

**Hannah Craig**

Competition Exemptions Branch, Mergers, Exemptions & Digital Division  
Australian Competition and Consumer Commission  
E: exemptions@accc.gov.au

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## Re: Public consultation – Soft Plastics Stewardship Australia application for authorisation AA1000695.

The Australian Dairy Products Federation (ADPF) welcomes the opportunity to provide comment to the Soft Plastics Stewardship Australia (SPSA) application to the Australian Competition and Consumer Commission (ACCC) – AA1000695. They are seeking authorisation for eight-years to establish and operate a voluntary products stewardship scheme for the recycling of soft plastic packaging material, funded through a levy on scheme participants.

In this first phase of consultation, the ACCC is seeking submissions to the urgent interim authorisation. This will be followed by the interim authorisation at the draft determination stage (July 2025), prior to the ACCCs final determination (September 2025). That being:

1. For SPSA to establish and commence collection of the scheme levy. Data for the levy would be collected by a third-party under a 'black box' system. Scheme participants may choose to pass on the levy as part of their product pricing.
2. To transfer existing arrangements and responsibility to SPSA that the Australian Food and Grocery Council (AFGC) has in place for small-scale kerbside pilots.

The ADPF has consulted with our members and more broadly with other Australia dairy processors, in the development of our response, and worked collaboratively with Dairy Australia.

We note, that due to the constrained consultation timeframes, we have been unable to provide full, detailed, and informed responses. A more substantive submission will follow to the interim authorisation – draft determination stage.

The dairy processing industry is committed to supporting the development of a credible, coordinated, and effective soft plastics stewardship model in Australia.

However, due the perishability of dairy foods, and the unique and material issues we must manage, careful and due consideration must be given to any reform of packaging stewardship in Australia.

Packaging plays a critical role in ensuring product safety, quality, nutrition standards, and compliance with consumer expectations. The proposed regulatory changes could impact material choices, increase costs, and require operational adjustments.

Importantly, this consultation is one of a multitude of packaging reforms being considered: the Department of Climate Change, Energy, the Environment and Water's (DCCEEW) consultation on the Reform of Packaging Regulation (September 2024 – ongoing), the DCCEEW Kerbside Recyclability Grading Framework (due: Friday April 18, 2025), and the consultation on the APCO 2030 strategy and strengthened industry-led Extended Producer Responsibility (EPR) approach for packaging (due: Friday May 16, 2025).

To that end, we have consulted with SPSA on the development of their application and the assumption and modelling differences that exist between SPSA and APCO on the recovery and processing of soft plastics, and their relationship – and appreciate their due diligence and progression. However, until a relationship and agreement with APCO is formalised, and the differences in the governing framework, fee-model, and scheme integration resolved, is it difficult for the dairy processing industry to provide full urgent interim authorisation.

We therefore recommend the ACCC work closely and collaboratively with the Australian dairy processing industry in co-designing a sustainable soft-plastics packaging system that supports long term economic and environmental goals, whilst having regard for the broader packaging reforms being considered.

## Recommendations

**In its current form, we cannot support the full request for urgent interim authorisation:**

- 1. Scheme levy – for SPSA to establish and commence collection of the scheme levy. This is not supported.**
  - The SPSA proposal raises significant questions that remain unanswered, particularly around the governance, financial transparency, scheme integration, and equitable cost allocation.
  - We recommend 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.
- 2. To transfer existing arrangements to SPSA, that the AFGC has in place for small-scale kerbside pilots. This is supported.**
  - We recommend the ACCC grant urgent interim authorisation only for SPSA to assume the AFGC pilot program.

## The Australian Dairy Products Federation and Dairy Australia.

The Australian Dairy Products Federation (ADPF) is the lead policy and advocacy body representing the nation's dairy manufacturing industry. Our members are multi-national organisations through to single-plant companies, and work across rural and regional Australia. They are responsible for processing about 90 per cent of Australia's total milk pool and together represent most of the milk, cheese, yoghurt, butter, ice-cream, and dairy ingredients produced and marketed in Australia and sold throughout the world.

Dairy Australia is the national services body for dairy farmers and the industry. Its role is to help farmers adapt to a changing operating environment, and achieve a profitable, sustainable dairy industry. As the industry's Research and Development Corporation, it is the 'investment arm' of the industry, investing in projects that cannot be done efficiently by individual farmers or companies.

## The Australian Dairy Processing Industry

The Australian dairy processing industry is built on a foundation of excellence – globally recognised for its premium quality, world-class food safety standards, and commitment to sustainability.

Our dairy processors sit at the heart of communities, providing jobs, investing in farmers, and transforming perishable raw milk into premium products for domestic and global markets every day of the year.

Our industry drives an economic contribution of \$18.5 billion and we generate more than 70,000 jobs across the country.

ADPF is actively working to ensure dairy processors have the right policies, support, and investment to thrive in a competitive market.

However, significant challenges are limiting our ability to capitalise on this potential. A tough domestic trading environment, characterised by retail price pressures, long-term contracting raw milk volumes, high overhead costs, regulatory constraints, and import competition, continues to stifle progress.

Fifteen dairy processing businesses have announced closures over the past two and a half years.

We cannot afford for ill-informed regulation to impact our sector.

## Specific responses to the two components of the urgent interim authorisation:

### 1. Scheme levy – for SPSA to establish and commence collection of the scheme levy.

The Australian dairy processing sector understands the urgent need for a credible and coordinated soft plastics stewardship program.

We understand the need to develop solutions that are industry-led, clearly governed, financially transparent, and capable of achieving long-term recovery outcomes.

While the intentions of SPSA are recognised, the dairy processing sector cannot support full urgent interim authorisation as proposed.

The industry's concerns relate to the:

- **Schemes funding model, financial implications, and levy uncertainty** – with wide ranging unresolved uncertainties on the scheme's funding model, including the levy quantum, collection and use, and commencement date.
- **Governance and representation** – including the strong influence of the retailer, how strategic priorities and funding decisions will be made, and to what extent manufacturers will be equitably represented.
- **Strategic alignment with the APCO 2030 strategy and EPR approach to soft plastics** – with a lack of a formal agreement or published framework on how SPSA and APCO will coordinate responsibilities and govern the recovery and processing of soft plastics – and APCO proposing to operate within the existing co-regulatory model, and SPSA a separate governance and voluntary fee approach. Alignment and clarity on the roles of SPSA and APCO is critical.
- **Operational Duplication and Compliance Burden** – with many dairy processing businesses longstanding members of APCO and their packaging obligations, concerned by what a second scheme could impose – and with SPSA focused on B2C packaging versus APCO's broader scope.

These concerns are particularly acute for the dairy processing sector, which operates under narrow margins, rising manufacturing costs, and limited capacity to absorb new, unbudgeted financial burdens.

We request that the urgent interim authorisation be limited solely to the transfer and continuation of the AFGC soft plastics pilot program. All other aspects, particularly levy collection and the use of scheme funds for legacy remediation should be subject to further review and clarification.

We expand on this below:

### *Scheme Funding Model, Financial Implications and Levy Uncertainty for the Australian Dairy Processing Industry*

The Australian dairy processing industry is navigating a challenging economic environment marked by increasing energy prices, high production and transport costs, and regulatory pressures.

Introducing a new and potentially duplicative financial obligation poses a significant challenge.

SPSA's proposal to begin levy collection from 1 July 2025, despite unresolved governance and fee-setting mechanisms, presents unacceptable financial uncertainty. The sector requires sufficient lead time and cost transparency to budget responsibly.

Further, there is significant disparity between the levy proposed by SPSA and the soft plastics EPR fees proposed under APCO.

SPSA's fees begin at \$160 per tonne and increases to \$420 by FY2029, while APCO's model proposes substantially lower initial fees starting in FY2027.

Without published modelling from either organisation, the sector is unable to assess how these figures have been derived or how future adjustments might be made.

The voluntary nature of SPSA adds another layer of risk.

Should participation levels fall short, the per-tonne levy may increase further to cover fixed costs. Early participants, potentially including many dairy processing businesses, would shoulder a disproportionate burden.

Furthermore, SPSA's flat-rate levy does not differentiate between packaging formats, meaning no consideration is given to the recyclability or environmental profile of materials. This lack of 'eco-modulation', based on recyclability of materials, undermines incentives for those who have made investments in more sustainable packaging.

There is also a lack of clarity on who will collect levies before FY2027, given that APCO's EPR collection framework is not scheduled to commence until then. If SPSA intends for APCO to administer levy collection, this transitional period from FY2026 to FY2027 remains entirely undefined, raising questions about accountability and financial governance.

The SPSA application (page 17) also states that the SPSA Board reserves the right to amend the scheme levies with only three months' notice, meaning brand owners may budget at the start of the year and half-way through the year levies increase – with no influence on the rationale or business impost.

An additional concern for the dairy processing industry is the uncertainty around the ability to pass through levy costs to consumers. This may require retailer agreement to incorporate the levy into wholesale pricing, and potentially a commitment to transparently communicate this cost to consumers, such as through on-pack labelling.

Without such mechanisms, dairy processors may be forced to absorb the full cost of the levy, which would erode margins in an already cost-sensitive environment.

Moreover, if certain businesses opt not to participate in the 'voluntary' scheme, the resulting 'free rider' dynamic could allow those businesses to undercut compliant participants on price. This raises the risk of commercial disadvantage for early adopters of the scheme.

### *Governance and Representation*

The dairy processing industry is concerned about the governance structure proposed under SPSA, which is heavily influenced by major retailers.

Given the retailers' central role in the previously failed REDcycle scheme, their leadership within SPSA presents potential conflicts of interest. It remains unclear how strategic priorities and funding decisions will be made, and to what extent manufacturers will be equitably represented.

Of particular concern is the proposed use of \$16 million over eight years from industry levies to fund remediation of REDcycle stockpiles, along with the need for transparency of stockpile management. The new scheme should not be unfairly lumbered with funding remediation of any legacy stockpiles (regardless of whether brands did have historical agreements with RedCycle, given those arrangements likely gave brands no control of the actual management of the scheme).

### *Strategic Alignment with the APCO 2030 Strategy and EPR Approach to Soft Plastics*

The lack of a formal agreement or published framework governing how SPSA and APCO will coordinate, raises material concerns.

The APCO 2030 strategy outlines an EPR approach for the recovery and processing of soft plastics, within the context of the existing co-regulatory model and governance structure; however, this is not aligned with the proposed SPSA separate governance structure and voluntary fee model.

**If the two schemes are intended to operate in tandem, the dairy processing industry requires clarity on how fee models will be reconciled, how decisions will be made collaboratively, and how roles will be divided in practice. At present, this relationship remains entirely undefined.**

And we are also yet to understand how the federal government's current consultation on the Reform of Packaging Regulation will interplay with the proposed approach to soft plastic EPR by SPSA or APCO's 2030 strategy and EPR model.

### *Operational Duplication and Compliance Burden*

Many dairy processing businesses are longstanding members of APCO and already meet packaging reporting, labelling, and compliance obligations.

The introduction of a second scheme, operating independently and without a clear plan for integration, would impose unnecessary duplication and complexity. The risk of having to submit

separate data, follow parallel reporting protocols, labelling requirements, or comply with differing packaging classifications is high. This is not a manageable or sustainable approach for the industry.

SPSA has stated its intention to avoid duplication with APCO, but in the absence of a formal memorandum of understanding or jointly endorsed implementation strategy, the industry cannot be assured that this will be achieved.

Additionally, there has been no clarification on how B2B packaging formats, such as pallet wrap, or liners will be addressed. SPSA focuses on B2C packaging only, while APCO's scope is broader. As a result, dairy processors could face dual levies across schemes depending on packaging use, without transparency on how responsibilities will be divided.

## 2. To transfer existing arrangements to SPSA, that the AFGC has in place for small-scale kerbside pilots.

SPSA is an independent not-for profit entity whose mission is to develop and manage a national, voluntary, industry-led packaging stewardship scheme for recycling used soft plastic packaging materials.

The scheme is proposed to ultimately cover soft plastics collected through multiple channels, including instore collections, kerbside collections and other drop-off facilities and will build on the work undertaken to date by the Soft Plastics Taskforce (Taskforce) and the National Plastics Recycling Scheme (NPRS), run by the AFGC.

SPSA is seeking interim authorisation to transfer and take over responsibility for existing recycling arrangements that the AFGC has in place to SPSA, starting with the small-scale council kerbside collection pilots.

We see no reason for this not to happen and support the intent of continuing to work with the dairy processors to increase through-put capacity to support future soft plastics recovery. The dairy processing industry thereby support this recommendation as part of the urgent interim authorisation.

## Conclusion

The dairy processing industry is committed to supporting the development of a credible, coordinated, and effective soft plastics stewardship model in Australia.

However, in its current form, the SPSA proposal raises significant questions that remain unanswered.

Until there is greater clarity and updated documentation from SPSA on the governance, financial transparency, scheme integration, and equitable cost allocation, we cannot support full urgent interim authorisation.

We therefore request that the ACCC grant urgent interim authorisation only for SPSA to assume the AFGC pilot program.

We recommend deferring approval of levy collection and stockpile remediation until a formal alignment with APCO is confirmed, including any required changes to the proposed model, fee-setting models are transparently disclosed, governance mechanisms are balanced, and inclusive, and administrative duplication is resolved.

We appreciate the ACCC's ongoing engagement with dairy processors and the opportunity to contribute to the evolution of a fair and efficient stewardship framework for soft plastics, as part of the broader packaging reforms being considered.

Yours sincerely

A handwritten signature in black ink, appearing to read 'John Williams'.

John Williams  
ADPF Chair  
E: [john.williams@adpf.org.au](mailto:john.williams@adpf.org.au)  
M: 0419 349 302

A handwritten signature in black ink, appearing to read 'Janine Waller'.

Janine Waller  
ADPF Chief Executive Officer  
E: [janine.waller@adpf.org.au](mailto:janine.waller@adpf.org.au)  
M: 0409 189 574

**Contact for Service**

Jhin Bagchi  
Environmental Projects Lead, Dairy Australia  
E: [Jhin.Bagchi@dairyaustralia.com.au](mailto:Jhin.Bagchi@dairyaustralia.com.au)