



9 May 2025

Australian Competition & Consumer Commission
Competition Exemptions
GPO Box 3131
Canberra ACT 2601

Attention: Hannah Craig

Dear Hannah

Soft Plastic Stewardship Australia application for authorisation AA1000695 – joint communication by APCO and SPSA

Background

We refer to the application for authorisation AA1000695 lodged by Soft Plastic Stewardship Australia Limited (**SPSA**) on 18 March 2025 (**Application**).

This is a joint communication by the Australian Packaging Covenant Organisation (**APCO**) and SPSA to outline in more detail for the ACCC the role of APCO in relation to the Application.

APCO is the industry co-regulatory body for the packaging sector in Australia under the National Environment Protection (Used Packaging Materials) Measure 2011 (**NEPM**). APCO administers the Australian Packaging Covenant (the **Covenant**), a national co-regulatory framework that outlines the shared responsibilities of government and industry in managing the environmental impacts of packaging.

Under the Covenant, APCO is formally recognised as the co-regulatory body authorised to manage the national fee framework to fund the Covenant, coordinate member data, and ensure reporting integrity across all packaging materials. These functions are not transferable. Outside of this, there are other avenues for product stewardship arrangements to be recognised under the Recycling and Waste Reduction Act 2020 (**RAWR Act**).

Whilst there are other avenues under the RAWR Act, alignment with the Covenant is believed to be in the interests of stakeholders as it will deliver efficiencies for APCO members that choose to participate in the proposed product stewardship scheme under the Application (**Scheme**) and assist to promote the Scheme more widely amongst APCO members, where appropriate mechanisms can be agreed between the parties.

APCO's responsibilities include setting and collecting member fees to fund the Covenant, overseeing the submission and validation of data by members, and ensuring that the system operates with consistency, transparency, and efficiency across jurisdictions and materials. Within this framework, APCO's role is both complementary to, and legally distinct from, any proposed Producer Responsibility Organisation (**PRO**) such as SPSA. As the industry co-regulatory body under the Covenant, APCO remains accountable for maintaining the integrity of the national system, preserving public and governmental confidence, and achieving outcomes at scale. SPSA and APCO acknowledge that members have indicated a strong preference to avoid administrative duplication and risks that packaging materials would be levied more than once.

Operational arrangements for the Scheme

APCO and SPSA have been in ongoing discussions in relation to the Scheme.

As part of those discussions, APCO and SPSA have discussed key principles for how APCO could support the implementation and operation of the Scheme. The terms under discussion between the parties are set out in the table in **Annexure A** to this letter. The terms being discussed set out:

1. The position as stated in the Application for the initial period relating to the establishment and initial operation of the Scheme; and
2. APCO's proposed role in the establishment and initial operation of the Scheme under the Application.

Annexure A also provides an outline of the discussions regarding APCO's future role in the operation of the Scheme.

The purpose of Annexure A is to, among other things, recognise and acknowledge APCO's leadership and co-regulatory status under the NEPM and Covenant and to clarify the roles of APCO and SPSA in relation to the Scheme under the Application and a future state with APCO's "2030 Strategic Plan" being implemented.

A key part of Annexure A relates to APCO agreeing to collect funding for provision to SPSA through:

1. Horizon 1 – FY 2026:
 - 1.1 collecting voluntary fees from Scheme participants at the rate of \$160 per tonne in FY 2026 (being the proposed initial Scheme Levy currently proposed by SPSA in the Application); and
 - 1.2 seeking additional voluntary contributions from APCO members to sustain and fund the proposed activities under the Scheme; and
2. Horizon 2 – assuming APCO 2030 Strategy commencement:
 - 2.1 levying EPR/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.

Separately, a detailed term sheet is under development between the parties to formalise the proposed arrangements, and can be shared with the ACCC once complete.

For clarity, this letter (including Annexure A) is not intended to pre-empt the nature or extent of any conduct that may be authorised under the Application. The parties are also not seeking additional approval from the ACCC to matters set out in the documents, to the extent they are not currently addressed in the Application.

Next steps

SPSA acknowledges APCO's status and its responsibility for the national packaging stewardship framework under the Covenant. The parties are working on the more detailed terms and will provide any further updates to the ACCC in due course.

Please contact the undersigned should you wish to discuss this joint communication further.

Yours faithfully



Chris Foley
Chief Executive Officer
Australian Packaging Covenant Organisation Ltd



Dee Milosevic
Co-Chief Executive Officer
Soft Plastic Stewardship Australia Limited

Annexure A – Operational arrangements for the SPSA Scheme

Consideration / Activities	Horizon 1 – FY25/FY26		Horizon 2 – from commencement of APCO 2030 Strategy ¹
	SPSA's Application	Outline of APCO's proposed role under Application ²	Potential future state
Scheme Levy			
Costs	Producer Responsibility Organisation (PRO) (ie, SPSA in each case)	PRO	PRO
Collection volume	PRO	PRO	PRO in line with contracts held by the PRO; shared with APCO and government to inform delivery towards targets
Participant volumes placed on market	PRO	PRO, with APCO to collect and provide aggregated data regarding volumes for APCO members	APCO holds data; shared with PRO in aggregate
Levy or EPR / Eco-modulation Fee	PRO	PRO, with APCO to invoice and collect SPSA levy (\$160/tonne) from participants	APCO sets levies as part of its member fee under the Covenant and passes funds through to SPSA to cover all Scheme costs for services
Invoicing	“Collection agent”, with the potential to appoint APCO to provide invoicing for APCO members	APCO will invoice and collect the levy for APCO members and voluntary scheme participants	APCO
Scheme Auditing and upon implementation of the 2030 strategy, Accreditation	“Collection agent” and auditor, with the potential to appoint APCO to provide audit and assurance services for APCO members	APCO and auditor, with APCO appointed to provide audit and assurance services for APCO members	APCO (including through its third party appointed auditor/accreditation agent)

¹ Subject to endorsement by Environment Ministers and any considerations arising from future packaging reform.

² This position is currently under discussion between SPSA and APCO.

Consideration / Activities	Horizon 1 – FY25/FY26		Horizon 2 – from commencement of APCO 2030 Strategy ¹
	SPSA's Application	Outline of APCO's proposed role under Application ²	Potential future state
Participants	Voluntary Scheme participation	Voluntary Scheme participation, APCO to engage with APCO members should they elect to participate	APCO members and other voluntary Scheme participants (including some brand owners which may not be obliged to be APCO members under the Covenant)
Service provider contracting party	PRO	PRO	PRO in respect of soft plastics as described in the Scheme
Results reporting	PRO reports results to APCO and public	PRO reports results to APCO and public	PRO reports results to APCO and public
Commencement	July 2025	July 2025 (for invoicing and collection of SPSA agreed levies and data collection)	Activation of APCO strategy