6,500 -	11,000 -	15,500 -	16,500 -	18,000 -	19,000 -
		2,000	6,000	9,000	14,000	18,500	19,500	22,000	23,000
% of soft plastic packaging placed on market	<1%	<1%	1-2%	2%	3%	4%	4%	4-5%	4-5%

Source: SPSA, [Response to ACCC request for further information](#), 20 June 2025, schedule 3, figure 1.

Targets and reporting

- 1.32. SPSA submits that it will set both annual and long-term targets for the Scheme. These targets include the volume of recovered recyclable material, expansion of soft plastics processing and recycling capacity and expansion of the number and geographic coverage of collection points.
- 1.33. SPSA submits that it will publish an annual report for the Scheme on its website which will include the following, as a minimum:
- SPSA’s progress towards its annual targets
 - the number of Scheme Participants
 - information about SPSA’s recycling partners, such as the number of collectors and recyclers involved in the Scheme
 - number of collection points and geographic coverage of collection points
 - volume of soft plastics collected and sent to processors
 - total levy funds collected
 - breakdown of Scheme expenditure
 - an explanation of how the funds spent are contributing to the Scheme’s objectives
 - total aggregate volume of processed materials sent to end markets (by sector)
 - information regarding newly generated end markets and development of existing end markets.
- 1.34. Quarterly reports will also be provided to Scheme Participants and published on SPSA’s website. These reports will provide an update on Scheme operations, as well as the volume of packaging recovered in the relevant period.
- 1.35. SPSA will provide audited annual financial statements to SPSA Scheme Participants.

Administrative obligations placed on Scheme Participants

- 1.36. SPSA's proposed scheme agreement places the following administrative obligations on Scheme Participants:
- provide SPSA with an annual packaging report of packaging placed on the market for the scheme participant's group, which includes subsidiaries.¹⁸ This report must be in a form required by SPSA
 - payment of the Scheme Levy when due
 - adhere to Scheme advertising and branding guidelines
 - comply and cooperate with any audit initiated by SPSA, including providing information as required
 - keep proper and accurate records for the period they are a Scheme Participant, as well as 3 years after they cease to be a Scheme Participant.

Independent review

- 1.37. SPSA intends that an independent, external consultant will conduct a review of the operation of the Scheme in the 3rd and 7th years of the Scheme's operation. The review must be completed within 6 months and SPSA submits that a report will be published on SPSA's website outlining the following matters, at a minimum:
- the success of the Scheme in meeting its annual targets
 - the level of industry participation in the Scheme
 - quality of data collected under the Scheme
 - financial transparency
 - recommendations for any improvements to the Scheme's operations.

2. Background

Soft plastics recycling in Australia

- 2.1. SPSA, citing APCO data, submits it is estimated that in 2022-2023, approximately 540,000 tonnes of soft plastic packaging (business-to-business and business-to-consumer) was placed on the market. Of which only 6%, or 34,000 tonnes, was recovered.¹⁹ SPSA, citing APCO data, estimates 70% of the soft plastics placed on the market is business-to-consumer.²⁰

¹⁸ New Scheme Participants are required to submit their first packaging report within 60 days of registering as a Scheme Participant.

¹⁹ SPSA, [Application for authorisation](#), ACCC, 18 March 2025, p 7.

²⁰ SPSA, [Response to ACCC request for further information](#), ACCC, 20 June 2025, p 14.

- 2.2. SPSA estimates over the term of the authorisation business-to-consumer soft plastic placed on the market will grow from 370,000-400,000 (tonnes) in FY25 to 470,000-515,000 (tonnes) in FY33.²¹
- 2.3. Recycling of soft plastic packaging requires the collection, transportation, sorting, storage and processing of the used product. In relation to these activities, the ACCC understands that:
- There is currently limited collection of used soft plastics from households in Australia. Pilot kerbside collection programs in 9 local government areas occurred under contracts managed by the AFGC.²² Other smaller kerbside collection programs initiatives exist, such as Curby.²³ The only instore collection of used soft plastics in Australia is managed by the Taskforce, relying on conduct authorised by the ACCC until July 2026.²⁴
 - Used soft plastic packaging is prone to contamination from food and often contains a mix of materials. This impacts the quality of the feedstock available to processors. Due to plastic packaging's diverse composition and remaining residues multiple sorting steps are needed.²⁵ Sorting of soft plastics occurs at multiple stages in the process, including households/consumers, material recovery facilities, and processors.²⁶
 - Processors generally are paid by suppliers of soft plastic feedstock to take used soft plastic feedstock and process it into soft plastic material. The gate fee that suppliers pay the processor may be reduced in situations where the processor takes ownership and sells the processed product.
 - The 2 main technologies used for processing of soft plastics are mechanical and chemical.
 - In mechanical processing, typically, waste soft plastics are sorted by polymer type, chopped, washed, and melted into granulates²⁷ (though there can be different combinations of processes).²⁸ All soft plastic processing facilities currently operating in Australia are mechanical.
 - 'Advanced' mechanical processing has additional steps, for example multiple sorting steps assisted by advanced technology, and additional cleaning.²⁹

²¹ SPSA, [Response to ACCC request for further information](#), ACCC, 20 June 2025, p. 14 and Schedule 3, figure 1.

²² Councils in NSW, Vic and SA are taking part in the NRPS trials. SPSA, [Current pilot programs run by the Soft Plastics Taskforce and NPRS](#), SPSA, December 2024, accessed 25 July 2025. These contracts were due to end in July 2025 and will not be renewed by AFGC.

²³ Curby, [Soft plastics](#), Curby, n.d., accessed 31 July 2025.

²⁴ DCCEEW, [Reform of packaging regulation: consultation paper](#), DCCEEW, 2024, accessed 24 July 2025.

²⁵ Rumetshofer T, Fischer J. Enhancement in Post-Consumer Mechanical Recycling of Plastics: Role of Design for Recycling, Specifications, and Efficient Sorting of Packaging Material. *Polymers (Basel)*. 2025 Apr 25;17(9):1177. doi: 10.3390/polym17091177. PMID: 40362962; PMCID: PMC12073763.

²⁶ In the recent kerbside collection trials soft plastics were sorted from other materials at material recovery facilities, having first been sorted and bagged by households. Australian Food and Grocery Council, [NPRS trials review \[PDF\]](#), 11 April 2024, p 32.

²⁷ CSIRO, [Advancing recycling technologies to address Australia's plastic waste](#), CSIRO, 25 August 2021, accessed 30 July 2025.

²⁸ Sorting and shredding/granulation; sorting, shredding/granulation and pelletising; sorting, shredding/granulation and product manufacture; compaction and extrusion; compaction, extrusion and product manufacturing. DCCEEW, *Blue environment Pty Ltd Australian Plastics Flows and Fates Study 2021–22 – National Report* version 4, DCCEEW, 18 June 2024 p 107.

²⁹ Standard mechanical recycling process and advanced mechanical recycling process. TOMRA, [Advanced mechanical recycling at a glance \[PDF\]](#), TOMRA, n.d., accessed 31 July 2025 p 2. Examples of technology in advanced mechanical processing: rotating drum sieve, infrared, density based float-sink separator, air separators. Rumetshofer T, Enhancement in Post-Consumer Mechanical Recycling of Plastics: Role of Design for Recycling, Specifications, and Efficient Sorting of Packaging Material.

Advanced mechanical processing generally produces higher grades of plastic material when compared to standard mechanical processing.³⁰

- In terms of processing output, high grade plastic material from mechanical processing can be made into food grade plastic, if it is subject to chemical processing.³¹ Medium grade plastic material can be recycled into non-food grade film, including agricultural plastics and builders film.³² Other mechanical processing converts mixed soft plastic into a lower grade material which is used as an input into industrial or building materials. Not all products made with lower or medium grade plastic material replace virgin plastic (e.g. benches, bollards and sleepers can be made from wood).
- iQRenew is an advanced mechanical processor operating in NSW, with capacity to process 14,000 tonnes of soft plastic material annually.³³ There are a number of other mechanical processors in Australia, primarily in Victoria and NSW.³⁴ Generally, these processors do not process large volumes of soft plastics. Some are processing the stockpile being managed by the Taskforce.³⁵ Others are developing new advanced mechanical processing capacity supported by the Recycling Modernisation Fund.³⁶
- Chemical recycling changes the chemical structure of the plastic material, enabling it to eventually be transformed into other material or sometimes back into plastic.³⁷ Chemical processing facilities are capable of producing resin pellets for use in the manufacture of commercial food grade soft plastic packaging and products.³⁸ However, they require sufficient volumes of high quality soft plastic feedstock to sustain a commercial operation. Soft plastic feedstock is generally processed mechanically (graded and sorted) before chemical processing.³⁹
- There are currently no chemical processing facilities operating in Australia.⁴⁰
- Additional Australian based chemical processing capacity is projected.
 - For example, the expected commissioning of a joint project for 50,000 tonnes chemical recycling by Viva Energy Australia and Cleanaway.⁴¹ In its own submission Viva Energy submits this project is the only project that could deliver a sovereign end-to-end solution transforming soft plastics waste into new food grade recycled soft plastic packaging at scale. However, Viva's

³⁰ Rumetshofer T, Enhancement in Post-Consumer Mechanical Recycling of Plastics: Role of Design for Recycling, Specifications, and Efficient Sorting of Packaging Material.

³¹ iQRenew, [Post-consumer soft plastic products](#), iQRenew, n.d., accessed 31 July 2025.

³² SPSA, [Application for authorisation](#), 18 March 2025, p 7.

³³ iQRenew, [iQRenew submission](#), ACCC, 9 April 2025.

³⁴ DCCEEW, Australian Plastics Flows and Fates Study 2021–22, p 111.

³⁵ 'Smaller volumes are being handled by Replas, CRDC, and SaveBoard.' Supermarket Soft Plastics Taskforce meeting, [Minutes, 29 May 2025](#), p 2.

³⁶ 'Close the Loop received \$2.35 million to set up an advanced mechanical recycling facility in south-west NSW. It will process 4,400 tonnes of mixed post-consumer soft plastics a year, creating plastic pellets to make bins, shipping pallets, crates, tubs and sound walls, and an engineered asphalt additive called TonerPlas.' DCCEEW, [Joint media release: Soft plastics recycling in NSW gets major new investment](#), DCCEEW 4 December 2024. Accessed 30 July 2025; SPSA, [Response to interested party submissions](#), p 10.

³⁷ CSIRO, *Advancing recycling technologies to address Australia's plastic waste*, p 2.

³⁸ Viva Energy, [Viva Energy submission 22.04.2025](#), ACCC, 22 April 2025, p 2.

³⁹ SPSA, [Response to interested party submissions](#), ACCC, 12 June 2025, p 14.

⁴⁰ SPSA, [Response to interested party submissions](#), ACCC, 12 June 2025, p 14.

⁴¹ SPSA, [Response to ACCC request for further information](#), ACCC, 20 June 2025, p 20.

submission appears to caution against factoring this capacity into the proposed Scheme.⁴²

- Australian Paper Recovery (3,500 tonnes of soft plastics per annum) is scheduled for commissioning in September 2025.⁴³

The Soft Plastics Taskforce

- 2.4. REDcycle was a return-to-store soft plastics collection program that partnered with major supermarket to provide collection points for consumers to return used soft plastic packaging to stores for collection and recycling.
- 2.5. On 8 November 2022 REDcycle announced the indefinite suspension of its program and later entered into administration. Approximately 11,000 tonnes of collected used soft plastics were found to have been stockpiled by REDcycle prior to its collapse.
- 2.6. On 16 November 2022, Coles, Woolworths and ALDI applied to the ACCC for authorisation to collaborate to investigate options for a return to instore collections of soft plastics and to manage the legacy REDcycle stockpile as part of a Taskforce chaired by the Department of Climate Change, the Environment, Energy and Water (DCCEEW). The ACCC granted interim authorisation on 25 November 2022. Final authorisation AA1000627 was granted with conditions on 30 June 2023 until 22 July 2024.⁴⁴
- 2.7. On 24 June 2024, Coles Woolworths and ALDI applied to the ACCC to revoke authorisation AA1000627 and substitute new authorisation AA1000673. The ACCC granted authorisation AA1000673 on 25 February 2025, with conditions, until 31 July 2026. Authorisation AA1000673 is limited to conduct associated with the continued processing of the legacy REDcycle stockpiles and the instore collection pilot programs. Pursuant to a condition of the authorisation, minutes of meetings and progress reports are uploaded to the ACCC's public register.⁴⁵
- 2.8. The ACCC understands that instore collections are currently operating at approximately 505 Woolworths stores across NSW, Victoria and Queensland,⁴⁶ 5 Coles stores in Victoria and approximately 19 ALDI stores in NSW and Victoria.⁴⁷

⁴² 'We remain concerned about the view in the market that we will be the off-takers to any number of proposed plastic pyrolysis plants. As we have outlined above, the protection of the Geelong refinery as a critical asset for Australia's fuel and national security is paramount so the product quality of any PPO used needs to be assured. We currently have an exclusivity agreement with Cleanaway to develop our project, so the ACCC and any scheme design needs to be cautious about claims that our refinery will be an off-taker from other industries.' ACCC, [submission by Viva Energy 22.04.2025](#), ACCC, 22 April 2025.

⁴³ Australian Paper Recovery, [Australia Paper Recovery Pty Ltd submission](#), ACCC, 10 April 2025.

⁴⁴ ACCC, [Determination application for revocation of authorisation AA1000627 and substitution of authorisation AA1000673](#), ACCC, 27 February 2025.

⁴⁵ Further information is available on the ACCC's public register for authorisations [AA1000627](#) and [AA1000673](#).

⁴⁶ Woolworths, [Soft Plastics Recycling Trial](#), Woolworths, accessed 31 July 2025.

⁴⁷ Soft Plastics Taskforce, [Condition 2 Progress Report](#), ACCC, 22 April 2025; Soft Plastics Taskforce, [Condition 2 Progress Report](#), ACCC, 22 July 2025.

The current regulatory framework

- 2.9. The current co-regulatory arrangement in Australia for managing packaging waste comprises:
- National Environment Protection (Used Packaging Materials) Measure 2011 (**the NEPM**)
 - the Australian Packaging Covenant (**the Covenant**).
- 2.10. The NEPM aims to reduce environmental degradation from the disposal of used packaging and conserve virgin materials through encouraging re-use and recycling of used packaging.⁴⁸ The definition of consumer packaging under the NEPM includes all packaging for the containment, protection, marketing or handling of consumer products and includes distribution packaging.⁴⁹ Soft plastics are just one of the types of packaging governed by the NEPM.
- 2.11. Brand owners that have an annual turnover of \$5 million or more and that are consumers of packaging or packaged products are required to:
- become a signatory to the Covenant and a member of Australian Packaging Covenant Organisation (**APCO**); or
 - report to state and territory governments under the NEPM.
- 2.12. The NEPM also provides that businesses may be deemed compliant with their obligations under the NEPM by participating in another initiative such as a product stewardship scheme that produces the same outcomes as they would achieve as an APCO member.⁵⁰
- 2.13. State and territory governments implement and enforce the NEPM separately.⁵¹ Other than the Northern Territory, all state and territories have enacted legislation to give effect to the NEPM in their jurisdictions.⁵² Requirements, such as reporting obligations and penalties for non-compliance vary between jurisdictions.⁵³

The Covenant and APCO

- 2.14. The Covenant is a voluntary industry-led packaging product stewardship scheme for consumer packaging administered by APCO.
- 2.15. As administrator of the Covenant, APCO's primary responsibilities include:
- reporting to environment ministers, including:

⁴⁸ National Environment Protection Council (NEPC), [National Environment Protection \(Used Packaging Materials\) Measure](#), NEPC, 25 October 2022, accessed 24 July 2025.

⁴⁹ National Environment Protection Council (NEPC), [National Environment Protection \(Used Packaging Materials\) Measure](#), NEPC, 25 October 2022, accessed 24 July 2025.

⁵⁰ DCCEEW, [Taking responsibility for our packaging](#), DCCEEW, 2 August 2023, accessed 29 July 2025. See also s11 of the NEPM.

⁵¹ *National Environment Protection (Used Packaging Materials) Measure 2011*, section 9.

⁵² DCCEEW, [Taking responsibility for our packaging](#), DCCEEW, 2 August 2023, accessed 24 July 2025.

⁵³ Matthew Peggs Consulting Pty Ltd, [Review of the co-regulatory arrangement under the National Environment Protection \(Used Packaging Materials\) Measure 2011 final report](#), MP Consulting, September 2021, p 23.

- a 5 year strategic plan, including level of financial investment, or any significant amendments to that plan
 - a statement of intent every 2 years identifying how APCO intends to deliver on the strategic plan during that period
 - monitoring and evaluation of the performance of the Covenant, including collecting data against key performance targets under the strategic plan
 - managing and amending sustainable packaging guidelines
 - collecting membership fees
 - managing projects which have been funded under the Covenant
 - compliance activities such as auditing of signatories and members and managing complaints and providing support to signatories to fulfill their obligations under the Covenant
 - publication of reports on the Covenant's performance, annual reports of signatories and action plans.⁵⁴
- 2.16. APCO brand owner members are subject to a range of administrative and reporting obligations under the Covenant, including:
- paying a membership fee to APCO, which is currently calculated based on turnover
 - preparing and publishing an annual action plan against the aims of the Covenant
 - taking steps towards the aims of the Covenant, such as reducing litter, establishing collection and recycling programs for used packaging materials and buying recycled products.⁵⁵
- 2.17. On 19 August 2024, APCO released its 2030 Strategic Plan. Among other things, APCO's Strategic Plan proposes that APCO introduce eco-modulated membership fees. APCO's 2030 Plan also contemplates APCO engaging service providers, including entering contracts with extended producer responsibility schemes to provide funding for activities to achieve outcomes promoted by the Covenant.⁵⁶
- 2.18. On 6 June 2025, APCO announced that based on consultation feedback, it would maintain its current fee structure for financial year 2027 and take additional time to refine its model in collaboration with members and citing emerging regulatory settings.⁵⁷ APCO is required to provide its Strategic Plan to environment ministers for endorsement and as at APCO and SPSA's joint submission (9 May 2025) this had not yet occurred.⁵⁸

Reforming packaging regulation

- 2.19. The Australian Government has publicly supported reform of Australia's existing packaging regulations.

⁵⁴ DCCEEW, [Australian Packaging Covenant 2017](#), DCCEEW, 2017.

⁵⁵ APCO, [Covenant Obligations](#), ACPO, accessed 29 July 2025.

⁵⁶ APCO, [2030 strategic plan](#), APCO, 15 August 2024, pp 23-24.

⁵⁷ APCO, [Consultation on a strengthened industry-led EPR approach for packaging](#), APCO, 6 June 2025, accessed 29 July 2025.

⁵⁸ APCO, [2030 strategic plan](#), APCO, 15 August 2024, p 4.

- 2.20. In October 2024, DCCEEW sought feedback on 3 potential options for reforming Australia’s packaging regulations:
- option 1- strengthening administration of the current co-regulatory arrangement
 - option 2- National mandatory requirements for packaging
 - option 3- an extended producer responsibility scheme for packaging.
- 2.21. In February 2025, DCCEEW released a summary of the feedback received in response to the consultation on packaging reform. Over 80% of respondents preferred Commonwealth regulation of packaging (option 2) and 65% supported option 3.⁵⁹
- 2.22. DCCEEW has indicated that further consideration of packaging reform will continue. No time frame has been provided.

3. Consultation

- 3.1. The ACCC invited submissions from a range of potentially interested parties including major competitors, suppliers, customers, relevant industry associations or peak bodies, consumer groups, state and federal government and relevant regulatory bodies.
- 3.2. The ACCC received 59 submissions from interested parties in relation to the application, including a joint submission from SPSA and APCO. Where relevant, submissions are considered in further detail in the ACCC’s assessment below.
- 3.3. Public submissions by SPSA and interested parties are on the [public register](#) for this matter.

Interested party submissions

Local government

- 3.4. Numerous submissions from local governments were received in support of the Proposed Conduct, from councils who are or will be participating in the National Plastics Recycling Scheme trials including from **HalveWaste**,⁶⁰ **City of Ballarat**, **Murray River Council**, **City of Adelaide**, **Goondiwindi Regional Council**, **City of Port Adelaide Enfield**, **Albury City Council** and **Wagga Wagga City Council**, **Leeton Shire Council**, **Central Adelaide Waste and Recycling Authority** and **Berrigan Shire Council**. These submissions cite the high level of participation from residents and strong community engagement of the pilots and support both interim and final authorisation.
- 3.5. The **Western Australian Local Government Association** represents all 139 local governments in Western Australia. Whilst the Western Australian Local Government

⁵⁹ DCCEEW, [Reform of packaging regulation: Consultation summary](#), DCCEEW, February 2025, accessed 24 July 2025.

⁶⁰ An initiative founded by Albury City Council, City of Wodonga, Federation Council and the Shires of Greater Hume and Indigo.

Association supports in principle the development of a product stewardship scheme for post-consumer soft plastics, it has significant concerns about the voluntary nature of the Scheme, the status of processing infrastructure, end markets and the inclusion of kerbside as a collection method.

- 3.6. The **Australian Local Government Association** represents 537 councils across Australia. The Australian Local Government Association makes 7 recommendations for the Scheme including that consideration of the public detriments should include risks associated with flaws in a voluntary product stewardship scheme which can strain council resources and affect community services, particularly in regional, rural and remote areas. Other recommendations made by the Australian Local Government Association include that the Scheme's governance should have formal mechanisms to track impact of the Scheme on local government, that SPSA should share learnings with local governments, that collection should be encouraged through existing channels and that there should be formal oversight in designing and implementing kerbside collection trials, including independent assurance.
- 3.7. **Southern Sydney Regional Organisation of Councils** supports the application but makes a number of recommendations including that there should be transparency from suppliers and processors about where material is processed and what happens to the output as a condition of authorisation, noting community scepticism about a repeat of stockpiling on materials not being processed.
- 3.8. **Liverpool City Council** has concerns about processing capacity to deal with collected materials and whether end markets are viable, noting the businesses in SPSA's Scheme do not seem to be committing to buy back or re-use the processed soft plastics.

Other government

- 3.9. **Green Industries SA** and the **South Australian Environment Protection Authority** made 2 submissions supporting both interim authorisation and the Scheme generally, noting that it is likely to deliver some benefits. However, their submissions note that the success of the Scheme is dependent on a number of factors, including accessible collection systems, demand-driven markets for the recycled products, transparent reporting and industry input from across the supply chain on the Stakeholder Advisory Council.
- 3.10. **Sustainability Victoria** submits it is essential than any new stewardship scheme is designed around clear and measurable performance indicators; regular and transparent reporting regimes, and adequate governance, to ensure those who are paying the levy are getting value for money outcomes.

Brands, retailers and manufacturers

- 3.11. Numerous submissions were made from brands and retailers in support of both interim authorisation and final authorisation including from **Nestle, Kellanova, Unilever Australia, McCormick Foods Australia, Essity, the AFGC, the National Retail Association** and the **Australian Retailers Association**.

- 3.12. The **Australian Dairy Products Federation** provided 2 submissions in relation to urgent interim and interim authorisation which oppose interim authorisation for collection of the Scheme levy as well as not supporting negotiation of contracts and commencement of operational arrangements. The Australian Dairy Products Federation recommends deferring approval of levy collection and stockpile remediation until a formal alignment with APCO is confirmed, fee-setting models are transparently disclosed, governance mechanisms are balanced and inclusive, and administrative duplication is resolved.
- 3.13. **Sancell Pty Ltd** submits concerns that SPSA seems to overlap the efforts of APCO, there is a lack of clear mandated targets and is concerned a voluntary system will achieve its goals.
- 3.14. **Coles, Woolworths and ALDI** made a joint submission, supporting the application, noting that their work under the Taskforce was only intended as an interim measure and that SPSA is better placed to continue that work into the future.

Waste, recyclers and processors

- 3.15. Numerous waste collectors, processors and recyclers made submissions in support of both interim and final authorisation including **Kurrajong Recycling, RecycleSmart, 3RG Recycling, Australian Paper Recovery** and **iQRenew**.
- 3.16. **Cleanaway** supports the creation of an industry funded producer responsibility organisation to take responsibility for the full life cycle of soft plastic packaging, noting that new technology, such as advanced chemical recycling, is available, but requires substantial investment. Cleanaway considers that the authorisation period of 8 years may be insufficient to allow for construction of at scale facilities, referencing the need to secure regulatory approvals, meaning it can take a minimum of 4 years for a project to proceed from concept to commissioning.
- 3.17. **Viva Energy Australia** made a submission that outlined its role as a future recycler of soft plastic. Viva is considering a project with Cleanaway to provide an end-to-end soft plastics recycling using advanced chemical recycling. Viva notes any Scheme design needs to be cautious about claims that the Viva refinery will be an off-taker from other industries. Viva called for the Scheme to be mandatory, but also noted it would advocate for the Scheme to be replaced with a Commonwealth scheme once this was developed.
- 3.18. The **Australian Council of Recycling (ACOR)** provided 2 submissions supporting interim authorisation and final authorisation in order to facilitate uninterrupted processing by soft plastic recyclers who have invested in necessary infrastructure. However, it makes 8 recommendations to adjust the Scheme's design and operation including clear and formal alignment with APCO and the ongoing national regulatory transition and transparent and accountable governance that represent the entire supply chain, including recyclers. Further it recommends measurable, transparent targets and performance metrics as well as clear mechanism for end-market development and demand stimulation.

- 3.19. **Waste Management and Resource Recovery Association of Australia** made a submission opposing the application stating the Scheme should not be authorised by the ACCC as a product stewardship scheme given its lack of demonstrating a genuine whole of supply chain solution.

Environmental groups

- 3.20. **Boomerang Alliance** and **Planet Ark** made submissions in support of the Scheme.
- 3.21. **Australian Marine Conservation Society** submits it is concerned that the environmental benefits of SPSA's Scheme have been overstated and all environmental impacts, including pollution, should be considered. It does not support the levy being passed on to consumers and states businesses should be required to publicly report on volumes of soft plastics they place on the market, as well as what is collected and recycled through the Scheme.
- 3.22. **Clean up Australia** provided 2 submissions and whilst supporting the application, states adjustments to the design and operation of the Scheme are necessary to ensure an effective circular economy approach to soft plastics. It submits the application does not adequately address the issues of product design, recycling capacity, procurement and the development of strong end-markets for soft plastics.
- 3.23. **Zero Waste Victoria** raises concerns regarding governance structures, cost recovery mechanisms, levy-setting processes, and the potential for levies to be passed on to consumers without transparency. It further submits that any arrangement must be clearly time-limited, subject to independent review, and revocable if the national packaging reform process, or other government intervention, recommends or requires a different pathway.

Other

- 3.24. Others in support are **Ecosurety** (founder and operator of a similar scheme in the UK, the Flexible Plastic Fund), **Ai Group** and **Australasian Institute of Packaging**.

APCO

- 3.25. **APCO** is supportive in principle for the establishment of the Scheme. However, it submits that authorisation should be subject to its 6 proposed conditions (discussed in **Conditions**).

APCO and SPSA joint submission

- 3.26. On 9 May 2025, APCO and SPSA made a joint submission⁶¹ proposing the following 2-stage model where APCO agrees to collect funding for provision to SPSA through:
- Horizon 1 (FY2026) where APCO will collect the voluntary fees from Scheme Participants at the rate of \$160 per tonne in FY 2026 (being the initial Scheme Levy

⁶¹ [APCO and SPSA](#), 9 May 2025.

currently proposed by SPSA) and also seek additional voluntary contributions from APCO members to sustain and fund the proposed activities under the Scheme

- Horizon 2 (assuming APCO 2030 Strategy commencement) where APCO levy Extended Producer Responsibility/eco-modulated fees from APCO members and voluntary Scheme Participants placing soft plastic on market in Australia and passing funds to SPSA to meet the agreed costs for the services it provides.
- 3.27. SPSA later submitted that there is no current agreement regarding the setting and collecting of the levy under Horizon 2, as it is just one of a number of possible outcomes. SPSA intends to continue discussions with government and APCO around what a potential future state could look like, and to work closely with APCO in relation to future ways of working together. If APCO's revised 2030 Strategic Plan and Horizon 2 arrangements (or a similar arrangement under which APCO would be responsible for setting and collecting levies for all Scheme Participants) are ultimately endorsed, SPSA would need to consider any impact on the Scheme and may need to revoke or vary its authorisation as appropriate.
- 3.28. Discussions between SPSA and APCO are continuing, and the parties have advised the ACCC that they are working on a detailed term sheet.
- 3.29. On 16 June 2025, the ACCC issued a request to APCO for further information. The ACCC's request and APCO's response are available on the ACCC's public register and have been incorporated where relevant into the ACCC's assessment below.

SPSA's response to submissions

- 3.30. On 12 June 2025, SPSA made a submission in response to interested party submissions. These responses are incorporated where relevant into the ACCC's assessment below.
- 3.31. The ACCC issued 3 requests to SPSA for further information. The ACCC's requests for further information and SPSA's responses are available on the ACCC's public register and have been incorporated where relevant into the ACCC's assessment below.

4. ACCC assessment

- 4.1. SPSA has sought authorisation for Proposed Conduct in relation to Division 1 of Part IV of the Act (cartel conduct) and sections 45 and 47 of the Act (contracts, arrangements or understandings that restrict dealings or affect competition and conduct that may constitute exclusive dealing). Consistent with subsections 90(7) and 90(8) of the Act, the ACCC must not make a determination granting authorisation unless it is satisfied, in all the circumstances, that the conduct would result, or be likely to result, in a benefit to the public and that benefit would outweigh the detriment to the public that would result, or be likely to result, from the conduct.

Relevant areas of competition

- 4.2. To assess the likely effect of the Proposed Conduct, the ACCC identifies the relevant areas of competition likely to be impacted.
- 4.3. The ACCC is of the view that it is not necessary to precisely define the relevant markets for the purpose of assessing this application for authorisation.
- 4.4. The ACCC considers that the relevant areas of competition are likely to be:
 - the manufacture, importation, wholesale and retail supply of products that contain soft plastic packaging in Australia
 - the collection, transport, storage, sorting and processing of used soft plastic packaging in Australia
 - the supply of various products made from recycled soft plastic material
 - the disposal of used soft plastics that are not processed into a recycled material.

Future with and without the Proposed Conduct

- 4.5. In applying the authorisation test, the ACCC compares the likely future with the Proposed Conduct that is the subject of the authorisation to the likely future in which the Proposed Conduct does not occur.

SPSA's submissions

- 4.6. SPSA submits that in the future without the Proposed Conduct, there would be material restrictions on the ability of the Scheme Participants to work together to establish and operate an industry-wide soft plastics product stewardship scheme, in particular that:
 - SPSA and Scheme Participants would not be able to agree on a levy, which without it would be difficult to implement an industry-wide scheme and funding would be an issue.
 - New Scheme Participants are unlikely to join and initial members may discontinue participation.
 - Members of SPSA would be required to materially restrict collaboration, including the sharing of information between the Soft Plastics Taskforce and SPSA.
 - Business-to-consumer soft plastic recycling will stall and is likely to decrease or potentially cease entirely. It is highly unlikely that Scheme Participants would unilaterally engage with processors and other service providers at scale. Therefore it is unlikely that the existing measures of the Soft Plastics Taskforce in-store collection pilot program and the National Plastics Recycling Scheme kerbside pilots or business-to-consumer soft plastics recycling will be expanded, and it is possible that these measures may ultimately be wound back or ceased.
 - The lack of collective action to scale soft plastics recycling creates significant risks for the viability of some processors and recyclers.

- Consumers would find it more difficult to source information on soft plastic recycling (if this service was available at all).

Submissions

- 4.7. **iQRenew** submits that in a future without the proposed Scheme or similar scheme, iQRenew would expect to experience significant difficulties in accessing high-quality household soft plastic feedstock. iQRenew submits its Soft Plastics Engineered Commodity facility would be unviable.⁶²

ACCC view

- 4.8. Given the Proposed Conduct appears to cover most, if not all, of the Scheme's planned activities, it is not clear what SPSA could realistically do to establish and operate the Scheme in the future without the Proposed Conduct.
- 4.9. The Taskforce is a temporary arrangement to remediate the soft plastic stockpile left as a result of REDcycle's insolvency and start a pilot instore collection program prior to the development of a broader industry wide stewardship program.⁶³ The ACCC's authorisation of the relevant Taskforce conduct ends in July 2026. There is no information before the ACCC suggesting that the Taskforce would be likely to continue beyond July 2026 in the future without the Proposed Conduct.
- 4.10. The AFGC kerbside collection pilot were due to end mid-2025. Since the Application was lodged, the AFGC has informed SPSA that it will be terminating the National Plastics Recycling Scheme pilot program and the subcontract arrangement at the end of May, such that all pilots would conclude by 30 June 2025.⁶⁴
- 4.11. The ACCC considers that, in the future without the Proposed Conduct, it is likely that Initial Members and other Scheme Participants would either not directly participate in soft plastic stewardship or, alternatively, would unilaterally arrange for the collection, transport, sortation, storage and processing of their soft plastic waste. If they opt to develop and implement their own arrangements, they would not be able to benefit from coordination with other members or participants, or aggregation of volumes. The ACCC considers this would materially increase the risk and cost of unilateral action (relative to coordinated action) and hence weaken parties' incentive to take unilateral action.
- 4.12. Given time, it is possible that APCO may evolve to support unilateral initiatives by Initial Members or other Scheme Participants, for example by providing funds, managing billings, and/or itself entering into service contracts for collection and recycling operations (as contemplated at pages 22 and 23 of APCO's 2030 Strategic Plan). However, there is considerable uncertainty as to whether APCO would do these things and if so, whether they would be timely and sufficient to support widespread unilateral action.

⁶² iQRenew, [iQRenew 21 July 2025](#), ACCC, 21 July 2025.

⁶³ SPSA, [Response to ACCC request for further information](#), ACCC, 20 June 2025, pp 5-6; Coles, [Application for revocation and substitution of an authorisation](#), ACCC, 24 June 2024, page 8.

⁶⁴ SPSA, [Amendment to application \(interim authorisation\)](#), ACCC, 3 June 2025.

- 4.13. On balance, the ACCC considers that in the future without the Proposed Conduct there would be less collection of household soft plastic waste, with pilot instore collection and kerbside collection being discontinued or wound back. As a result, there would be less used soft plastic feedstock available for processors (including less high-quality feedstock to sustain soft plastic processing operations) and less diversion of soft plastic waste from landfill.
- 4.14. Relative to this future without, the ACCC accepts that the Proposed Conduct is likely to facilitate a more cohesive and effective approach to business-to-consumer soft plastic recycling in Australia, at least in the short to medium term.

Public benefits

- 4.15. The Act does not define what constitutes a public benefit. The ACCC adopts a broad approach. This is consistent with the Australian Competition Tribunal (**the Tribunal**) which has stated that in considering public benefits:

*...we would not wish to rule out of consideration any argument coming within the widest possible conception of public benefit. This we see as anything of value to the community generally, any contribution to the aims pursued by the society including as one of its principal elements ... the achievement of the economic goals of efficiency and progress.*⁶⁵

- 4.16. The ACCC has considered public benefits attributable to the Proposed Conduct under 3 broad headings:
- environmental benefits by diverting soft plastics from landfill
 - efficiencies through coordination and aggregation in the collection, transport, storage, sorting and/or processing of soft plastics
 - increased R&D and innovation to identify/develop end markets for recycled soft plastics.⁶⁶

Environmental benefits by diverting soft plastics from landfill

SPSA's submissions

- 4.17. SPSA submits that the Proposed Conduct will result in environmental benefits by:
- helping reduce the amount of soft plastic packaging going to landfill
 - facilitating the transformation of soft plastics into new products which contributes to conservation of resources and a reduction in pollution as producing new plastics involves processes that release pollutants into the air and water

⁶⁵ *Re Queensland Co-operative Milling Association Ltd* (1976) ATPR 40-012 at 17,242; cited with approval in *Re 7-Eleven Stores Pty Limited* (1994) ATPR 41-357 at 42,677.

- helping reduce plastic litter and pollution, including through increased recycling rates and the use of 'bag in bin' recycling processes, which prevent litter from becoming windblown and from going into waterways or oceans.
- 4.18. SPSA also submits that the Proposed Conduct will facilitate clear, consistent and accessible information to consumers and households on how to recycle soft plastics via the Scheme, which will increase levels of soft plastic recycling. Scheme marketing and consumer education will be funded by the Scheme Levy.⁶⁷

Interested party submissions

- 4.19. Many submissions support the Scheme as they consider it is likely to result in environmental benefits, including diverting soft plastic waste from landfill.⁶⁸
- 4.20. Other submissions question the environmental benefits that can be achieved as the Scheme preferences action that is ranked lower on the waste management hierarchy (recycle waste).⁶⁹ For example, it does not require a reduction in soft plastic placed on the market and will use resource intensive processes to recycle (chemical recycling).⁷⁰
- 4.21. Some submissions are concerned soft plastics collection through kerbside recycling bins will contaminate existing recycling streams.⁷¹
- 4.22. Some submissions are concerned the Scheme is underfunded.⁷² Australian Local Government Association is concerned local councils will have to finance any shortfall in the Scheme to achieve diversion of waste from landfill.⁷³ Cleanaway considers the costs are adequate, if operational costs are only used to fund the collection, sorting and recycling of the soft plastics.
- 4.23. Submissions raise concerns the levy does not include eco-modulation. The initial flat levy will not incentivise participants to make their soft plastics more recyclable.⁷⁴
- 4.24. There are mixed views on whether the Scheme will reduce pollution. Australian Marine Conservation Society submits the Scheme will have no meaningful impact on reducing

⁶⁷ SPSA, [Application for authorisation](#), ACCC, 18 March 2025, p 32; SPSA, [Response to ACCC request for further information](#), ACCC, 20 June 2025, pp 6-7, 10.

⁶⁸ *Local councils*: [Albury City Council](#), [Alpine Shire Council](#), [City of Adelaide](#), [City of Ballarat](#), [City of Port Adelaide Enfield](#), [City of Wagga Wagga](#), [Federation Council](#), [Goondiwindi Regional Council](#), [Halve Waste](#), [Leeton Shire Council](#), [Macedon Ranges Shire Council](#) and [Murray River Council](#); *Retailers/manufacturers*: [Accord](#), [Australian Food and Grocery Council](#), [Australian Industry Group](#), [Australian Retailers Association and National Retail Association](#), [Essity](#), [Kellanova](#), [McCormick Foods Australia](#), [Unilever](#), and [Australasian Institute of Packaging](#).; *Processors/recyclers*: [3RG](#), [Australian Paper Recovery](#), and [Kurrajong Recycling](#).

⁶⁹ The waste management hierarchy, most to least preferable – avoid and reduce waste, reuse waste, *recycle waste*, recover energy, treat waste, dispose of waste. NSW EPA, [The waste hierarchy](#), NSW EPA, 22 October 2022, accessed 18 July 2025.

⁷⁰ [Australian Marine Conservation Society](#), [Boomerang Alliance](#), [Vinyl Council of Australia](#), [Waste Management and Resource Recovery Association of Australia](#).

⁷¹ [Australian Local Government Association](#), [Southern Sydney Regional Organisation of Councils Inc](#), [WA Local Government Association](#).

⁷² [Australian Council of Recycling](#), [iQRenew](#),

⁷³ [Waste Management and Resource Recovery Association of Australia](#), [Zero Waste Victoria](#), and [Liverpool City Council](#) submissions also raised this concern.

⁷⁴ [Australian Council of Recycling \(ACOR\)](#), [Australian Dairy Products Federation](#), [Cleanup Australia](#), [Waste Management and Resource Recovery Association of Australia](#).

plastic pollution.⁷⁵ Other submissions make general claims the Scheme will reduce pollution.⁷⁶ Cleanaway notes products produced via mechanical recycling can pose pollution risks if they subsequently shed plastic into the environment (benches, bollards).

- 4.25. Some submissions identify the need for better public reporting on Scheme outcomes so that environmental benefits can be verified.⁷⁷

ACCC views

- 4.26. The ACCC notes SPSA's base case forecast of Scheme collection and recycling amounts⁷⁸ range from 1,500 - 2,000 tonnes per annum in FY26 to 19,000 - 23,000 tonnes per annum in FY33. It submits this base case represents between <1% to 5% of business-to-consumer soft plastic placed on the market each year in Australia. This is a conservative base forecast. With more optimistic assumptions about Scheme funding, collections, processing capacity (including chemical recycling), end markets, and policy settings, SPSA's forecast that the volume collected and recycled could be as high as 80,000 to 90,000 tonnes per annum by FY33 (17-20% of business-to-consumer soft plastic placed on the market).
- 4.27. The ACCC accepts that the Proposed Conduct is likely to materially increase the amount of used soft plastic packaging that is recycled in Australia (and thereby diverted from landfill), relative to the future without, taking into account:
- The Proposed Conduct is likely to result in a greater number of instore collection points and expanded kerbside collection, since operating costs will be shared across all Scheme Participants, (i.e. more than the number who may unilaterally offer instore or kerbside collection in the future without). The ACCC notes that SPSA projects that under the Proposed Conduct the number of instore collection points may double from about 500 to 1,000 between FY26 and FY29 and the number of households receiving 'bag in bin' kerbside soft plastic collection services from about 50,000 in FY26 to more than 1 million from FY29.⁷⁹ The ACCC considers this is likely to make soft plastic recycling more convenient for more consumers, resulting in higher contributed volumes.
 - SPSA plans to recycle all soft plastic packaging received at collection points that is in-scope, irrespective of whether the material was placed on market by a Scheme Participant.
 - The Proposed Conduct includes coordination to provide better and more consistent information to consumers about how to access soft plastic recycling options and how to appropriately dispose of used soft plastics, including steps consumers can take to achieve high quality feedstock. Under the Proposed Conduct, SPSA and Scheme Participants would be able to discuss and agree on communications to consumers and the public in relation to the Scheme and levy

⁷⁵ [Australian Marine Conservation Society](#).

⁷⁶ [3RG recycling](#), [Cleanup Australia](#), [Planet Ark](#).

⁷⁷ [Australian Council of Recycling \(ACOR\)](#), [Green Industries SA and EPA SA](#), [Southern Sydney Regional Organisation of Councils Inc](#), [Sustainability Victoria](#).

⁷⁸ SPSA [Response to ACCC request for further information](#), ACCC, 20 June 2025, Schedule 3: Collections and processing estimates (FY25 to FY33), p 35.

⁷⁹ SPSA [Response to ACCC request for further information](#), ACCC, 20 June 2025, Schedule 3: Collections and processing estimates (FY25 to FY33), p 35.

revenue would be used to fund marketing and education activities and materials, including instore campaigns and online materials. SPSA's base case modelling provides for expenditure of \$1.2 million in FY26, increasing to \$13.5 million in FY33, on 'brand, marketing, education, behaviour change.'

- By facilitating the aggregation of feedstock volume and enabling more effective coordination of the movement of feedstock through the vertical supply chain (collection, transport, sorting, storage and processing), the Proposed Conduct is likely to result in a greater and more consistent flow of feedstock to processors, with less stockpiling.
- 4.28. For these reasons, the ACCC considers that the Proposed Conduct is likely to reduce the amount of soft plastic packaging going to landfill, relative to the future without, and that this is a source of public benefit.
- 4.29. The ACCC has considered SPSA's further claim that the Proposed Conduct will result in environmental public benefits by facilitating conservation of resources (by facilitating reduced production of new plastic products), reducing pollution (to the extent that recycling is less polluting than manufacture of new plastics), and reducing plastic litter pollution of waterways and oceans. On current information, the ACCC considers:
- It is not likely that the Proposed Conduct would have a material effect on the level of production of new plastic during period for which authorisation is sought.
 - The Proposed Conduct is not likely to materially change the volumes of plastic litter being windblown when tipped into recycling trucks and going into waterways and oceans during the period for which authorisation is sought.
- 4.30. Accordingly, on current information, the ACCC does not consider that the Proposed Conduct is likely to confer further environmental public benefits, additional to the likely public benefit from diverting used soft plastic volumes from landfill.

Efficiencies through coordination and aggregation in the collection, transport, storage, sorting and/or processing of used soft plastics

SPSA submissions

- 4.31. SPSA submits that the Proposed Conduct reduces transaction costs, as SPSA will be the single point of contact for suppliers, compared to if entities were to engage unilaterally.⁸⁰
- 4.32. SPSA also submits that having a coordinated, collective approach to soft plastics recycling through the Scheme is likely to generate efficiencies through economies of scale.⁸¹ Larger, aggregated volumes will allow service providers across collection, transport, sorting and processing to achieve lower per unit operating costs, which can

⁸⁰ SPSA [Response to ACCC request for further information](#), 20 June 2025, p 18.

⁸¹ SPSA, [Application for authorisation](#), 18 March 2025, Schedule 4: SPSA Constitution, p 33.

be passed on to SPSA in the form of lower per tonne pricing.⁸² Larger volumes will allow processors to operate further above their break even points, simultaneously providing lower per tonne pricing.

ACCC view

- 4.33. The ACCC considers that the Proposed Conduct is likely to result in efficiencies in the form of:
- transaction cost savings as a result of SPSA collectively negotiating and managing contracts with third parties for collection, transport, storage, sorting and/or processing of used soft plastic packaging, compared to a future in which Scheme Participants individually negotiate and manage such contracts
 - economies of scale⁸³ and network density⁸⁴ in the collection of soft plastic waste given the more extensive network of instore collection points under the Proposed Conduct compared to the future without the Proposed Conduct
 - economies of scope through SPSA's control and coordination of the flow of soft plastic feedstock through multiple stages of the vertical recycling supply chain.
- 4.34. The ACCC also accepts submissions from high-volume processors using advanced sorting technology such as iQRenew, that the increased volume of feedstock (including high quality feedstock) under the Proposed Conduct is likely to enhance their ability to realise scale economies in processing compared to the future without the Proposed Conduct. iQRenew's high-volume processing facility has been purpose built to process post-consumer (household) soft plastic waste.
- 4.35. Based on current information, the ACCC considers the Proposed Conduct is likely to confer some public benefits through the realisation of efficiencies in the form of:
- lower transaction costs for Scheme Participants
 - economies of scale and/or network density in collection of soft plastic waste
 - vertical economies of scope
 - economies of scale in processing using advanced sorting technology.

Increased R&D and innovation to identify/develop end markets for recycled soft plastics

SPSA submissions

- 4.36. SPSA submits that the Scheme will provide market certainty to grow Australia's domestic capability for processing and recycling soft plastics, support new entrants to the market, deliver incentives for substantial investment and innovation by industry and stimulate end markets for recycled soft plastics.

⁸² SPSA [Response to ACCC request for further information](#), 20 June 2025, p 17.

⁸³ That is, the average cost of producing each unit of the service declines as the total quantity produced increases. This happens when fixed costs are significant and spread over a larger number of units.

⁸⁴ That is, the average cost of producing each unit of the service declines as the number of sites (collection points) operating in close proximity increases due to sharing of assets and infrastructure and streamlining of operations.

- 4.37. SPSA submits that in relation to research and development, SPSA's involvement will largely take the form of strategic, indirect support, for example, providing materials to recyclers so they can engage in product research, development and testing, and participating in industry working groups involving the research sector. SPSA may contribute funds towards more direct forms of support, noting that these activities are often co-designed and/or co-delivered with partners.
- 4.38. SPSA submits that SPSA will also consider opportunities to use the Scheme funds to further invest in end markets, guided by the request for information/request for proposal process (among other things). These may include activities such as development of standards for recycled content applications, research and development for emerging recycled content applications, and/or advocacy for recycled content procurement targets in government and private sectors. It submits the Proposed Conduct will allow SPSA to provide the requisite feedstock to enable investment in end markets and facilitate offtake arrangements.
- 4.39. SPSA also submits that it expects to facilitate a range of offtake end markets agreements and anticipates for some channels, it will be responsible for and own soft plastic material after processing, but for other channels it is anticipated that processors will take ownership of materials from processing. SPSA anticipates that for the most part, it will own the soft plastic material both prior to and after processing.

Interested party submissions

- 4.40. A number of interested parties submit the Scheme does not adequately address lack of end markets.⁸⁵ Australian Paper Recovery considers end market viability has been proven, whereas, the Australian Council of Recycling considers market demand for recycled soft plastic products remains limited.
- 4.41. Some submissions highlight that the Scheme itself, without regulatory reforms, will not support end-market development. This includes regulatory reform to require packaging standards reform and minimum recyclable content.⁸⁶

ACCC view

- 4.42. The ACCC notes that SPSA intends to monitor development in end markets and may support initiatives by others to develop end markets. However, SPSA has no fixed plans to contribute directly to end market R&D and innovation costs or itself engage in R&D and innovation to develop end markets.⁸⁷ The main way that SPSA plans to encourage R&D and innovation to develop end markets is through its coordination and facilitation of recycling of soft plastics, to provide greater certainty of feedstock volume for processors and businesses that use processed soft plastic material. While SPSA may provide some materials or participate in consultation processes, end market R&D and innovation agendas and activity will largely be driven by businesses

⁸⁵ [Clean Up Australia](#), [WA Local Government Association](#), [Viva Energy](#), [Waste Management and Resource Recovery Association of Australia](#).

⁸⁶ [AFGC](#), [Clean up Australia](#).

⁸⁷ 'SPSA may contribute funds towards more direct forms of support, noting that these activities are often co-designed and/or co-delivered with partners.' SPSA, [Response to ACCC request for further information](#), 20 June 2025, p 17.

with a commercial interest in these markets, potentially with the benefit of government assistance (financial and non-financial).

- 4.43. On current information, the ACCC does not consider that the Proposed Conduct is likely to result in a public benefit through increased R&D and innovation to develop end markets for recycled soft plastic material compared to the future without the Proposed Conduct. The ACCC invites submissions on this category of public benefit.

ACCC conclusion on public benefit

- 4.44. For the reasons set out above, the ACCC considers that the Proposed Conduct is likely to result in public benefits from:
- environmental benefits due to diversion of soft plastics from landfill
 - efficiencies through coordination and aggregation in the collection, transport, storage, sorting and/or processing of used soft plastics.

Public detriments

- 4.45. The Act does not define what constitutes a public detriment. The ACCC adopts a broad approach. This is consistent with the Tribunal which has defined it as:

...any impairment to the community generally, any harm or damage to the aims pursued by the society including as one of its principal elements the achievement of the goal of economic efficiency.⁸⁸

- 4.46. SPSA submits that the Proposed Conduct is unlikely to result in any significant public detriments because:
- The Proposed Conduct does not prevent any individual Scheme Participant from exploring or developing soft plastics recycling capabilities in their own right.
 - The Proposed Conduct will not detract from or adversely impact the development of other soft plastics recycling solutions such as:
 - the proposed inclusion of soft plastics in kerbside collection bins under standards being developed by the Victorian Government
 - action by APCO to convene a Flexible Plastics Materials Stewardship Committee
 - increased kerbside recycling by councils or development of additional soft plastics recycling capacity.
 - The Proposed Conduct is not compulsory, and any Scheme Participant can opt out of any proposed collaboration.
 - The Proposed Conduct does not involve any agreements on the price or supply of retail products or services sold by any of the Scheme Participants. Whether or not Scheme Participants pass on the Scheme Levy is voluntary and is intended to be determined independently by each Scheme Participant.

⁸⁸ *Re 7-Eleven Stores Pty Limited (1994) ATPR 41-357 at 42,683.*

- If Scheme Participants choose to pass on the cost of the Scheme levy, the potential levy impact compared to the cost of products that use the soft plastic packaging would be minimal.
- The Scheme will appoint suppliers to provide services such as soft plastics collection, processing and recycling. This may result in the appointment of a limited number of suppliers. However, the market for processing and recycling soft plastics has struggled to develop and without the Proposed Conduct it is not likely that individual Scheme participants would be able to provide sufficient volume to warrant investment by suppliers.

4.47. The ACCC has considered the following potential public detriments:

- crowding out alternative soft plastic stewardship arrangements
- increased barriers to entry and expansion by service providers who do not win SPSA contracts
- facilitating the sharing of commercially sensitive information and/or market sharing between competitors.

Crowding out alternative soft plastic stewardship arrangements

Interested party submissions

- 4.48. APCO submits⁸⁹ that it currently collects soft plastic packaging data from members, publishes information on soft plastic packaging and recovery rates, convenes a flexible plastics material stewardship committee, facilitates the use of the Australian Recycling Label on soft plastic packaging, provides industry guidance on 'design for recycling' for soft plastic packaging, and reports on progress towards the national packaging targets which encompasses soft plastics packaging.
- 4.49. APCO submits that it may move to eco-modulated fees and may use some of the fees to fund stages of the recycling processes (via a Producer Responsibility Organisations or directly). This may include soft plastics. APCO's intent to support and enter contracts with Producer Responsibility Organisations (such as SPSA) is not intended to pre-empt any decision by governments about the reform process or presuppose any role for APCO under a reformed framework.
- 4.50. APCO submits that multiple schemes operating could result in duplication of levies, fragmented data systems and competing reporting mechanisms, which could ultimately lead to confusion for brand owners, a reduction in transparency and impose unnecessary costs.

SPSA's submissions

- 4.51. In response to APCO's submission, SPSA submits that the Covenant is not the exclusive arrangement for reducing the environmental impact of packaging in Australia, noting the Recycling and Waste Reduction Act 2020 (Cth) provides a framework for voluntary product stewardship schemes, as well as co-regulatory or

⁸⁹ In addition to APCO submissions the ACCC has also drawn on publicly available information on APCO's website, including its 2030 strategic plan.

mandatory schemes. SPSA submits that there is risk in failing to act immediately, and SPSA is best placed to do that, as APCO is not currently in a position to execute the operational aspects.

- 4.52. SPSA submits that discussions with APCO are ongoing, and that it sees a benefit in working with APCO, including utilising APCO's systems to deliver administrative efficiencies.
- 4.53. In response to the ACCC's request for further information, SPSA submits that Scheme Participants will not be restricted from joining alternative soft plastic stewardship schemes. Similarly, SPSA submits it does not intend to enter into exclusive arrangements with processors and notes that volumes collected through the Scheme are unlikely to exceed available processing capacity even without exclusive terms.

ACCC view

- 4.54. The ACCC understands that APCO and Curby are two alternative soft plastic stewardship arrangements that potentially compete with SPSA to attract members/participants, collect levies and data and/or provide services relating to the collection and/or recovery of used soft plastics in Australia.
- 4.55. The ACCC has considered the potential for the Proposed Conduct to crowd out or foreclose other soft plastic stewardship arrangements by making it more difficult or costly for organisers to:
- attract members/participants and collect levies
 - collect or report information; and/or
 - provide or acquire used soft plastic collection, transport, storage, sortation and/or processing services.

Attracting member/participants and collecting levies

- 4.56. The ACCC considers that the Proposed Conduct is not likely to prevent or hinder alternative soft plastic stewardship arrangements from competing to attract members/participants and collecting levies.
- 4.57. The ACCC notes that the Proposed Conduct does not provide for restriction by SPSA on members or participants joining or switching to an alternative soft plastics stewardship arrangement. Rather, the Proposed Conduct is only in respect of a voluntary product stewardship scheme.
- 4.58. The ACCC has specifically considered whether the proposed REDcycle Stockpile Cost Set-off is likely to materially weaken Coles or Woolworths' incentive to switch to an alternative stewardship arrangement in the future, for example if a more efficient or effective stewardship scheme emerges. As previously explained, the REDcycle Stockpile Cost Set-off is a provision under the Proposed Conduct for Coles and Woolworths to receive a combined \$16 million discount on their levies over 8 years if they remain members of the Scheme. The ACCC is satisfied that this does not

materially weaken their incentive to switch to a preferred alternative arrangement in future, taking into account:

- The (confidential) amount of levy they would be liable to pay each year, even after the application of the offset.
- An offset amount would be applied annually, taking the form of a discount on Coles and Woolworths' annual levies payable to the Scheme.
- SPSA does not intend to recoup any past offset should Coles or Woolworths cease to be members or otherwise participate in the Scheme.⁹⁰

4.59. The ACCC understands that APCO does not currently charge a levy based on the amount of packaging a business places on the market. It charges a membership fee based on business turnover. APCO's concern about SPSA's proposal to implement its own Scheme levy is that, should APCO also introduce a levy in the future, SPSA participants who are also APCO members may be charged 2 separate levies for potentially overlapping activities. That is, they may be charged twice for the same packaging placed on the market.

4.60. The ACCC considers that the issue of future double charging of businesses can be managed by agreement between APCO and SPSA, or otherwise through amendments to the NEPM to clarify that participants need only pay once for the collection and recovery of their used soft plastics. The ACCC notes that the NEPM already provides that relevant businesses may be deemed compliant with their obligations (without being a member of APCO) by participating in a product stewardship scheme that produces equivalent outcomes to APCO.⁹¹

Data collection and reporting

4.61. The ACCC has considered whether there is a potential for the Proposed Conduct to impede APCO's ability to collect and publish various data about plastic use and recovery. The ACCC understands that APCO publishes a Flexible Plastic Consumption and Recovery Factsheet, provides annual data on plastic placed on the market (business-to-consumer and business-to-business), plastic recovery and processing capacity, and progress towards the National Packaging Targets.

4.62. The ACCC considers that the Proposed Conduct is not likely to prevent or hinder APCO from obtaining information from SPSA or individual SPSA members on the basis that:

- SPSA will focus its information gathering and reporting on the Scheme, whereas APCO will likely continue to adopt industry-wide reporting across all forms of used packaging, not just soft plastics.
- SPSA submits that the form of data collected through the Scheme is to align with APCO definitions and reporting frameworks, meaning members can use the data they have already collected/reported to APCO to fulfill their reporting obligations under the SPSA Scheme.⁹²

⁹⁰ SPSA, [Response to ACCC request for further information](#), 21 July 2025.

⁹¹ DCCEEW, [Taking Responsibility for our packaging](#), DCCEEW, 2 August 2023, accessed 1 August 2025.

⁹² SPSA, [Response to APCO response to ACCC request for further information](#), 9 July 2025.

- The Proposed Conduct provides for information sharing between SPSA and APCO, including market analysis and modelling.
- Individual SPSA Scheme Participants with annual turnover of \$5 million or more would continue to be required to be a member of APCO or report to state and territory governments under the NEPM. The ACCC understands that participation in the SPSA Scheme will currently not excuse such participants from these reporting obligations.

Providing or acquiring used soft plastic collection, transport, storage, sortation and/or processing services

- 4.63. The ACCC notes that APCO does not currently have arrangements with used soft plastics service providers, including processors, or engage in operational activities for the collection and recovery of used soft plastics. It is not clear that it would be likely to do so in the future, with or without the Proposed Conduct.
- 4.64. The ACCC understands that Councils, intermediaries such as Curby, and potentially APCO in future (if it becomes involved in operational activities for the collection and recovery of used soft plastics) are likely to compete with SPSA to supply or acquire some or all services relating to the collection, transport, storage and/or processing of used soft plastic.
- 4.65. The ACCC notes that the SPSA's 'base case' and 'high side' forecasts indicate that the Scheme would collect and recover <1 to 5% (base case) or at most 20% (high side) of business-to-consumer soft plastics placed on the market per annum between 2026 and 2033 and not collect or recover any business-to-business soft plastics placed on the market (which account for 30% of total soft plastics placed on the market).
- 4.66. The ACCC considers this should leave room for one or more alternative schemes to operate, except in situations where SPSA enters into exclusive contracts with a service provider and there are few, if any, alternative providers of the relevant service.
- 4.67. The ACCC notes that SPSA seeks authorisation to engage in exclusive dealing, but submits that it does not currently intend to enter into exclusive contracts with respect to processing.
- 4.68. The ACCC also notes that in circumstances where processors struggle to obtain sufficient feedstock, it is not clear that they would benefit and therefore agree to enter into an exclusive arrangement with SPSA.
- 4.69. Notwithstanding this, the ACCC considers that under the Proposed Conduct there is a real chance that SPSA would enter into an exclusive arrangement with one or more processors. The ACCC is concerned that an exclusive contract between SPSA and processors, particularly advanced mechanical processors such as iQRenew or emerging chemical processors, would give rise to material public detriment by foreclosing rival schemes' access in circumstances where there are few, if any, alternative processing options.

- 4.70. The ACCC considers, on current information, it is not likely that exclusive contracting would foreclose rival schemes from establishing their own collection, transportation and storage arrangements for used soft plastics.
- 4.71. Accordingly, the ACCC considers that the Proposed Conduct is likely to give rise to public detriment by foreclosing rival soft plastic stewardship scheme's access to processing services. The ACCC considers that a condition requiring that no exclusive contracts with processors are entered into will reduce the likelihood of this public detriment arising (discussed further in **Conditions** at paragraph 4.112).
- 4.72. As such, the ACCC considers that with a condition requiring that no exclusive contracts with processors are entered into, the Proposed Conduct is not likely to result in public detriment due to crowding out alternative soft plastic stewardship arrangements.

Increased barriers to entry and expansion by service providers who do not win SPSA contracts

SPSA submissions

- 4.73. As part of the Proposed Conduct, SPSA seeks authorisation to arrange and acquire services to implement the Scheme, including entering into and giving effect to contracts with third parties for the collection, transport, sortation, storage, processing and recycling of used soft plastics, as well as third-party services for collecting and managing and auditing packaging data.
- 4.74. In response to the ACCC's request for further information, SPSA submits that it will not place restrictions on Scheme Participants or SPSA members from dealing with other parties who are not SPSA members or SPSA Scheme Participants. SPSA also submits that it is a matter for the retailers whether they require their suppliers to become an SPSA Scheme Participant, but it is not part of the scheme design as participation in the Scheme is intended to be voluntary.
- 4.75. SPSA submits that it does not intend to enter exclusive arrangements with processors, instead it intends to rely on a diverse network of processing partners to maximise the proportion of feedstock which can be recycled and making the Scheme resilient to disruptions. However, SPSA also submits that it will have greater visibility over terms with service providers once it completes the request for information process.
- 4.76. SPSA also submits that it will not place any restrictions on Scheme Participants joining other soft plastic stewardship schemes.
- 4.77. SPSA submits that how frequently it intends to contract for services will depend on the type of contract, as well as the length of authorisation granted by the ACCC. SPSA intends to enter shorter term contracts for services it identifies as 'low risk,' such as transport and storage. Subject to ACCC authorisation, longer term contracts would be entered into with processors and sortation contracts with Material Recovery Facilities would align with the term of their existing Council contracts.

Interested party submissions

- 4.78. ACOR submits that the **long-term viability of soft plastic recycling infrastructure depends on consistent volume of feedstock** and access to end markets. Processing facilities require reliable supply, without which they cannot operate sustainably. Similarly iQRenew submits that without a guaranteed level of feedstock, it could not sustain its Soft Plastic Engineered Commodity facility, designed to process up to 14,000 tonnes per year. iQRenew also submits that growth of Australia's soft plastic recycling infrastructure hinges on sufficient, long-term, high-volume supply and contracts.

ACCC view

- 4.79. The ACCC has considered the potential for the Proposed Conduct to increase barriers to entry and/or expansion for service providers engaged in the collection, transport, sorting, storage or processing of used soft plastics who do not secure SPSA contracts.
- 4.80. In assessing this risk, the ACCC has had regard to a range of information, including the scope of the Proposed Conduct, SPSA's projected collection and recovery volumes under the Proposed Conduct SPSA submissions regarding intended contract terms and use of exclusive contracts, and a limited number of submissions that shed light on the availability of alternative sources of supply and buyers at each level in the vertical soft plastics recycling supply chain in the future with the Proposed Conduct, compared to the future without.
- 4.81. As noted previously, SPSA submits that under its base case projections, the Scheme is expected to collect and recover between <1% to 5% of business-to-consumer soft plastic placed on the market each year between 2026 and 2033. Under best case or 'high side' projections, SPSA expects to collect and recover at most 20% per annum of business-to-consumer soft plastic placed on the market by 2033.
- 4.82. In relation to its contracting intentions, the ACCC notes that SPSA submits:
- The length of its contracts will vary for each service, but it intends to follow global best practice, with shorter contract terms services such as transport and storage, sortation contracts aligning with the remaining term of council contracts, and longer terms for processing contracts to support investment.⁹³
 - It does not intend to enter into exclusive arrangements with processors, though it has not ruled them out. As discussed above, SPSA seeks authorisation to engage in exclusive dealing.⁹⁴
- 4.83. The ACCC considers that businesses that do not win an SPSA contract will not necessarily be worse off compared to the future without the Proposed Conduct. They would only be worse off to the extent that they likely would have secured contracts with individual SPSA participants (acting unilaterally) in the future without the Proposed Conduct. As noted previously, the ACCC considers that SPSA Scheme Participants' incentives to act unilaterally would be weakened by the inability to coordinate (see paragraph 4.11).

⁹³ SPSA, [Response to ACCC request for further information](#), 20 June 2025, p 22.

⁹⁴ SPSA, [Amendment to description of Proposed Conduct](#), 22 July 2025.

- 4.84. The ACCC considers the risk of the Proposed Conduct increasing barriers to entry and expansion in the provision of soft plastic recycling services is potentially greatest for businesses that do not secure a contract with SPSA and who otherwise struggle to access sufficient volume and/or quality of feedstock to sustain a commercially viable operation.
- 4.85. On this criteria, the ACCC considers that advanced mechanical and chemical processors, and associated sorting businesses, are likely to be particularly reliant on SPSA contracts due to their high-volume feedstock requirements. However, SPSA is also likely to be reliant on these processors to fulfil its recovery objective. The ACCC notes that advanced mechanical and chemical processors are better placed, compared to other processors, to produce greater volumes of high value outputs (pellets suitable for use in the manufacture of food-grade products). Under processing arrangements where SPSA pays for the processing of feedstock and retains ownership of pellets produced by the processor, this enables SPSA to realise more revenue and/or potentially have a greater role in the development of high value end markets. The ACCC therefore considers that SPSA has an incentive to negotiate contracts with most, if not all, processors with advanced capability.
- 4.86. Processors whose services include standard mechanical processing can use plastic bags, bubble film and shrink wrap as feedstock. The ACCC considers that business-to-business soft plastics (which is out of scope for the SPSA Scheme, but accounts for around 30% of all soft plastics placed on the market) are likely to be a viable alternative source of feedstock for standard mechanical processors, potentially making them less reliant on business-to-consumer feedstock via the SPSA Scheme.
- 4.87. On current information, the ACCC does not consider that the Proposed Conduct is likely to give rise to public detriment by materially increasing barriers to entry and/or expansion for service providers involved in soft plastics recycling who do not secure SPSA contracts. However, the ACCC invites further submissions from service providers on this issue.

Facilitating the sharing of commercially sensitive information and/or market sharing between competitors

SPSA submissions

- 4.88. In response to the ACCC's request for further information, SPSA submits that it will take steps to ensure that commercially sensitive information is not shared between SPSA members. SPSA indicates that APCO could be engaged by SPSA as a service provider for the purposes of collecting and managing packaging data under a 'black box' arrangement where data is collected by a third party. SPSA submits that discussions between SPSA and APCO are ongoing.
- 4.89. In response to the ACCC's request for further information, SPSA submits that information sharing between SPSA and the Soft Plastics Taskforce would include details of service terms/contracts with service providers, operational costs (transport, storage and processing), key data and metrics related to instore collections (participation rates, volumes collected and volumes recycled), forecasts including store operational rollout plans and collection forecasts.

ACCC view

- 4.90. The ACCC considers that where commercially sensitive information is shared amongst competitors, there is a risk that this could result in public detriment by lessening competition. Such information sharing creates a risk of collusion or coordinated conduct beyond what has been authorised.
- 4.91. The ACCC considers that some of the information to be shared between SPSA and Scheme Participants is likely to be commercially sensitive in nature, including volumes of soft plastics placed on the market.
- 4.92. The ACCC notes that SPSA is proposing to implement protocols, such as a 'black box' arrangement whereby commercially sensitive and confidential information is collected by a third-party collection agent. Similarly, the proposed Scheme Agreement provides that confidential information shall be managed through a Confidentiality Protocol to be implemented by SPSA.
- 4.93. The ACCC considers that the information SPSA proposes to collect from Scheme Participants is proportionate and necessary for the operation of the Scheme. The ACCC also considers that the proposed third-party collection arrangement is likely to mitigate the risk of Scheme Participants having access to each other's commercially sensitive information and therefore limits the risk of collusion beyond the scope of the Proposed Conduct.
- 4.94. In relation to sharing of information between members of the Soft Plastic Taskforce and SPSA, the ACCC considers that the information proposed to be shared is reasonable to enable the transfer of the current instore collection programs from the Soft Plastics Taskforce to SPSA, to enable SPSA to continue operation of those programs.
- 4.95. SPSA seeks authorisation for sharing of market analysis, modelling, research and packaging placed on market data between SPSA and APCO. Provided the information to be shared by SPSA is whole-of-scheme data that does not identify any individual participant or sub-group of participants, the ACCC considers that the information proposed to be shared between APCO and SPSA as contemplated in the Proposed Conduct is reasonable.
- 4.96. Accordingly, the ACCC considers that the Proposed Conduct is unlikely to result in public detriment in the form of facilitating the sharing of commercially sensitive information and market sharing between competitors.

ACCC conclusion on public detriment

- 4.97. The ACCC considers that the Proposed Conduct is likely to give rise to public detriment by foreclosing rival soft plastic stewardship scheme's access to processing services. However, the ACCC considers that a condition requiring that no exclusive contracts with processors are entered into, will reduce the likelihood of this public detriment arising.

- 4.98. As such, the ACCC considers that the Proposed Conduct is unlikely to result in public detriments in the form of:
- crowding out an alternative stewardship arrangement for soft plastics
 - barriers to entry and expansion for service providers who do not win SPSA contracts
 - facilitating the sharing of commercially sensitive information and/or market sharing between competitors.

Balance of public benefit and detriment

- 4.99. The ACCC considers that the Proposed Conduct is likely to result in public benefits in the form of:
- environmental benefits due to diversion of soft plastics from landfill
 - efficiencies through coordination and aggregation in the collection, transport, storage, sorting and/or processing of used soft plastics.
- 4.100. The ACCC considers that Proposed Conduct is likely to give rise to public detriment by foreclosing rival soft plastic stewardship scheme's access to processing services. The ACCC considers that a condition requiring that there is no restriction on recycling processors from supplying services to another customer, will reduce the likelihood of this detriment arising.
- 4.101. The ACCC considers that the Proposed Conduct is unlikely to result in public detriment due to:
- with the above condition, crowding out an alternative stewardship arrangement for soft plastics
 - barriers to entry and expansion for service providers who do not win SPSA contracts
 - facilitating the sharing of commercially sensitive information and/or market sharing between competitors.
- 4.102. Therefore, for the reasons outlined in this draft determination, the ACCC is satisfied that the Proposed Conduct is likely to result in a public benefit and that this public benefit would outweigh any likely detriment to the public from the Proposed Conduct

Length of authorisation

- 4.103. The Act allows the ACCC to grant authorisation for a limited period of time.⁹⁵ This enables the ACCC to be in a position to be satisfied that the likely public benefits will outweigh the detriment for the period of authorisation. It also enables the ACCC to review the authorisation, and the public benefits and detriments that have resulted, after an appropriate period.
- 4.104. In this instance, SPSA seeks authorisation for 8 years. SPSA submits that authorisation for 8 years will enable it to enter into processing and recycling contracts of a sufficiently long length to provide investment confidence to processors and allow infrastructure establishment costs to be amortised. SPSA submits that a shorter period would result in shorter contracts with processors, providing less certainty for processors and impacting expansion of the Scheme.
- 4.105. APCO proposes a number of conditions of authorisation, including a mandatory ACCC review of the Scheme at the end of 3 years to assess whether SPSA is operating in alignment with the NEPM and the Scheme is delivering measurable public benefits.
- 4.106. Cleanaway submits that an 8 year authorisation period may not be sufficient to drive long-term investment, noting that construction of at scale facilities, combined with the need to secure regulatory approvals can often mean it takes a minimum of 4 years for a project to go from concept to commissioning. Whilst not addressing length of authorisation directly, iQRenew submits that the growth of Australia's soft plastic recycling infrastructure relies on long-term, high-volume supply and contracts.

ACCC view

- 4.107. The ACCC considers it is appropriate to grant authorisation for the period sought by SPSA, acknowledging that processors require a level of certainty of feedstock to drive investment in facilities required to process used soft plastic packaging.
- 4.108. The ACCC recognises that government is considering national packaging reform options but that the timelines and outcomes of that reform program are currently uncertain. In that context, the ACCC notes that should it become apparent that a material change of circumstances has occurred after any authorisation is granted, the ACCC may consider exercising its power to revoke the authorisation (and substitute it with a new authorisation).
- 4.109. Accordingly, the ACCC proposes to grant authorisation for a period of 8 years.

Conditions

- 4.110. APCO submits that authorisation be subject to conditions relating to amendments to SPSA's objects and board composition, scope of activities under the Scheme, reporting requirements and requirements on SPSA to consult with APCO. It submits

⁹⁵ Subsection 91(1)

these conditions are essential to ensure the authorisation delivers genuine public benefit, avoids competitive harm, and preserves the integrity of Australia's national co-regulatory packaging framework under the NEPM. However, APCO recognises that not all conditions may be able to be accommodated or relevant to the authorisation.

SPSA response

4.111. In response to APCO's submission, SPSA submits that while SPSA is willing to work with APCO in relation to the Scheme, the conditions proposed by APCO are unnecessary and/or inappropriate and generally do not add public benefit to SPSA's proposal. In particular, the conditions tying SPSA to APCO and the NEPM are unnecessary and wholly inappropriate given the reform options being considered by government and the uncertainty around how the packaging reform may impact both APCO's Strategic Plan and the NEPM. In addition, a number of the proposed conditions go beyond the position reached between APCO and SPSA to date, as reflected in their joint submission.

ACCC view

4.112. The ACCC considers that a condition is necessary to reduce the likelihood of public detriment arising due to exclusive contracts with processors as discussed above at paragraph 4.71. This condition is set out below as Condition 1.

4.113. When assessing authorisation applications for stewardship schemes, the ACCC has regard to governance arrangements and transparency of outcomes. The ACCC has considered SPSA's governance arrangements and notes that SPSA has publicly disclosed its Board structure (including an independent Chair), Constitution and details of its Stakeholder Advisory Council (detailed at paragraphs 1.7 to 1.9). SPSA has stated that it will appoint an independent, external consultant to conduct a full review in the 3rd and 7th years of the scheme and the reports from these reviews will be published on the SPSA website (see paragraph 1.37).

4.114. The ACCC considers that a reporting condition is necessary to ensure transparency and public awareness of the Scheme and its performance, including the realisation of public benefits resulting from the Proposed Conduct.

4.115. SPSA submits that it will include in its annual reports a number of metrics including:

- progress towards its annual targets
- number of Scheme Participants
- information on recycling partners, such as number of collectors and recyclers involved in the Scheme
- number of collection points and geographic coverage of collection points
- volumes of soft plastics collected and sent to processors

- total levy funds collected and a breakdown of expenditure of those funds, as well as an explanation of how expenditure is contributing to achieving the Scheme's objectives.
- total aggregate volume of processed materials sent to end markets by sector
- information regarding newly generated end markets and development of existing end markets.⁹⁶

4.116. The ACCC considers it appropriate that these and other metrics be formalised as a condition to be reported in the annual report to be published on its website. This reporting will ensure participants, and the public, receive a sufficient degree of transparency in respect of the Scheme's operations and governance, including the realisation of public benefits resulting from the Proposed Conduct. The Condition is set out in detail in paragraph 5.10.

4.117. The ACCC does not propose to impose other conditions, noting that both SPSA and APCO have confirmed that they are working together in relation to implementation of the Scheme, including in light of uncertainty regarding packaging reform,⁹⁷ and that APCO has indicated that SPSA as a Producer Responsibility Organisation can co-exist in its role alongside APCO.⁹⁸

5. Draft determination

The application

5.1. On 18 March 2025, SPSA lodged application AA1000695 with the ACCC, seeking authorisation under subsection 88(1) of the Act.

5.2. SPSA seek authorisation for:

- SPSA setting and collecting, and the Scheme Participants agreeing to pay, the Scheme Levy and Minimum Levy, which may be passed on by a Scheme Participant as part of their price and may be eco-modulated in the future
- SPSA developing, setting and imposing membership terms and conditions and Scheme Participants agreeing to these terms and conditions
- agreements between SPSA and each of Coles, Woolworths and ALDI (being members of the Taskforce) (as required) to allow SPSA to take over and expand on the instore collection program being run by the members of the

⁹⁶ SPSA, [Application for Authorisation](#), 18 March 2025, p 23; SPSA, [Response to ACCC request for further information](#), 20 June 2025, p 8.

⁹⁷ [APCO and SPSA](#).

⁹⁸ [APCO](#).

Taskforce including transferring arrangements with service providers to SPSA

- the sharing of operational information and data between SPSA and Coles, Woolworths and ALDI (being the members of the Taskforce) (as required) to facilitate SPSA's operations, including to transfer the arrangements for the Taskforce instore collection program run by Coles, Woolworths and ALDI to SPSA
- SPSA arranging for and acquiring services to implement and operate the Scheme, including by entering into and giving effect to contracts with third parties for the collection, transport, sortation, storage, processing and recycling of used soft plastics and third-party services for invoicing, collecting and managing and auditing packaging data
- SPSA and Scheme Participants discussing and agreeing communications to consumers and the public in relation to the Scheme, including marketing and educational activities
- SPSA and APCO sharing market analysis, modelling, research and packaging placed on market data and agreeing communications to APCO members for the purpose of the Scheme

(the Proposed Conduct).

- 5.3. Subsection 90A(1) of the Act requires that before determining an application for authorisation, the ACCC shall prepare a draft determination.

The authorisation test

- 5.4. Under subsections 90(7) and 90(8) of the Act, the ACCC must not make a determination granting an authorisation unless it is satisfied in all the circumstances that the Proposed Conduct would result, or be likely to result in a benefit to the public and the benefit would outweigh the detriment to the public that would result, or be likely to result, from the Proposed Conduct.
- 5.5. For the reasons outlined in this draft determination and with the condition below, the ACCC is satisfied, in all the circumstances, that the Proposed Conduct would be likely to result in a benefit to the public and the benefit to the public would outweigh the detriment to the public that would result or be likely to result from the Proposed Conduct, including any lessening of competition.
- 5.6. Accordingly, the ACCC proposes to grant authorisation.

Conduct which the ACCC proposes to authorise

5.7. The ACCC proposes to grant conditional authorisation AA1000695 to SPSA to engage in the following conduct:

- SPSA setting and collecting, and the Scheme Participants agreeing to pay, the Scheme Levy and Minimum Levy, which may be passed on by a Scheme Participant as part of their price and may be eco-modulated in the future
- SPSA developing, setting and imposing membership terms and conditions and Scheme Participants agreeing to these terms and conditions
- agreements between SPSA and each of Coles, Woolworths and ALDI (being members of the Taskforce) (as required) to allow SPSA to take over and expand on the instore collection program being run by the members of the Taskforce including transferring arrangements with service providers to SPSA
- the sharing of operational information and data between SPSA and Coles, Woolworths and ALDI (being the members of the Taskforce) (as required) to facilitate SPSA's operations, including to transfer the arrangements for the Taskforce instore collection program run by Coles, Woolworths and ALDI to SPSA
- SPSA arranging for and acquiring services to implement and operate the Scheme, including by entering into and giving effect to contracts with third parties for the collection, transport, sortation, storage, processing and recycling of used soft plastics and third-party services for invoicing, collecting and managing and auditing packaging data
- SPSA and Scheme Participants discussing and agreeing communications to consumers and the public in relation to the Scheme, including marketing and educational activities
- SPSA and APCO sharing market analysis, modelling, research and packaging placed on market data and agreeing communications to APCO members for the purpose of the Scheme.

5.8. The ACCC proposes to grant authorisation to SPSA and current and future participants in the Scheme as well as service providers to the Scheme and APCO who may become engaged in the Proposed Conduct.

5.9. The ACCC may specify conditions in an authorisation. The legal protection provided by authorisation does not apply if any conditions are not complied with.⁹⁹

5.10. The ACCC proposes to grant authorisation with the following conditions:

⁹⁹ Subsection 88(3) of the Act.

Condition 1 – No restriction on processing businesses to supply: All contracts, arrangements or understandings entered into in reliance upon this authorisation must not restrict any recycling processor from supplying services to another customer.

Condition 2 – Reporting requirement

1. SPSA must publish on its website an annual report for the Scheme which includes the following metrics for the preceding year, and each previous year that the Scheme is in operation:
 - a. Total volume of soft plastics placed on the market in Australia (tonnes to nearest '000)
 - b. Total volume of soft plastics placed on the market by Scheme Participants (tonnes to nearest '000)
 - c. Total volume of soft plastics collected by the Scheme (tonnes to nearest '000)
 - d. Total volume of soft plastics delivered by the Scheme to processors for processing (tonnes to nearest '000)
 - e. The percentage of total volume of soft plastics collected by the Scheme (at c) relative to
 - i. the total volume of soft plastics generated in Australia (at a); and
 - ii. relative to the total volume placed on the market by Scheme Participants (at b)
 - f. Total volume of processed soft plastic materials sent to producers of end products (by type of end product) (tonnes to nearest '000)
 - g. Information regarding emerging end markets and growth of existing end markets.
 - h. SPSA's annual collection and processing targets and progress towards those targets
 - i. Number of Scheme Participants
 - j. The average value of the Scheme Levy (\$/tonne)
 - k. Total levy funds collected (after discounts and offsets to members and participants) and a breakdown of how levy funds were spent during the relevant year

- I. The total value of the REDcycle Stockpile Cost Set-off paid to each of Coles and Woolworths in the relevant year.

5.11. The ACCC proposes to grant authorisation with a condition in relation to Division 1 of Part IV of the Act, and sections 45 and 47 of the Act.

5.12. The ACCC proposes to grant authorisation AA1000695 with conditions for 8 years.

5.13. This draft determination is made on 11 August 2025.

6. Interim authorisation

6.1. Interim authorisation is sought for the following conduct

- SPSA setting and collecting, and the Scheme Participants agreeing to pay, the Scheme Levy and Minimum Levy, which may be passed on by a Scheme Participant as part of their price
- SPSA arranging for services to implement and operate the Scheme by:
 - issuing request(s) for information and/or request(s) for proposal in respect of, and/or
 - negotiation of (but not entering into and/or giving effect to)
 - contracts with third parties for the collection, transport, sortation, storage, processing and recycling of used soft plastics and third-party services for invoicing, collecting and managing and auditing packaging data
- the sharing of operational information and data between SPSA and Coles, Woolworths and ALDI (being the members of the Taskforce) (as required) to allow SPSA to prepare to transfer the arrangements for the Taskforce instore collection program run by Coles, Woolworths and ALDI to SPSA.

6.2. SPSA submits it has been supported by voluntary contributions from a small subset of brands and retailers and that interim authorisation to establish and collect the levy is important to assist SPSA in recruiting members, ensure initial Scheme supporters are not unfairly burdened by the significant costs involved in establishing the Scheme, and provide investment certainty to soft plastics processors and recyclers sooner. SPSA also submits that arranging for third party services will enable SPSA to formally assess the industry's capacity and preferred operating models to inform next steps in respect of establishing the Scheme, and that sharing information and data with members of the Taskforce would allow SPSA to commence centralised procurement planning, consider next steps for contracting processes and improve visibility of the Scheme's expected cost structure.

Interested Parties view

- 6.3. A number of interested parties made submissions specifically in support of the granting of interim authorisation in relation to collection of the levy including from Australian Food and Grocery Council, Australian Paper Recovery, the Central Adelaide Waste and Recycling Authority, Nestle Australia, Planet Ark and RecycleSmart.
- 6.4. iQRenew submits that interim authorisation is required so that they can contract current feedstock and continue to process at scale.
- 6.5. The ACCC also notes concerns raised by the Australian Dairy Products Federation (see paragraph 3.12) and the Waste Management and Resource Recovery Association of Australia (see paragraph 3.19) in relation to the interim authorisation application.

ACCC view

- 6.6. The ACCC considers that it is appropriate to grant interim authorisation for the conduct specified at paragraph 6.7 noting that:
 - The conduct is related to preparatory activities for the Scheme. The conduct does not extend to collection of the levy, entering into contracts with third party service providers or taking control over the Taskforce instore collection program. It will allow for the benefits resulting from the Proposed Conduct to be realised sooner if final authorisation is granted. Should final authorisation not be granted, the status quo could be returned. The ACCC considers that if interim authorisation was granted for the collection of the Scheme Levy and Minimum Levy, this would likely alter the status quo as a levy is not currently collected. Further, it is unclear whether the status quo could be returned, noting SPSA has not made any submission about whether collected levies would be refunded if final authorisation was not granted.
 - There is a degree of urgency with regard to the need to commence preparatory Scheme activities to allow for continuity of soft plastic recycling efforts. The ACCC notes concerns raised by iQRenew regarding the need to contract feedstock to continue processing. If interim authorisation were not granted, it is possible harm to market participants like iQRenew and other processors could occur.
- 6.7. The ACCC has decided to grant interim authorisation for the following conduct:
 - SPSA setting, but not collecting, the Scheme Levy and Minimum Levy
 - SPSA arranging for services to implement and operate the Scheme by:
 - issuing request(s) for information and/or request(s) for proposal in respect of, and/or
 - negotiation of (but not entering into and/or giving effect to)

contracts with third parties for the collection, transport, sortation, storage, processing and recycling of used soft plastics and third-party services for invoicing, collecting and managing and auditing packaging data

- The sharing of operational information and data between SPSA and Coles, Woolworths and ALDI (being the members of the Taskforce) (as required) to allow SPSA to prepare to transfer the arrangements for the Taskforce instore collection program run by Coles, Woolworths and ALDI to SPSA.
- 6.8. The ACCC grants interim authorisation to SPSA and current and future participants in the Scheme as well as service providers to the Scheme who become engaged in the conduct.
- 6.9. Interim authorisation is granted in respect of Division 1 of Part IV and sections 45 and 47 of the Act.
- 6.10. Interim authorisation commences immediately and remains in place until it is revoked or the date the ACCC's final determination comes into effect or when the application for authorisation is withdrawn.
- 6.11. The ACCC's decision in relation to the interim authorisation should not be taken to be indicative of whether or not the final authorisation will be granted.

7. Next steps

- 7.1. The ACCC now invites submissions in response to this draft determination. In addition, consistent with section 90A of the Act, SPSA or an interested party may request that the ACCC hold a conference to discuss the draft determination.