AUSTRALIAN BEVERAGES COUNCIL

Submission to the Productivity Commission on the Queensland Container Refund Scheme (CRS)

Price Monitoring Review

June 2019

About the Australian Beverages Council

The Australian Beverages Council Limited [ABCL] is the leading peak body representing the non-alcoholic beverage industry, and the only dedicated industry representative of its kind in Australia.

The ABCL represents approximately 90 per cent of the industry's production volume and Member companies are some of Australia's largest drinks manufacturers. The ABCL also represents many small and medium-sized companies across the country. Collectively, the ABCL's Members contribute more than $7 billion to the Australian economy and nationally they employ approximately 50,000 people. The industry also pays in excess of $1.2 billion in taxation per annum along its supply chain, and for each and every direct employee in the beverages manufacturing industry, there are 4.9 jobs required elsewhere in the Australian economy to produce and retail the beverages.

The ABCL strives to advance the industry as a whole, as well as successfully representing the range of beverages produced by Members. These include carbonated soft drinks, energy drinks, sports and electrolyte drinks, frozen drinks, bottled and packaged waters, juice and fruit drinks, cordials, iced teas, ready-to-drink coffees, flavoured milk products and flavoured plant milks.

The unified voice of the ABCL offers Members a presence beyond individual representation to promote fairness in the standards, regulations, and policies concerning non-alcoholic beverages. The ABCL plays a role in educating consumers on making informed choices which encourages balance, moderation and common sense.

The ABCL advocates on issues such as portion sizes, environmental sustainability, nutritional labelling, responsible industry marketing and advertising, and canteen guidelines. The ABCL's Members listen to consumers and adapt their products accordingly by making positive changes and standing by a commitment to promote greater choice, appropriate portions and more low and no kilojoule products.

The ABCL is an important conduit between the non-alcoholic beverage industry and governments, supporting the Australian Government, State/Territory Government and Local Councils.

The ABCL introduced a dedicated juice division, ***Juice Australia*** (formerly Fruit Juice Australia), in 2009 and a dedicated water division, the ***Australasian Bottled Water Institute*** [ABWI], in 2011.

Container Refund Scheme (CRS) Objectives

The ABCL recognises the QLD Government's two overarching objectives from a Container Refund Scheme (CRS) are to:

- Reduce the amount of drink container litter in, and that enters, the environment; and
- Increase the overall recycling rate for drink containers.

More specifically, goals for schemes like the QLD CRS include:

- reduce beverage container litter by providing an incentive to keep, collect and return beverage containers for a 10-cent refund;
- reduce the environmental impact of litter on the natural environment and on wildlife;
- reduce the costs associated with litter removal for the ACT Government and the community;
- increase recycling and recovery rates;
- provide an opportunity for the community to participate in recycling activities and help schools, charities and community groups to generate income; and to
- increase business and employment opportunities.

The beverages industry has a long history of working collaboratively with a broad range of governments and other stakeholders to reduce litter and increase recycling and we are proud of contributions to date as to the success of QLD's CRS..

Background

The QLD Government launched its CRS in November 2018. The Scheme has now been operational for a period of approximately eight months.

On 1 May 2019 the Queensland Productivity Commission (QPC) released an "Issues Paper" for discussion among relevant stakeholders. That document canvasses a number of matters and poses some targeted questions on specific issues the QPC seeks responses to. This submission will deal only with those questions.

As outlined in the Issues Paper, the QPC has been asked to monitor and report on the price Impacts arising from the CRS over Its first 12 months of operation. Specifically, the QPC has been asked to monitor and report on:

- the effect of the scheme on prices of beverages sold in Queensland in an eligible container;
- the effect of the scheme on competition for beverages and the performance and conduct of beverage manufacturers and retailers;
- any other specific market impacts on consumers that arise from the commencement of the scheme;
- any other matters which are relevant to the consumer interest.

The QPC has also been asked to monitor and report on price impacts across a range of consumer, geographical, supplier, retailer and product categories, including:

- state-wide, regions and localities
- types of beverages
- large and small retailers, ranging from general grocers, liquor stores, hotels and online distribution.

In undertaking the review, the terms of reference state that the QPC should also have regard for price impacts on beverage products in 'captive' markets such as entertainment and sporting venues.

We thank the QPC for the opportunity to provide this submission in response to their Price Monitoring Review.

Approach to monitoring and reporting

➢ Impact on price of beverages - Questions

The ABCL is pleased to note (in summary) the following responses to the targeted questions listed in this section of the Issues Paper:

1. Is the Commission's approach to reviewing prices appropriate? Are there alternative approaches that should be considered?

The ABCL notes the QPC has been asked to not monitor indicators of the Scheme's effectiveness. We respectfully believe that it is impossible to consider some aspects of a CRS, such as price, whilst having little consideration of others, like performance, particularly where these are matters which go to the very heart of the impact of the Scheme on both its costs and pricing. An efficient and effective scheme will have a different cost structure, and therefore have a direct impact on pricing compared to an ineffective and deficient scheme.

2. Is there evidence of price increases attributed to the scheme that are more than the scheme's cost per eligible container and refundable amount?

From the outset, the ABCL as a matter of policy, does not engage in the pricing activities of its Members to ensure compliance with all relevant competition laws. As a consequence, the ABCL and its Members never:

- discuss or agree on production limits or strategies, prices (including rebates and discounts); marketing territories, bids or tenders;
- discuss or agree on dealings with customers or third parties, including trading terms and conditions;
- exchange any non-public or commercially sensitive information relating to:
    - purchasing, production and supply chain strategy or capacity;
    - marketing or advertising strategy; or
    - profit, costs or revenues.

In reviewing the QPC Issues Paper, the ABCL was unable to detect any reference acknowledging that beverage manufacturers have a commercial right to increase the prices of eligible beverage containers to recover CRS costs including, both the 10-cent refund and the Scheme's operating costs via the handling fee.

This of course is a legitimate commercial pricing practice available to beverage manufacturers. Quite apart from that, it must be recognised that beverage manufacturers like all other commercial businesses have a right to determine and set their pricing and profit margins independently. To reiterate, the ABCL does not engage in the pricing activities of its Members.

What is obvious is that there are a multitude of factors that comprise the price of a product, including those beverages sold in eligible containers in QLD. Some of these are outlined in the sections below.

At a macro level, price is comprised of a number of inputs into the production of the beverage, commonly referred to as cost of goods sold (COGS). This can include factors such as:

- raw materials
- human labour
- utilities eg power
- packaging materials
- labelling materials
- regulations compliance
- design / artwork
- patents / trademarks.

Another major consideration on price is the somewhat limited role beverage suppliers have in relation to setting prices for beverages sold in retail settings. For example, between the time a beverage container leaves a manufacturing facility, it has its retail price impacted by at least one, and on some occasions, by two other commercial entities separate from the brand owner.

For example, a beverage manufacturer will invariably either sell their product to a wholesale distributor, or a retailer. When sold to a wholesale distributor, the beverage product will then be on-sold to a retailer. In both of these cases, the ultimate retail price is set by a commercial entity or entities, other than the manufacturer as the organisation who the ‘tax’ was imposed upon in the first instance.

As a consequence, any analysis of retail beverage pricing, using indicators such as CPI, must have regard for who is actually setting and or influencing pricing decisions. To draw a conclusion that an increase is caused by a beverage manufacturer, maybe fundamentally flawed and ultimately erroneous.

Within COGS, there are many external influences impacting price, such as seasonal variations, which may or may not have impacted a price during the same time as the introduction of a CRS, as an example.

For example, in 2018/19 the fresh juice category faced a significant challenge in being able to source a sufficient quantity of fruit to be able maintain supply and meet market demand due to a range of factors beyond the control of the industry. This applied significant pricing pressures on juice beverages as the cost of raw materials (in particular juicing oranges) rose sharply, often having to be sourced from overseas countries rather than domestically. This 'seasonal variation' in categories that rely on the supply of raw materials like fresh fruit underscores the numerous factors that can impact on a product's price.

3. Is there evidence of price increases, attributed to the scheme, for beverages sold in ineligible containers?

The ABCL’s submission does not cover ineligible containers and respectfully suggests that price monitoring of beverages sold in ineligible containers should be out of scope of this process.

4. Are there differences in price impacts as a result of the scheme on different beverage types, organisation sizes/types, or geographical region?

As outlined in response to 2) above, there are many factors impacting on the price of a product at point-of-sale.

Internal factors attributed to COGS can be significantly influenced by organisational size or type. For example, it would reasonable to assume that larger companies can often access different contract prices for raw materials compared to small companies, simply based on volume used. Further, smaller companies are often members of buying groups or 'co-ops', which combine their purchasing efforts to access better prices compared to smaller companies not part of these groups.

Externally and beyond COGS, there are a number of influences to pricing that also need to be considered[i]. These include factors such as:

- price sensitivity in the market;
- level of demand;
- level of competition;
- government regulation.

Given the above, it is highly probable that price will differ greatly across beverage types, volume/pack size, place or purchase eg retail versus convenience, organisational type/size, geographical region and many other factors which could be beyond the influence of the scheme.

5. Given there are neighbouring schemes, are there any cross-border impacts?

The ABCL has previously raised the issue of cross-border arbitrage with various State/Territory Departments and Governments as different jurisdictions introduced various schemes at different times, often with significant periods of time eg years, in between each successive scheme commencing.

Now that Queensland is bordered by States (New South Wales and South Australia) and a Territory (Northern Territory) with a version of a CDS/CRS in place, cross-border impacts have largely disappeared.

6. How might the scheme influence beverage manufacturers' choice of beverage container?

Choice of packaging type is based on many factors, including brand image (premium versus low cost), branding compatibility, portfolio synergies, transportation efficiencies, packaging supply certainty, existing contracts, buying group discounts, and for those companies with bottling lines, return on investment and capital expenditure plans for existing or future packaging platforms.

Given the scope of eligible and ineligible containers, it is suggested that the scheme will have little influence on choice of containers.

7. Are differences in scheme prices between jurisdictions having an impact on production and availability of beverage products?

The differences between schemes in different jurisdictions is placing an enormous administrative cost to businesses with cross-border operations. Each scheme has its own unique differences that make compliance and conformance with each scheme's requirements adding to costs for all sized businesses with cross-border markets.

The ABCL encourages all reviews such as this QPC prince monitoring review, although out of scope, to consider a national harmonised network of schemes across the country to reduce the costs to all sized business – large and small.

8. How have captive market prices been impacted by the scheme?

The ABCL is unaware of how captive market prices have been impacted by the scheme.

9. Are there other factors the Commission should consider regarding scheme-related price changes?

No.

10. The terms of reference to this price monitoring review require that the Commission examine other matters that would be relevant to the consumer interest. Are there other matters relevant to the consumer interest that the Commission should review?

No.

11. Which markets should be included when the Commission is reviewing captive markets? What sorts of relevant data are available for captive markets?

In the first instance a truly captive market such as major sports stadia should be included as part of the review.

➢ Competition – Questions

The ABCL is pleased to note (in summary) the following responses to the targeted questions listed in this section of the Issues Paper:

1. Has the introduction of the scheme had any unintended impacts on the market (for example, impacts on market efficiency, barriers, consumer and producer behaviour)?

The ABCL is unable to make comment on whether there has been any adverse or unintended impacts upon competition as a consequence of the CRS in QLD.

2. Has the scheme had different impacts on competition in different markets within the beverage industry?

The ABCL as a matter of policy, does not engage in the pricing activities of its Members to ensure compliance with all relevant competition laws. As a consequence, the ABCL and its Members never:

- discuss or agree on production limits or strategies, prices (including rebates and discounts); marketing territories, bids or tenders;
- discuss or agree on dealings with customers or third parties, including trading terms and conditions;
- exchange any non-public or commercially sensitive information relating to:
  - purchasing, production and supply chain strategy or capacity;
  - marketing or advertising strategy; or
  - profit, costs or revenues.

The ABCL, as the peak industry body for the non-alcoholic beverage industry, has not received any complaints from any of its Members in relation to market issues since the introduction of the CRS in QLD aside from the matters raised in 7) above. From this, it may be deduced that ABCL Members have not experienced any lessening of competition or any adverse market outcomes as a result of QLD's CRS.

3. Are any cross-border issues affecting competition?

The ABCL is unable to make comment on whether there has been any cross-border issues other than those matters raised in 5) above.

4. Have the governance and operation of the scheme changed competitive dynamics within the beverage market?

No. The ABCL supports a scheme that is operated by a not-for-profit (NFP) organisation that is governed by a contemporary constitution that is transparent in its structure and operations. As has been the example in QLD, this results in a low-cost, efficient scheme that is best placed to achieve the desired recycling and litter objectives.

5. Have competition dynamics changed among eligible and non-eligible container beverages?

The ABCL is not aware of any competition dynamics that have changed between eligible and non-eligible containers given the distinct packaging requirements for products using eligible and ineligible containers.

Performance and conduct - Questions

The ABCL is pleased to note (in summary) the following responses to the targeted questions listed in this section of the Issues Paper:

1. Is the Commission's proposed approach to reviewing and reporting on unfair or unjust behaviour appropriate, or should the Commission adopt an alternative approach?

Yes.

2. Are there instances of unfair or unjust behaviour and market outcomes as a result of the scheme? If so, what are they, who do they impact, and how extensive are they?

The ABCL, as the peak industry body for the non-alcoholic beverage industry, has not received any complaints from any of its Members in relation to market issues since the introduction of the CRS in QLD. From this, it may be deduced that ABCL Members have not experienced any lessening of competition or any adverse market outcomes to QLD's CRS.

3. Are there elements of the scheme that result in systematic unfair or unjust behaviour and market outcomes? Do these elements relate to specific segments of the beverage industry, business type or beverage type?

No.

➢ Contact

To discuss this submission or any recommendation contained therein, please contact:

Mr Geoff Parker
Chief Executive Officer
Australian Beverages Council
[redacted]

---

[i] https://www.business.gov.au/products-and-services/pricing/analyse-pricing-influences