

25 August 2025

Mr. Mick Keogh Chair,
Competition Exemptions Committee
Australian Competition & Consumer Commission
GPO Box 3131,
Canberra ACT 2601
Submission by online portal



Response from Zero Waste Victoria

Regarding ACCC's Draft Determination and interim Authorisation
for Soft Plastic Stewardship Australia Limited

Position Summary

Thank you for the invitation to provide feedback on the draft determination for Soft Plastic Stewardship Australia (SPSA) application for authorisation AA1000695.

Zero Waste Victoria (ZWV) supports the stated objectives of Soft Plastics Australia (SPSA) and welcomes efforts to divert soft plastics from landfill. However, based on current information, ZWV has three key concerns that must be addressed for the scheme to be credible and effective.

- **Members reimbursements or offsets.** Levy funds must be directed solely to environmental and public-benefit outcomes, specifically soft plastic stewardship. Diverting funds to subsidise Coles, Woolworths, or other SPSA members distorts fair competition by shifting historic commercial costs onto the public. This not only undermines trust but also calls into question the integrity of the scheme.
- **Lack of Independent governance.** The proposed board structure allows brand and retail owner directors to dominate, with only up to two independent directors permitted. If SPSA is to levy fees on the plastics its members produce and sell, with costs ultimately borne by consumers, this creates inherent conflicts of interest. A board with such limited independence cannot provide genuine

accountability, particularly when decisions about fund allocation risk being shaped by members' commercial interests rather than public or environmental outcomes.

- **Credible targets and transparency.** Clear, measurable recovery targets, market development goals, and transparent reporting are essential. Without them, the scheme risks delivering little more than the appearance of progress. To build confidence, performance must be independently verified and reported publicly, ensuring accountability to both the community and regulators.

Communities need viable, long-term solutions, and continuity of collections that support recyclers able to process material today is important. A soft plastics scheme is warranted, but not at any cost. Without sufficient safeguards to address corporate interests and conflicts, approval risks delivering only the appearance of progress and effectively endorsing greenwashing.

Taking these concerns into account, any authorisation must be conditional, built on independent governance, and fully revocable. If SPSA fails to meet required targets, or if a stronger national framework is introduced, authorisation should be withdrawn. Any replacement authorisation should only be granted if it demonstrably delivers superior environmental outcomes and public benefit. Only a scheme grounded in independence, transparency, and measurable outcomes will provide genuine environmental progress and sustain public trust.

1. Context and Rationale

- 1.1. Zero Waste Victoria (ZWV) supports the stated objectives of Soft Plastics Australia (SPSA) and welcomes efforts to divert soft plastics from landfill and achieve efficiencies through coordinated collection, transport, storage, sorting, and/or processing. **However, financial arrangements within the scheme must transparently support environmental outcomes rather than subsidise commercial interests.**
- 1.2. We face a pressing need for long-term, viable solutions. Communities are seeking ways to recycle soft plastics, and continuity of collections that support recyclers capable of processing material today is important. A soft plastics scheme is necessary, but not at any cost. A rushed approval without safeguards could set us back further. If the scheme is approved, it must be subject to strong conditions: no member benefits, independent

governance, measurable targets, and fully revocable authorisation if these conditions are not met, or if superior government frameworks are introduced.

- 1.3. Locking in this proposal as it currently stands risks repeating the failures of REDcycle and entrenching a model that prioritises commercial interests over genuine environmental outcomes. **For public trust to be restored, the scheme must deliver a trusted, transparent, long-term genuine stewardship framework.** Communities, councils, recyclers, and environmental groups need credible solutions to the soft plastics crisis. The public should not be expected to bear disproportionate costs through direct fees, levies, or other indirect mechanisms while private entities benefit financially.
- 1.4. We acknowledge the ACCC's recognition of potential benefits and risks of the proposed scheme, and its decision to impose conditions requiring transparent reporting and preventing anti-competitive restrictions on processors. **We also note the ACCC's conclusion that the scheme is not likely to deliver a public benefit in the form of increased R&D or innovation for domestic end markets.**
- 1.5. Without robust action to drive waste reduction, market development, and innovation, the scheme risks managing only a fraction of the material placed on the market, while giving the public the impression of greater progress. Given the fallout from REDcycle, urgency must not override scrutiny. Success depends on both environmental performance and governance integrity, independence from vested interests and prevention of arrangements that facilitate private benefit at the expense of public interest.
- 1.6. Approving a not-for-profit scheme that distributes funds to its own members risks setting a precedent that undermines public trust and the integrity of future stewardship initiatives. Levy funds must be used solely for activities that genuinely advance environmental and public-benefit outcomes, not to reimburse prior commercial expenses of companies.
- 1.7. While we acknowledge the ACCC's efforts to balance competition, efficiency, and public benefit, SPSA warrants a higher level of scrutiny than routine authorisation cases. This is a complex application, also raising issues relevant to the the Australian Charities and Not-for-profits

Commission (ACNC) and the Department of Climate Change, Energy, Environment and Water (DCCEEW). The outcome could set a precedent for voluntary stewardship schemes for many years to come.

- 1.8. For these reasons, **we urge the ACCC to impose stronger conditions on governance independence, conflict-of-interest management, prevention of member benefits, and accountability for genuine environmental outcomes.** Without these measures, the scheme risks greenwashing by presenting a public-facing stewardship image while serving commercial and reputational interests, failing to deliver systemic, long-term solutions.
- 1.9. The proposed Soft Plastics Stewardship Scheme risks diverting levy funds from genuine environmental outcomes and public benefit, while enabling private financial gain. Governance is dominated by major retailers and brand owners, creating inherent conflicts of interest that could prioritise commercial objectives over real stewardship. **Without strong enforcement, transparent reporting, independent oversight, and time-bound targets, the scheme is unlikely to deliver meaningful waste reduction, domestic market development, or circular material flows, undermining both environmental outcomes and competitive neutrality.**

Detailed Rationale

2. Fair Trading Considerations

- 2.1. The proposal to grant Coles and Woolworths a total of \$16 million over eight years via a “REDcycle Stockpile Cost Set-off,” raises clear fair trading concerns. This arrangement reimburses private companies for commercial costs incurred prior to SPSA’s formation, while the scheme is funded through levies that will ultimately be passed on to the public.
- 2.2. The mechanism provides an exclusive financial benefit to the two largest retailers, who also occupy SPSA board positions, and risks entrenching their market dominance. It undermines competitive neutrality, disadvantages smaller retailers and alternative stewardship models, and

shifts financial responsibility from large corporations to the broader community.

- 2.3. By contrast, some individuals, councils, and community groups already pay fees to support soft plastics recovery. For example, APR Plastics and RecycleSmart offer soft plastics collection services on a fee-for-service basis to households, community groups and councils. These participants bear costs directly, while major supermarkets seek to have their costs reimbursed, creating a fundamental inequity. Those least able to influence scheme design are asked to pay, while those most responsible for plastic volumes receive financial benefits.
- 2.4. The arrangement is not consistent with the public interest. It effectively results in the public potentially paying twice. First indirectly through supermarket prices that incorporate levy-funded reimbursements to Coles and Woolworths, and second directly, through individuals, community groups, or councils paying for soft plastics recycling costs via independent schemes such as APR Plastics and RecycleSmart.
- 2.5. Current capacity to manage all soft plastics is limited. Many community members without local drop-off points may continue to pay for these recycling costs themselves. Without significant expansion of scheme coverage, some of the public could bear both the direct and indirect financial burden, undermining principles of fair trading and eroding public confidence in industry-led stewardship schemes.
- 2.6. Zero Waste Victoria is not opposed to a levy on packaging in principle, similar to the plastic bag cost at the checkout. However, issues arise if levies are applied broadly to packaging, particularly if funds are diverted to supermarkets rather than being used to divert soft plastics from landfill. Transparent application is critical to maintaining public trust and ensuring that levy funds genuinely support environmental objectives.
- 2.7. Although concerns about retailers profiting from plastic bag sales fall outside the immediate scope of this ACCC assessment, they highlight an existing inequity. Before the nationwide bag levy, Zero Waste Victoria proposed that profits from bag sales be used to manage their disposal. While that practice was not adopted, it demonstrates that supermarkets already benefit financially from plastic bag sales. Consumers can more

easily avoid using a carry bag than pre-packaged goods.

2.8. Recommendations:

- a) We urge the ACCC to disallow any special payments to SPSA members or their related entities, whether framed as reimbursement, offset, or contribution.
- b) All levy funds must be directed solely to activities that transparently deliver environmental and public-benefit outcomes, rather than covering supermarkets' commercial costs.

Enabling such payments would allow supermarkets to shift their historic commercial costs onto the public, including households, community groups, and councils who are already paying for soft plastics recovery, undermining fair trading, competitive neutrality, and public trust in the scheme.

3. Governance and Not-for-Profit Claims

- 3.1. The ACNC defines a not-for-profit organisation as one where: *“The assets and income of the organisation shall be applied solely to further its objects and no portion shall be distributed directly or indirectly to the members of the organisation except as genuine compensation for services rendered or expenses incurred on behalf of the organisation.”* (ACNC, <https://www.acnc.gov.au/for-charities/start-charity/not-for-profit>)
- 3.2. SPSA is registered as a not-for-profit entity. A significant governance concern is the proposal to reimburse Coles and Woolworths for \$16 million of historic REDcycle costs via levy funds. This special member arrangement, to cover commercial expenses that incurred before SPSA's formation, is a direct financial benefit to two of the scheme's largest members, both of whom also sit on the SPSA board. These are costs that remain the companies' own responsibility and do not further SPSA's stated environmental objectives.
- 3.3. **A not-for-profit must apply all funds and surpluses to its purposes. This is not merely best practice, but a core legal requirement of not-for-profit status.**

- 3.4. At the time of Zero Waste Victoria's initial submission to the ACCC, SPSA did not appear on the ACNC's public register. We therefore assumed that SPSA was not formally registered as a not-for-profit entity, which raised a red flag, as the Proposed Conduct presented more like an industry association, despite presenting itself as a not-for-profit. This was one of the reasons we raised concern around governance in our initial submission of 4 May 2025.
- 3.5. SPSA now appears on the ACNC register as a not-for-profit entity. However, this raises further questions about its governance, particularly whether it is meeting not-for-profit obligations such as applying funds exclusively to public-interest purposes and managing conflicts of interest.
- 3.6. The use of levy funds to reimburse members undermines both that requirement and public trust. Whether framed as a payment, contribution, or discount, the effect is the same. Major members receive a financial benefit from levy funds that ought to be directed to the diversion of soft plastics from landfill. Ultimately, the public may bear these costs when they shop, as levies are likely to be passed through supermarket prices.
- 3.7. While a constitution was included in the SPSA application to the ACCC, there is no reference informing of applying for ACNC approval, nor has it been raised in any correspondence we have reviewed. There is also no indication that any amendments to SPSA's constitution, made to achieve registration as a not-for-profit, were considered by the ACCC in making its draft determination.
- 3.8. This also raises questions as to what the ACNC was made aware of at the time of endorsement. Specifically, whether the ACNC was informed of or reviewed the SPSA application to the ACCC, or at least of the proposed payments to Coles and Woolworths, effectively disbursing funds to members. If the ACNC was not informed, this represents a serious gap in regulatory oversight and emphasises the need for the ACCC to impose strict governance and transparency conditions. Or to reconsider whether the Proposed Conduct should be approved at all.
- 3.9. In the absence of transparency and based on the ACCC's draft determination, the process appears to have occurred in isolation, with no evidence of communication or coordination between the two government agencies. **This lack of disclosure demonstrates SPSA's failure to**

meet its governance obligations, undermining public confidence in its not-for-profit status and raising serious concerns about whether regulators have the information needed to exercise proper oversight.

- 3.10. The proposed REDcycle Stockpile Cost Set-off is therefore a clear member benefit, available only to Coles and Woolworths if they remain participants for the full eight years. This also raises fair trading concerns, as it grants an exclusive financial benefit to the two largest retailers, who are also founding board members. The scheme risks embedding an advantage for these companies over smaller competitors. Such arrangements could distort participation incentives and undermine the principles of fair and transparent stewardship. This arrangement is incompatible with both not-for-profit governance principles and the public interest.
- 3.11. Beyond these governance and competition issues, SPSA's external messaging as a "stewardship" initiative further compounds the problem. The redirection of funds towards member benefits does not merely increase the risk of greenwashing but constitutes it. While there is no expectation of altruism, this arrangement subsidises the scheme's largest retail members, calling into question the integrity of its not-for-profit status and weakening public confidence in both the scheme and regulatory oversight.
- 3.12. **Recommendations**
- a) That no REDcycle legacy payments, or any special payment arrangements, be made to any members or the companies they represent, except as genuine compensation for services rendered or expenses incurred on behalf of the organisation in directly furthering its objects.
 - b) Before authorisation, it is essential that the ACCC consult with the ACNC regarding SPSA's proposal to contribute \$16 million to Coles and Woolworths, in light of SPSA's not-for-profit status.
 - c) Clarification is required as to whether the ACNC was made aware of this proposed arrangement at the time of SPSA's endorsement as a not-for-profit, or whether responsibility for assessing its compliance has effectively been left to the ACCC without ACNC oversight.

4. Governance Structure — Risks to Independence and Public Interest

4.1. SPSA's constitution provides that *the board must have a minimum of 4 directors and a maximum of 10 directors, comprised as follows:*

- *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*

4.2. This structure gives major retailers and brand owners, with strong commercial interests in minimising costs and maximising brand image a controlling voice in decision-making. With only two independent directors permitted, there is no guarantee that environmental or community priorities in the objects will outweigh member cost-cutting or brand-protection considerations, creating a structural risk that the scheme prioritises corporate obligations over public interests.

4.3. SPSA's constitution allows a director with a conflict of interest in a matter to vote on that matter and be counted in the quorum:
49(e) Subject to rule 50 and the Corporations Act (which has a number of provisions directed at avoiding conflicts of interest), a Director:
(i) who has an interest in a matter may vote in respect of that matter if it comes before the Board and be counted as part of the quorum.

Taking this clause at face value raises significant governance concerns. Allowing a member with a declared conflict of interest to vote on the matter undermines fundamental conflict-management principles, particularly given that conflicts could apply to the majority of board members if the matter affects the operations, financial considerations, or market interests of the brands they represent.

4.4. The ACNC makes clear that effective management of [conflicts of interest](#) is essential to not-for-profit governance, requiring that:

- conflicts be identified, recorded, and actively managed
- conflicted directors step aside from discussions and decision-making, and

- transparent disclosure processes are in place to maintain public trust
- 4.5.** SPSA has not provided evidence of a conflict-of-interest policy or framework to ensure that conflicts are actively managed to maintain public trust and the not-for-profit's mission. A scheme of this scale and complexity must demonstrate safeguards if it is to meet public interest obligations. This gap reinforces the need for ACCC consultation with the ACNC to ensure SPSA's governance framework is consistent with not-for-profit obligations.
- 4.6.** There is an inherent and ongoing conflict of interest when the governance of a stewardship scheme is led by the same entities responsible for placing the problematic material on the market. In practice, decisions may be skewed toward protecting members' market position or minimising costs, rather than maximising environmental outcomes or broader public benefit. Such structural dominance may also undermine fair competition and inhibit the development of alternative stewardship models, raising concerns under the ACCC's mandate.
- 4.7.** In combination with the \$16 million levy off-set and the structural dominance of major retailers on the board, this governance model risks creating long-term de-facto exclusivity, entrenching Coles and Woolworths as central scheme participants. This can crowd out alternative stewardship models, discourage new entrants, and limit meaningful influence from smaller retailers, all levels of government, the recycling sector, independent experts and community representatives. Once embedded, such dominance is difficult to unwind, even if more effective or accountable alternatives emerge.
- 4.8.** From a public interest perspective, the current governance and membership structure risks:
- Entrenching the dominance of large corporate members in decision-making and scheme direction.
 - Eroding public confidence in the scheme's independence and environmental objectives.
 - Allowing preferential arrangements (e.g., levy offsets or subsidies) to be developed and approved without robust, independent scrutiny.
 - Creating the perception that SPSA functions primarily as an industry association or brand collaboration leveraging sustainability branding,

rather than as a genuinely independent, not-for-profit entity serving the public interest.

- 4.9. These risks are heightened by SPSA's obligations as a registered not-for-profit, where regulatory oversight by the ACNC requires decisions and benefits to demonstrably advance the public interest.
- 4.10. A genuinely independent board would have recognised that arrangements such as the proposed \$16 million levy set-off constitute a special financial benefit for member companies, rather than a legitimate operational expense. Such decisions are inconsistent with SPSA's stated not-for-profit purpose, particularly in relation to promoting environmental outcomes and public benefit. Ensuring that all payments are strictly limited to legitimate operational costs or services directly furthering SPSA's objectives is essential to maintaining the integrity and credibility of a stewardship arrangement authorised by the ACCC and endorsed by the ACNC.

4.11. **Recommendations**

While best-practice governance would involve a fully independent board, we recognise the voluntary, industry-led nature of SPSA. Even so, meaningful safeguards can and should be implemented to protect public interest. Accordingly, we recommend that:

- a) The board must be comprised of a majority of independent directors, with at least 50% fully independent. Full independence (up to 100%) should be noted as the preferred model for a not-for-profit board to minimise inherent conflicts of interest. Taking into account the current structure, this may either increase the maximum number of directors to 17, or if not, proprietary brand representation should be decreased accordingly.
- b) 'Independent' must be defined to explicitly exclude any person employed by, partnered with (including formal partnerships, sponsorships, or other funded initiatives), representing, or receiving funding from any SPSA member or their related entities.
- c) Independent board seats should be reserved for individuals with relevant expertise and no financial ties to members, such as representatives from environmental NGOs, federal, state, or local government, the recycling sector, academics or other independent experts, or community representatives.

d) These requirements should be embedded in SPSA's constitution as a condition of ACCC authorisation, to ensure governance is not dominated by industry participants who are responsible for placing soft plastics on the market, and that it serves the broader public interest.

e) SPSA should be required to implement a comprehensive conflict-of-interest policy consistent with ACNC guidelines. The policy must ensure that directors with declared conflicts are excluded from voting on matters that could simultaneously affect the interests of members and the broader public, including environmental outcomes, stewardship obligations, or any arrangements with potential financial or reputational impact. This is fundamental to protecting SPSA's not-for-profit standing and maintaining public trust.

f) The ACCC should consult with the ACNC to confirm that SPSA's proposed conflict-of-interest framework meets not-for-profit governance requirements.

5. Policy and Broader Government Context

- 5.1. Given the DCCEE's ongoing Review of Packaging Regulation as part of the Reform of Packaging Regulation Consultation, robust independent governance is critical. SPSA is positioning itself as the national industry leader for managing soft plastics. Governance and structural choices approved here will likely set a precedent for future stewardship schemes.
- 5.2. DCCEE has confirmed [that packaging reform is progressing](#), with next steps including:
further analysis and consideration of consultation feedback to inform development of regulatory reform,
 - continued and targeted consultation to refine key aspects of packaging regulation, and
 - consideration of a preferred model for reformed packaging regulation
- 5.3. While no definitive time frame has been provided, if approved by ACCC, it is clear that SPSA will be operating, and likely contributing to this reform process.
- 5.4. SPSA has the potential to contribute meaningfully to national packaging regulation and extended producer responsibility schemes. Whether it does

so objectively and transparently depends entirely on the independence of its governance:

a) **Independent, public-interest-focused board:** SPSA's applied experience in managing soft plastics could provide valuable evidence to DCCEEW (or other government inquiries) helping to strengthen the design of reforms, shape effective policy, and deliver genuine environmental and public benefits aligned with national objectives; Or

b) **Governance dominated by brand or commercial priorities:** SPSA's input could instead steer reforms toward protecting member interests, entrenching the influence of major retailers, marginalising smaller participants, and undermining public trust in both the scheme and the broader policy process.

5.5. Weak governance or unresolved conflicts of interest risk reinforcing a model that privileges dominant retailers and brands. If such governance arrangements are accepted, they could set a precedent for voluntary stewardship schemes more broadly, undermining both the integrity of not-for-profit stewardship and the effectiveness of national packaging reform.

5.6. **Recommendations**

a) The ACCC must prioritise strong governance and conflict-of-interest safeguards as a precondition for authorisation. This includes ensuring that directors with conflicts are excluded from decision-making, and that the board's composition supports independence and public-interest outcomes.

b) These measures will help ensure that if SPSA is positioned as an industry representative, it promotes environmental objectives, fair competition, and transparent trading, rather than reinforcing member advantage, while setting a precedent for future voluntary stewardship schemes and government regulatory decisions.

c) Authorisation must be conditional, time-limited, and fully revocable if SPSA fails to meet governance or performance standards, or if a stronger national framework for packaging reform is introduced. This safeguard is essential to avoid entrenching an inadequate or conflicted model during a period of active government reform.

6. Risks of Greenwashing and Public Misrepresentation

- 6.1. As currently proposed, the SPSA scheme operates in a way that effectively creates a level of greenwashing, rather than a robust environmental initiative. This occurs where environmental claims and branding are used to convey responsibility without being matched by substantive action or outcomes.
- 6.2. Greenwashing becomes almost inevitable when:
 - The governance body is dominated by the same entities whose commercial activities generate the waste being managed, creating a strong incentive to maximise reputational benefit while minimising costs.
 - Payments and benefits are directed to scheme members (e.g., the \$16 million set-off) rather than being fully reinvested into environmental solutions, infrastructure, and innovation.
 - Communications focus on collection and recycling 'efforts' without transparent reporting on actual recovery rates, contamination levels, end-market development, and environmental impact.
- 6.3. In addition to the risk of levy funds being used for corporate promotion, there is a further concern that SPSA members may market their participation disproportionately to actual outcomes achieved. Past experience with REDcycle demonstrates how retailers prominently marketed their involvement as evidence of environmental responsibility, only for the program to later collapse. This reinforces the perception that voluntary stewardship schemes could be used as a reputational 'badge' without sufficient accountability for genuine impact.
- 6.4. From a public interest perspective, the consequences of greenwashing or the perception of greenwashing in a voluntary stewardship scheme are extremely significant
 - Public confidence in other recycling initiatives may be eroded if claims are later shown to be exaggerated, misleading or idealistic.
 - Genuine environmental or not-for-profit organisations, innovative recyclers or government initiatives may be undermined if their work is overshadowed by high-profile but underperforming corporate-led schemes.
 - Future stewardship models risk losing community support if perceived as PR tools for large brands rather than genuine solutions for improved environmental outcomes.

6.5. The ACCC's authorisation of the SPSA scheme would provide a form of public endorsement, amplifying the reputational benefits to members collaborating. **If the scheme's environmental outcomes do not match its public claims, this endorsement risks reinforcing greenwashing actions and creating long-term harm to public trust of both SPSA and other government agencies.**

6.6. **Recommendations:**

a) Independent third-party auditing and mandatory public reporting of recovery rates, contamination levels, processing outcomes, and end-market destinations.

b) Prohibit levy funds being used for member marketing or PR campaigns unless accompanied by transparent, verifiable outcome data.

c) Require public communications to include contextual data (e.g., percentage of total soft plastic placed on the market that is actually recovered and recycled) to avoid misleading impressions.

d) Require members' independent communications about participation to be accurate, proportionate to verified outcomes, and include references to publicly available performance data, to prevent reputational 'badges' without genuine impact.

e) Establish an independent complaints process for stakeholders to raise concerns about misleading environmental claims, associated with the scheme.

6.7. Without these safeguards, the SPSA effectively functions as a platform for brand and reputational management rather than a genuinely transformative environmental program, or at minimum creates the perception of doing so.

7. **Scheme Name and Scope: Risks of Misrepresentation**

7.1. The name Soft Plastics Stewardship implies a comprehensive approach to managing the full lifecycle of soft plastics, including waste reduction, product redesign, market development for recycled materials, and innovation in reuse and recycling. While SPSA's formal objects reference many of these broader stewardship activities, the current approach is largely focused on collection and recycling. Without demonstrable action

across these broader objectives, the scheme risks overstating its impact and creating a misleading impression of environmental leadership.

- 7.2. The ACCC has concluded SPSA is unlikely to deliver a public benefit through increased R&D or innovation in domestic end markets. Without such outcomes, the scheme will be perceived as primarily serving brand reputation, rather than genuine environmental objectives.

7.3. **Recommendations:**

a) The scheme should only be described as a 'stewardship' initiative if it delivers measurable action across the full lifecycle of soft plastics, including source reduction, R&D investment, and development of viable domestic end markets.

b) Consider renaming the organisation or explicitly requiring its focus toward stewardship initiatives that deliver measurable public benefit. A more neutral, descriptive name such as *Soft Plastics Operations Australia* would better reflect its practical, operational role, and help avoid public perception that the scheme promises broader environmental outcomes than it is structured to deliver.

8. **Reporting and Performance Accountability**

- 8.1. The draft ACCC determination includes reporting requirements for SPSA, such as annual volumes of soft plastics placed on the market, collected, delivered to processors, and sent to end-product producers. While these metrics provide a basic level of operational transparency, they are insufficient to ensure the scheme delivers meaningful environmental outcomes.
- 8.2. Current reporting and operational conditions lack:
- Time-bound targets for reducing the total volume of soft plastics entering the market from its members.
 - Clear mechanisms for developing viable domestic end markets for recycled soft plastics.
 - Publicly accessible roadmaps showing how the scheme will progress from collection-focused operations to a genuinely circular, closed-loop system.

- Independent verification or oversight to confirm that reported outcomes align with actual environmental benefits.

8.3. Without these measures, the scheme risks remaining a collection-focused exercise rather than a true stewardship program. In particular, the absence of binding targets and transparent performance tracking may inadvertently allow preferential arrangements or limited recycling outcomes to continue unchecked.

8.4. Recommendations:

a) Set clear, time-bound operational targets for both waste reduction and domestic end-market development, enforceable and regularly reviewed.

b) Provide a publicly accessible roadmap, detailing how SPSA will transition from collection-only operations to a circular, closed-loop system.

c) Require independent auditing of operational data and environmental outcomes, with findings reported publicly.

d) Require transparent reporting on fund allocation across collection, processing, educational activities, and all marketing, promotional, or awareness-raising campaigns (in-store and online), including measurable outcomes or benefits achieved relative to the expenditure.

e) Authorisation must be explicitly revocable if SPSA fails to meet reporting obligations, performance targets, or transparency requirements. Revocation must remain an option should government reforms deliver a superior regulatory framework for soft plastics stewardship.

8.5. These measures are essential to guarantee measurable, verifiable public benefit and ensure operational and performance accountability aligns with both ACCC authorisation conditions and best-practice stewardship principles.

9. Conclusion

9.1. Risks of the Proposed Scheme

The proposed Soft Plastics Stewardship Scheme, in its current form, presents significant risks to independence, public interest, and effective

environmental outcomes. Governance structures are dominated by major retailers and brand owners, creating inherent conflicts of interest and the potential for decisions to prioritise commercial objectives over genuine stewardship. Operational and performance accountability measures, while present, require stronger enforcement, transparent reporting, and time-bound targets to ensure meaningful waste reduction, domestic market development, and circular material flows.

9.2. **\$16 Million Levy Offset**

Of particular concern is the \$16 million levy offset, which functions as a direct financial benefit to members rather than supporting public-interest outcomes. This is especially problematic given SPSA's not-for-profit status under the ACNC, which requires that all surpluses be applied to public or environmental purposes. The public effectively funds the scheme through supermarket purchases, yet it's proposed that these funds are diverted to cover supermarkets' historic commercial costs. Combined with the scheme's marketing and branding potential, these weaknesses amount to greenwashing, creating the impression of environmental progress while covering costs that supermarkets ought to bear.

9.3. **Safeguarding Public Interest**

Any proposals that privilege commercial interests over environmental or public outcomes must be subject to independent scrutiny and must be disallowed if they are inconsistent with SPSA's obligations as a not-for-profit entity under the ACNC.

9.4. **Recommendations for Approval with Conditions**

To protect public confidence, maintain compliance with ACNC obligations, and secure tangible environmental benefits, the ACCC should:

9.4.1. **Financial Safeguards**

- Disallow the \$16 million levy offset and other member financial benefits.
- Require independent scrutiny of any future arrangements providing member advantages (e.g., marketing, brand reputation, or other benefits).

9.4.2. **Governance Recommendations**

- Minimum 50% independent board representation with clear conflict-of-interest exclusions.

- Independent board seats reserved for individuals with relevant expertise and no financial ties to members.
- Comprehensive conflict-of-interest policy consistent with ACNC guidelines, ensuring directors with conflicts are excluded from voting on matters affecting both member and public interest.
- ACCC consultation with ACNC to confirm any approval does not conflict with compliance of not-for-profit governance requirements.

9.4.3. **Operational & Reporting Recommendations**

- Transparent, enforceable reporting on collection, processing, and end-market development, including the allocation and outcomes of all funds spent.
- Clear, measurable, time-bound targets for upstream soft plastics reduction, domestic recycling innovation, and development of circular material applications.
- Independent auditing of operational data and environmental outcomes, reported publicly and frequently.
- Transparent reporting on fund allocation across all activities.
- Authorisation must be conditional, time-limited, and fully revocable if obligations are not met or if superior national regulatory arrangements are introduced.

9.4.4. **Communication & Stewardship Recommendations.**

- Ensure scheme branding and communications accurately reflect real stewardship actions, avoiding misleading impressions or greenwashing.
- Require contextual data in public communications (e.g., % of soft plastics recovered and recycled).
- Require member communications to be accurate and proportionate to verified outcomes.
- Establish an independent complaints process for misleading environmental claims.

9.4.5. **Scheme Scope Recommendations**

- Only describe the scheme as a 'stewardship' initiative if it delivers measurable action across the full lifecycle of soft plastics.
- Consider renaming the organisation to reflect practical operational focus.
- Provide a publicly accessible roadmap from collection-only operations to a circular, closed-loop system.
- Any approval must explicitly allow revocation if these conditions are not met or if government reforms provide a better framework.

9.5. **Refuse Authorisation**

If these conditions cannot be met, the ACCC should refuse authorisation to prevent public detriment, reputational harm, and ineffective environmental outcomes.

9.6. **Importance of Revocability**

Explicitly making authorisation revocable ensures SPSA remains accountable to these standards and that public interest is protected throughout its operation.

10. **Closing Statement**

These conditions are essential to ensure the scheme is credible, accountable, and delivers genuine public and environmental benefit. Without them, it risks becoming a vehicle for commercial interests and greenwashing, with costs ultimately borne by the public through everyday purchases.

Authorisation must be conditional, grounded in independent governance, and explicitly revocable if obligations are not met or if stronger national regulation is introduced. This is the only way to ensure ongoing accountability and measurable environmental outcomes.

A scheme built on independence, transparency, and verifiable results will not only achieve environmental progress but also earn and sustain public trust.

We request that the ACCC convene a pre-decision conference on this draft determination and look forward to contributing to that discussion.