



LIQUOR STORES ASSOCIATION NEW SOUTH WALES



SUBMISSION

By the Liquor Stores Association NSW & ACT

To: Independent Competition & Regulatory Commission

In response to: Issues Paper: ACT Container Deposit Scheme Price Monitoring

Date: August 2018



17 August 2018

Independent Competition & Regulatory Commission
PO Box 161
CIVIC SQUARE, ACT 2608

Via email: icrc@act.gov.au

**LSA NSW & ACT SUBMISSION:
Issues Paper: ACT Container Deposit Scheme Price Monitoring**

To Whom It May Concern,

The Liquor Stores Association NSW & ACT (LSA) welcomes the opportunity to provide a submission to the Independent Competition & Regulatory Commission (ICRC) in response to the **Issues Paper: ACT Container Deposit Scheme Price Monitoring**, issued in July 2018.

As per the Issues Paper, we understand that the ICRC has been asked by the ACT Government to monitor and report on, for the period from 01 June 2018 to 30 June 2019:

- The effect of the CDS on prices of beverages supplied in specific types of containers in the ACT;
- The performance and conduct of beverage suppliers in the ACT before and after the implementation of the Scheme; and
- Any other market impacts from the implementation of the Scheme.

As the industry representative representing over 2,700 packaged retail liquor businesses throughout NSW and the ACT, the LSA is well-placed to provide comment on the impact of the CDS.

Integral to LSA's role is the constructive advice, guidance and direction we provide to Governments, Agencies and other stakeholders on behalf of our members and the industry, to seek legislative outcomes that improve business viability and the regulatory environment, or at least reduce the impact of new regulation on our members' businesses.

LSA made a submission to the ACT CDS Discussion Paper, link is below for reference:

[LSA Submission: ACT Container Deposit Scheme Discussion Paper \(Dec-17\)](#)

Please find LSA's submission to the current *Issues Paper* enclosed herewith, and I would be happy to provide any further information to support this submission, if required.

Yours sincerely,

Michael Waters
Executive Director



About the Liquor Stores Association NSW & ACT (LSA)

LSA has been the consistent voice of the NSW Retail Liquor Industry since 1961, and is a united industry body representing all retail packaged liquor retailers, whether they are an independent retailer, licensed general store or supermarket, corporate chain or online-only liquor retailer.

LSA's mission is *"to support, represent and provide leadership to its members for a responsible, sustainable, diverse, and professional retail packaged liquor industry"*.

In order to achieve our mission, the LSA:

- Advocates for the interests of members and the industry;
- Effectively communicates with members and stakeholders;
- Provides members with access to commercial services;
- Maintains and elevates industry standards;
- Conducts professional development activities; and
- Develops the business of the association.

Ordinary Members include some of the most recognised and trusted companies and brands in the industry, ranging from independent family owned licensed general stores and supermarkets; independently owned and run liquor stores operating under banner groups such as Cellarbrations, Liquor Stax, Local Liquor, Liquor Legends, Porter's Liquor, Super Cellars and more; corporate chain retailers including Endeavour Drinks Group and ALDI Stores, plus a growing number of online-only liquor retailers.

Associate Members include banner groups, wholesalers, beverage manufacturers and suppliers, and other service providers.

Our sector directly employs around 17,500 people in NSW, including many trainees and apprentices who go on to make a career in liquor retailing, and is a significant contributor to the economy with an annual turnover of around \$7 billion, generating an estimated \$2 billion in alcohol taxation, over \$700 million in State Payroll and GST revenues, plus over \$2.5 million in annual licence fees.

LSA encourages a responsible approach to the service and consumption of alcohol by all stakeholders, including our retailer members and the communities they serve, and supports social and individual responsibility for all consumers.

To ensure the reputation of our sector and assist our members, LSA continues to promote standards of operation for its members well beyond the required standards of legal compliance, and has implemented a range of professional development, voluntary product and service control initiatives across our members' stores which are focussed on responsible supply and promotion of alcohol.

LSA works proactively with all stakeholders involved in the retail liquor industry – retailers, banner groups, wholesalers, beverage manufacturers and suppliers, other peak industry bodies, the many other service providers associated with the sector, as well as all applicable State Government departments and agencies concerning the retail packaged liquor sector.

LSA is a member of the [Australian Liquor Stores Association](#) – representing the national interests of the retail packaged liquor industry; the [National Retail Association](#) – Australia's largest and most representative retail industry organisation; the [National Online Retailers Association](#) – an influential business network providing a fresh outlook and a balanced, optimistic view of 'new retail' in Australia; and [Associations Forum](#) – Australia's leading organisation, assisting associations in governance, operations, membership and finances.



A CDS is not the best solution

LSA maintains a CDS is not the most efficient method of managing litter. A CDS negatively impacts on:

1. *Businesses* – both suppliers / manufacturers and retailers, who are required to pay considerable costs upfront to fund the scheme as well as ongoing regulatory and administration costs to forecast and reconcile container and financial movements and register applicable products; and
2. *Consumers* – who with an established an successful kerbside recycling program, will absorb the costs that are passed through the supply chain.

NSW was the first jurisdiction globally to introduce a CDS after implementing effective kerbside recycling, and the ACT has recently become the second.

[Keep Australia Beautiful \(KAB\)](#) do an annual 'Litter Index', providing insight into waste litter nationally. In KAB's most recent survey, they undertook a case study into beverage containers and whether the South Australia (SA) and Northern Territory (NT) schemes had led to a noticeable reduction in litter following the schemes' introductions and how ongoing adjustments to refund rates impacted the litter stream.

For the NT scheme, introduced in January 2012, their surveys subsequent to 2012/13 have all shown an increase in beverage container litter *"which may suggest the scheme is losing traction"*¹.

SA changed its scheme in September 2008 when the refund increased from 5 cents per container to 10 cents. To quote from the report again *"The 2015/16 survey has shown a significant increase in beverage container litter, the rationale for which is still to be determined. It is however interesting to note the high degree of inverse correlation between the NLI data and the recycling rates reported by the SA EPA"*.

Both these results indicate that a 10c refund scheme is not the magic bullet to reducing container litter that many perceive it to be, and beverage containers are not the major contributor to the waste stream that many people assume. Cigarette butts, paper, plastic and takeaway food containers contributed more to the overall litter item count than beverage containers, as outlined in KAB's national litter table below:

	Items	Volume
Cigarette butts	28,671	3.28
Paper/Cardboard (not counted in CDS/Takeaway food)	11,291	627.786
Takeaway Food	10,608	1530.292
"Other" plastic	4,840	6.041
Beverage Containers	4,497	2529.950

The challenge for beverage containers is that they take up a large amount of the litter volume. In NSW, beverage containers represent 44% of litter by volume, with the government indicating that the CDS aims to capture 43% of this number (18.9%). NSW citizens are now forking out \$1 billion to deal with less than 19% of the litter problem (by volume), but just 9% of total littered items.

Unfortunately, most jurisdictions do little to reduce litter in industrial areas. Available government data shows investments in cigarette and litter bins and litter signage in retail, shopping centres, recreational parks, car parks and beaches, yet minimal where majority of litter takes place, namely industrial areas.

At top of mind should be designing a scheme which complements, not conflicts with the already successful kerbside recycling system. Convenience is key – if yellow bins are located conveniently at the time of needing to dispose, then not just beverage containers, but cardboard, wine glass, large format milk and fruit juice containers, fast food, cigarette packets, etc can all be collected and recycled.

¹ <http://kab.org.au/wp-content/uploads/2016/12/NLI-15-16-Overview-KAB-APC-Nov-16.pdf>



Learnings from the NSW CDS

Having invested significant time and resource in the lead up to the commencement of the NSW CDS, the LSA takes this opportunity to provide some context for the ICRC to consider as part of this review:

[LSA Discussion Paper: Impacts of the NSW Container Deposit Scheme \(Jan-17\)](#)

[LSA Submission: IPART review of NSW CDS – Monitoring the impacts on container beverage prices and competition \(Mar-18\)](#)

Additional information in relation to the NSW CDS and LSA's involvement, engagement and concerns are available here for reference: <https://www.lsansw.com.au/resources/container-deposit-scheme>

IPART's preliminary findings:

In late April 2018, IPART released their interim report, and many in the industry were unsurprised with the findings:

1. Price increases to date are in line with or less than the estimated 'direct' costs of the scheme;
2. Soft drinks and water prices were around 10 to 14 cents per container higher in December to February, and fruit juice prices were around 6 cents per container higher in January and February;
3. Beer prices were around 2 to 3 cents per container higher in December 2017 and January 2018 increasing to around 6 cents per container higher in February 2018, and cider prices were up to 7 cents per container higher in February 2018;
4. The estimated average direct cost of the scheme for non-alcoholic and alcoholic beverages was around 12 to 15 cents per container including GST over the first three months of the scheme;
5. Issues are emerging for some businesses that have the potential to restrict competition. These include cross-border issues, the scheme costs and payment terms;
6. Retailers such as those located close to NSW's border in the Albury-Wodonga area may face a competitive disadvantage;
7. The scheme's \$80 container approval fee means that businesses that supply a wide range of different container beverages in small volumes have incurred higher costs than those that supply large volumes of a small number of products; and
8. Requiring suppliers to pay in advance with 7 day payment terms is placing cash flow pressure on businesses, particularly small businesses and boutique beverage suppliers.

Given these seemingly obvious conclusions, LSA questions whether this was the best use of taxpayers money, not to mention the significant time invested by industry stakeholders.

LSA's submission to the IPART review, advocated that their analysis would not contribute to any reliable or meaningful conclusions, as it was already a given that price has been impacted as a result of the implementation of the CDS.

We advised IPART the analysis proposed would not provide any insight into the changes to consumers' purchasing behaviour, and therefore, the impact of the scheme on retailers.



While IPART's proposed approach would identify price changes, LSA did not believe it would provide any meaningful insight as to the underlying reasons. Price negotiations between suppliers, wholesalers and retailers are complex, and consider a broad number of factors.

LSA continues to advocate that the NSW CDS is a bad regime, and remains very concerned about the costs of the CDS falling disproportionately on small and medium sized businesses.

The Australian Government Regulatory Impact Statement (RIS) said it best²:

The CDS options modelled in option 4 all impose substantially negative net costs to the economy and cannot be recommended for implementation. Although the introduction of new CDS options would deliver high beverage container recycling rates and overall the greatest litter reduction due to high rates of beverage container litter collection, this comes at an unsustainable cost. This cost is driven by the roll-out of parallel, purpose-built infrastructure that diverts recycle from existing kerbside systems and must do so by handling and accounting for each unit—billions of beverage containers per year.

NSW Small Business Commissioner CDS Workshop:

LSA was one of a limited number of industry representatives invited to attend and participate in the recent NSW CDS Workshop, hosted and facilitated by the Office of the NSW Small Business Commissioner (SBC) on 29 June 2018.

The workshop ran for a full day, and covered key issues concerning the CDS, including cross-border concerns and assistance, reverse vending machines and vouchers, export protocol, communications, and suggested scheme improvements.

LSA invited key retailer member representatives (independent retailers, chain retailers, banner groups, and cross-border affected retailers) to accompany the association at the workshop, to demonstrate a united front and the diversity of LSA's membership.

LSA focused on two key issues:

1. Cross-border issues and assistance – ensuring that the government compensation package is extended to similarly impacted businesses in other cross-border communities (QLD and ACT bordering businesses); and
2. Reverse vending machines and vouchers – ensuring that the government consider amendments to the CDS regulation to provide neutrality on the vouchers.

² <http://www.environment.gov.au/system/files/resources/0d61a8da-4263-4844-928c-e4f9e07472ef/files/attachmentg-other-options.docx>



Key issues for stakeholder comment

How has the introduction of the ACT CDS affected ACT retail prices?

An immediate impact of the CDS has been the increase in prices for beverage containers which are passed on to retailers by suppliers.

As undertaken prior to the commencement of the NSW CDS, LSA launched key communication materials for ACT liquor retailers (refer to last page of submission).

For retailers to recover the full cost impact of this CDS, the final price impact per eligible container will not only include the 10c deposit, but also recovery costs of setting up and coordinating the logistics, transport, handling, regular auditing, to ensure that containers are recycled, plus managing the cash flow.

For bottled water, these price rises are quite significant. For beer and RTDs, the increased cost to the retailer will be at least \$2.62 to \$2.76 a case (24) over the first three months, including GST. When the retailer then applies their margin on this higher price, the final price to the consumer is even higher. The impact on products such as cider which also carry Wine Equalisation Tax (WET) is more perverse.³

A retailer's margin pressure is further impacted for alcohol beverage containers subject to a bi-annual CPI indexation excise regime.

What impact, if any, has the introduction of the NSW CDS had on ACT retail prices?

The failure to align the NSW CDS rollout with ACT and QLD meant that businesses operating across multiple jurisdictions had to account for the differential in the cost of beverage containers. This failed execution has impacted retailers, particularly those in cross-border communities, due to extreme price sensitivities across the border, and within their local business environment.

Many people who work in the ACT live outside the ACT. There is evidence to suggest that ACT retailers have benefited since the introduction of the NSW CDS, at the detriment of retailers across the border in neighbouring communities. A price sensitive consumer may choose to purchase a lower cost brand, or they may choose to purchase the same brand at another retailer across the border charging less.

Do distributors and retailers treat the ACT and NSW, or the ACT and neighbouring regions of NSW, as the same or separate markets?

For the most part, distributors and retailers treat the ACT and NSW as part of the same market.

Due to the nature of the Australian market, retailers have become suppliers and distributors in their own right. This is to gain efficiencies and to deliver products consumers ask for, at a price that competes with international brands, and subsequently are faced with additional administrative burden of claiming from the scheme and registering containers in the states where schemes operate.

With many beverage retailers operating nationally, and supply chains crossing state and territory borders, administration of the CDS becomes challenging and opaque for many retailers.

As the ACT and NSW operate under completely separate laws and regulations, including the CDS, they are effectively stand-alone markets, but in reality the most efficient distribution systems are 'border blind'. The NSW CDS caused a significant impact on cross-border supply chains for retailers, with flow-on costs for consumers and suppliers.

³ <https://www.theshout.com.au/news/cider-australia-hits-out-cds/>



Are the data sources identified by the Commission appropriate for monitoring the impacts of the introduction of the ACT CDS? What additional consumer price data could the Commission use to examine the effects of the ACT CDS on retail beverage prices?

LSA believes capturing information and price data from before the NSW CDS commenced is appropriate.

The ABS has robust methodology for measuring changes in the basket price of goods purchased by households, routinely sampling a wide range of goods and services at particular points in time and aggregates their prices into a price index.

However, as there are limitations with the use of ABS data, such as being published quarterly, and as aggregated price data, including products not covered by the CDS, applying the second approach using disaggregated price data is important.

While this proposed approach will identify price changes, LSA does not believe it will provide meaningful insight as to the underlying reasons. Price negotiations between suppliers, wholesalers and retailers are complex, and consider a broad number of factors.

In addition to 'retail price', LSA would also recommend that 'wholesale prices' where possible and applicable, be included in the analysis.

Are the beverage markets shown in Table 3.2 appropriate to analyse the supplier performance and conduct? Are there other markets the Commission should monitor? If so, explain why.

The proposed beverage markets seem appropriate to analyse the supplier performance and conduct.

With respect to the Spirits beverage market, bottled spirits and RTD (ready-to-drink) spirits should be considered separately, given RTD spirit containers are captured in the CDS and bottled spirits are not. Consumers may substitute when relative prices change.

Are the indicators shown in Table 3.3 appropriate for monitoring supplier performance and conduct? Are there other indicators that the Commission should monitor; if so, please explain how these indicators would be useful.

As LSA indicated in our submission to the IPART review for the NSW CDS, there are a number of separate, but interlinked markets, making it extremely difficult to define, to then proceed to gather information on the various indicators related to competition.

The ICRC has recognised that market share variability may also be present in the ACT CDS data (as IPART identified for NSW), which may mask market share changes in the short term.

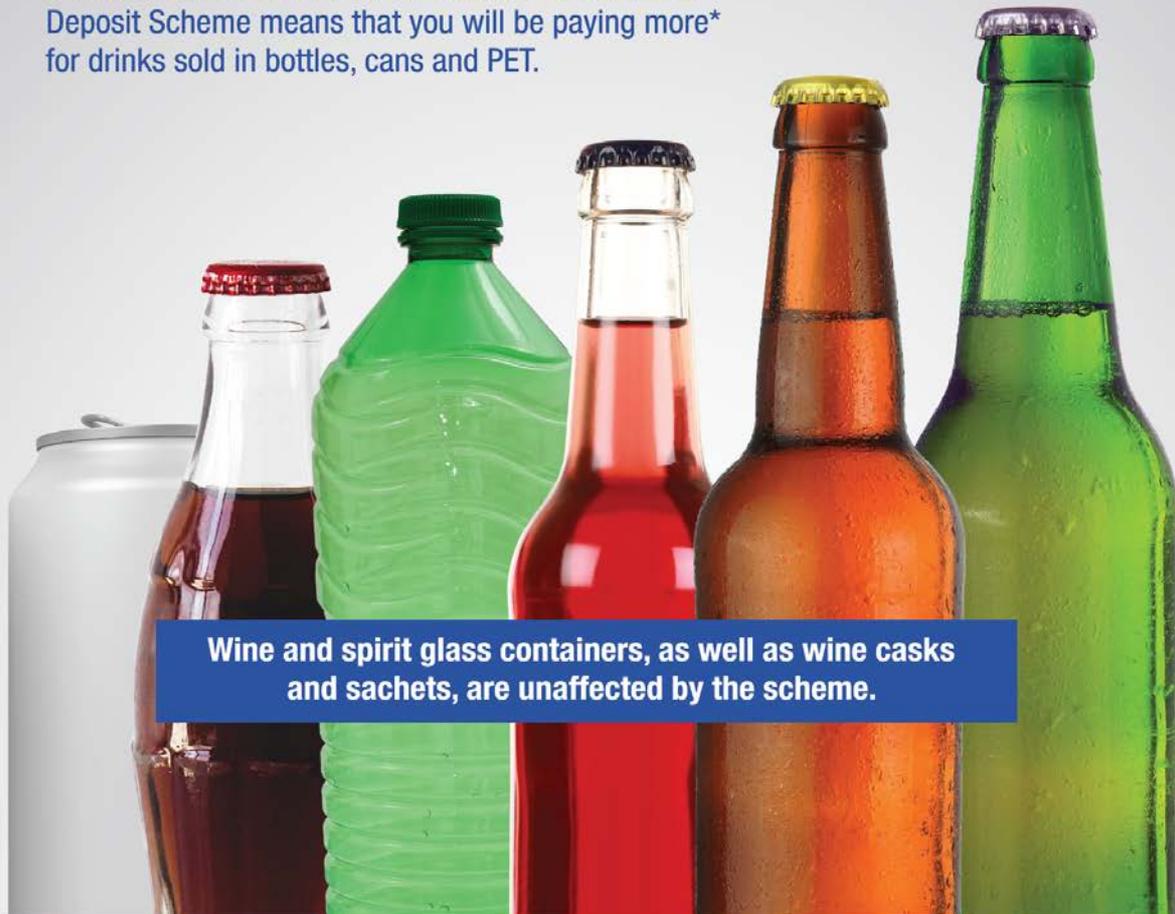
Are there other market impacts you expect the ACT CDS could have? Please explain how the ACT CDS could result in these market impacts and provide any suggestions you have for data or other relevant information the Commission could use to assess these potential impacts.

LSA acknowledges that the introduction of the ACT CDS will reduce the price differential between the ACT and NSW however there may still be other impacts.

ICRC may also consider in the scope of their review how disruptive technology, in particular as it applies to online liquor sales and delivery models may influence price and competition.

FROM JUNE 30, 2018, THE PRICE OF THESE DRINKS WILL INCREASE*.

The introduction of the ACT Government's Container Deposit Scheme means that you will be paying more* for drinks sold in bottles, cans and PET.



Wine and spirit glass containers, as well as wine casks and sachets, are unaffected by the scheme.

*For retailers to recover the full cost impact of the scheme, including the 10c refund per approved container, plus scheme handling and administration fees, the price of certain drinks will increase initially from June 30, 2018. Any price increase will be up to individual retailers and will depend on their cost pressures and competitive situation.