



7 February, 2020

Green Industries SA
Government of South Australia

By email Alana.Potts2@sa.gov.au

To whom it may concern,

The National Retail Association (NRA) welcomes the opportunity to provide feedback on the South Australian Government's *Single-use and Other Plastic Products (Waste Avoidance) Bill 2019*. We appreciate being involved in the Single-Use Plastic Stakeholder Taskforce and being provided an opportunity to review the draft *Bill*.

The National Retail Association made submissions on South Australian Government's Discussion Paper on the proposed review of Single Use Plastic on 18 February 2019 (see Appendix 1). These submissions remain applicable and present more detailed reasoning for our views below.

On reviewing the draft *Bill* and *Explanatory Information*, we provide the following submissions.

1. Intent

The NRA supports the Government's review of single use plastic and is also supportive of the aim of reducing the impact of litter on our natural environment.

2. National consistency

We encourage the SA Government to ensure the *Bill* aligns with nationally-recognised criteria and programs underway.

For example, the Australian Packaging Covenant Organisation (APCO) has been tasked by the Australian Government to achieve the National Packaging Targets with the overarching objective of ensuring all packaging is reusable, recyclable or compostable by 2025. Many Australian retailers and manufacturers have become signatories and are actively working with APCO to identify, assess and redesign their packaging and other plastic items in line with this criteria.

The NRA emphasizes the need for national consistency and alignment, particularly in regards to definitions, timing and alternative products.

3. Consistent definitions

There is inconsistency between the draft *Bill* and the *Explanatory Information* on defining single-use, problematic and unnecessary plastics.

We support the criteria provided in the *Explanatory Information*. It defines single-use, problematic and unnecessary plastics, that is “when they:

- are not readily reusable, recyclable or compostable; or
- hinder or disrupt the recyclability or compostability of other products; or
- have a high likelihood of being littered or ending up in the natural environment; and
- can be avoided (or replaced by a reusable / recyclable / compostable alternative) while maintaining utility.”

We are concerned that this criteria is absent from the draft *Bill*.

For example, the *Bill* defines “single-use” as “a product designed or intended to be disposed of after 1 use” but fails to define “reusable”, “recyclable” and “compostable” which are mentioned in the *Explanatory Information*, but not included in the *Bill*.

We emphasize the need for consistent, nationally-accepted criteria for defining problematic and unnecessary plastics. Industry needs clear criteria to be able to determine which products are permitted.

4. Additional items

We are concerned that the above criteria does not appear in the draft *Bill*, particularly in Part 2.5.2 in regards to **defining additional items**. We reiterate the need for consistent, nationally-accepted criteria for defining problematic and unnecessary plastics.

We submit that the following *changes* to the *Bill* should be considered:

Part 2.5.2

“Before a regulation is made pursuant to subsection (1)(h), the Minister must undertake public consultation on the proposal to bring a product, or product of a class, within the ambit of the definition of **prohibited plastic product** in accordance with the following:

(a) the Minister must prepare a notice of the proposal that includes—

(i) the proposed product or class of product; and

(ii) information regarding the reasons the product or class of product is proposed to be problematic and unnecessary including evidence that the items:

- are not readily reusable, recyclable or compostable; or

- *hinder or disrupt the recyclability or compostability of other products;*
or
- *have a high likelihood of being littered or ending up in the natural environment; and*
- *can be avoided (or replaced by a reusable / recyclable / compostable alternative) while maintaining utility; and*

(iii) information regarding the availability of alternative products that do not compromise the ability to meet health or safety regulations, or cause undesirable environmental outcomes; and

(iv) any potential exemptions that may be required in relation to the product;”

5. **Recyclable and compostable plastic alternatives**

We are concerned that recyclable and certified compostable plastic alternatives are not included as exemptions in the draft *Bill*.

These items represent a large proportion of the range of alternatives currently available, and are in line with the *Explanatory Information* as well as nationally-recognised criteria. For example, recyclable and compostable alternatives are featured in APCO’s Food Services Packaging Sustainability Guidelines published late 2019. There are also multiple projects underway, such as APCO’s Compostable Packaging project and Boomerang Alliance’s Plastic Free Places program, which need time to produce clear guidance for industry on viable and safe alternatives.

Many manufacturers and retailers have already invested in recyclable or compostable plastic alternatives based on the above criteria and projects.

For example, many packaging suppliers have recently introduced items made from or containing PLA (polylactic acid) which is a “bio-plastic” made commonly from sugarcane. It is certified compostable, meets functional requirements of holding liquid and heat, and enables transparency so the product can be viewed without opening, unlike most paper and bamboo products. We note that compostable products made from PLA are featured on The Plastic Free SA website (<https://www.plasticfreesa.org>).

We seek clarification on whether compostable plastic materials, such as PLA, are considered prohibited under the legislation.

6. **Viable alternatives**

We are concerned that the *Bill* is silent on which alternatives should be used to replace prohibited products. If recyclable and compostable plastic items are prohibited (in this *Bill* or future additions), then are we correct to assume that the only alternatives for food packaging items are wood, bamboo or paper?

A key issue is lack of international and national consensus on which alternatives will avoid unintended impacts on the environment, human health, public safety, utility and the community.

Industry is faced with conflicting reports and little consensus. For example, recent media coverage suggested formaldehyde in bamboo products, other studies note the methane impacts of bamboo in landfill, while others cite paper and wood products having a much greater greenhouse impact than plastic.

Industry is highly supportive of sustainable initiatives but needs evidence-based information and consensus on viable and safe alternatives to turn good intentions into reality.

7. Exemptions

We submit that exemptions be included in the *Bill* for the following:

- a) **Equity** - Allowing plastic straws to be supplied on request without compromising a persons' right to privacy in regards to medical need;
- b) **Attached plastic straws and plastic cutlery** – for example cutlery provided in ready to eat meals or salads, or straws attached to juice boxes - as these pose low litter risk and are integral to the use of these products;
- c) **Recyclable, reusable or compostable plastic items**, as defined by nationally-accepted criteria noted in the *Explanatory Information*;
- d) **Necessary plastic items**, as defined by nationally-accepted criteria noted in the *Explanatory Information*, such as those that are integral to ensuring food safety or reducing food waste; and
- e) **Compostable bags** used in household and commercial food waste recycling systems.

8. Exemption process

We are concerned that the *Bill* is silent on the process, timing and criteria for exemption applications. We seek clarification on the exemption application process and submit that this should be included in the *Bill*.

9. Notice period

The draft *Bill* states that the legislation will come into operation on a day to be fixed by proclamation. Industry will need 18 to 24 months' notice of the commencement date to deplete existing stock, redesign products, renegotiate long-term contracts with manufacturers, educate staff, and to ensure no prohibited items are within supply chains.

If adequate time is not allowed, industry will be forced to send large quantities of stock to landfill and compensation may need to be considered.

We also submit that any additional items considered for prohibition in the future must be subject to similar notice periods, that is, 18 to 24 months from the commencement date.

10. **Oxy-degradable plastics**

We are convinced by current research on oxy-degradable plastics though we note that these have long been promoted in the supply chain to retailers as an “environmentally-friendly” option. We therefore support the ban on oxy-degradable plastics but emphasize that industry will need adequate time to deplete and remove stock. For example, some retailers have large volumes of reusable, oxy-degradable plastic carry bags which will take 18 to 24 months to deplete, redesign and restock.

If adequate time is not allowed, industry will be forced to send large quantities of stock to landfill and compensation may need to be considered.

11. **Education and assistance**

The *Explanatory Information* makes mention that, ahead of implementation, government will provide information to businesses to assist in transitioning to alternative products and a communications campaign to inform the community.

We welcome more details about these programs. Effective engagement programs, and adequate time to implement them, will be critical to the success of the legislation and minimization of negative impacts on industry and customers. In particular, thousands of retail business owners and their staff are at the coal front of any legislation impacting customers and must be provided comprehensive support.

We appreciate the opportunity to provide feedback on the draft *Bill* and welcome any queries. I may be contacted on 0409926066 or by email d.stout@nra.net.au.

Yours faithfully,

A handwritten signature in black ink, appearing to read "D Stout".

David Stout
Director Policy
National Retail Association

February 18 2019

Environment Protection Authority

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To Whom it May Concern,

The National Retail Association (NRA) welcomes the opportunity to provide feedback on the South Australian Government's Discussion Paper on the proposed review of Single Use Plastic.

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1. ABOUT THE NATIONAL RETAIL ASSOCIATION

The National Retail Association (NRA) is Australia's largest and most representative retail industry organisation, servicing more than 24,000 stores and outlets nationwide. We are a not-for-profit organisation built on strong relationships with our members.

We exist to help retail and service sector businesses comply with an ever changing and growing regulatory environment. Our services are delivered by highly trained and well-qualified in-house experts with industry specific knowledge and experience. We provide professional services and critical information right across the retail industry, including the majority of national retail chains and thousands of small businesses, independent retailers, franchisees and other service sector employers.

Members are drawn from all of the sub-categories of retail including fashion, groceries, department stores, household goods, hardware, fast food, cafes and personal services like hairdressing and beauty.

In South Australia, our membership is comprised of range of stores and outlets, across all regions and across all the sub-categories of retail products.

The NRA has represented the interests of retailers and the broader service sector for almost 100 years. Our aim is to help Australian retail businesses grow.

2. INTRODUCTION

The National Retail Association (NRA) welcomes the Environment Minister's approach to reducing the environmental and social impacts of single-use plastic. Both retailers and their customers share their concern about the harmful impact of littering on the environment and subsequent economic impact on the State.

The NRA supports the Government's review of single use plastic and is also supportive of the aim of reducing the impact of litter on our natural environment.

Australians consume many millions of plastic bags per year, primarily in order to carry objects from the point of retail sale to our homes. The bags are then discarded into the official waste stream to landfill, some are reused as bin liners and then discarded as landfill, while a proportion are discarded illegally as litter or other deliberate activities. Recently, some retailers have introduced readily available waste disposal alternatives such as the REDcycle program for soft plastics recycling.

Local governments play an important role in ameliorating the impacts of disposable plastic, but the expense is ultimately borne by our communities.

The NRA is convinced by current research that indicates plastic in our environment has proven impacts upon marine wildlife, including birds and endangered turtles. Plastic litter also impacts visual amenity and detracts from a tourist economy.

There is also evidence to convince us that the modern consumer understands the impact of single use plastic on the environment. However, it is important that the decision to ban single use plastic bags is consistent and sensible, whilst not just diverting the costs to already stretched household budgets or to less environmentally sustainable alternatives, such as resource-intensive cotton bags.

For many years retailers across Australia have been proactive in various environmental initiatives, making alternative bags available, promoting their use with subtle messaging, and providing in-store recycling.

The retail sector has worked collaboratively with governments and other stakeholders in jurisdictions where bans on various types of plastic bags have been legislated.

The issue for retailers has been the need for a consistent approach across the states and across all retail businesses in an effort to reduce complexity, increase consumer understanding, and to produce targeted and consistent communications.

Previously working on other bag ban initiatives, the NRA understands the paramount importance of consistency and clarity of communication across state governments and stakeholders. By making complex legislation more accessible, both retailers and consumers have increased understanding and less risk of miseducation.

3. CONSUMER CONSIDERATIONS

We have learned from previous legislation and campaigns that the introduction of policy is not quite as simple as it sounds as modern retail consumer behavior is changing. In particular, not all shopping missions are planned and can be somewhat spontaneous.

Bans on lightweight plastic bags have been in place internationally and in some Australian jurisdictions for 15 years, and many national chain stores have already implemented alternatives in several Australian states. For example:

- Most stores already stock a range of reusable bags for sale, including entry level thicker plastic bags for customers who forget their reusable bags.
- Retailers like Coles/Woolworths have high recycled content in their reusable plastic bags.

Customers must have access to an inexpensive alternative bag. Sometimes, despite their best intentions, customers will forget to bring their reusable bags. This is increasingly an issue as households switch from doing one big shop per week towards doing several smaller shops on the way home from work, study or parenting tasks.

4. BUSINESS IMPLICATIONS

Many NRA members, including some retail chains, have initiated their own proactive environmental and waste policies to tackle problematic single-use plastic products.

The NRA recommends that the lightweight plastic bag ban continues to be applied to all retailers in South Australia regardless of retailer size, category or location. Retailers from all categories have been challenged to develop strategies to reduce possible litter and customer inconvenience since 2009 and the need for consistency across jurisdictions is increasingly apparent.

However, for many businesses in South Australia, any new measures proposed will potentially cause significant impacts including customer inconvenience and higher costs. It is well known that many small businesses, especially in the retail sector may not have a presence in other states. It will be very important for these businesses have the time to understand the impacts on their business.

Attention is warranted for the tens of thousands of small or franchised retail businesses across South Australia, who collectively can make a difference when it comes to the environmental impacts of improving current industry practices.

In the face of so many complex areas of compliance many businesses feel overwhelmed by the total regulatory burden, are not properly aware of or compliant with their existing regulatory requirements and appreciate some support or assistance when new regulations are introduced.

5. NATIONAL CONSISTENCY

Six jurisdictions have already implemented policies to reduce the use of lightweight single-use plastic bags, beginning with South Australia in 2009. The standard that has been used to date to define a lightweight, single-use plastic bag is one that is less than 35 microns (or 35 microns or less in QLD and WA) in thickness. A key benefit of using this standard means that business operating across states with existing ban bags in place would not be impacted. A ban based on 35 or 36 microns also enables a low-cost alternative bag to be made available to consumers.

A key difference that currently exists between jurisdictions is the inclusion or exclusion of degradable, biodegradable or compostable bags. The NRA is convinced by current research that indicates degradable, biodegradable and compostable plastic bags still pose a threat to wildlife and the environment when littered, and therefore supports the inclusion of these bags in a ban.

To be effective, any additional measures need to be universal and not be qualified by the type or size of retailers. A measure which excludes some businesses because of their size or the type of store they are will be ineffective in preventing single-use plastic from entering the litter stream.

6. EDUCATION CAMPAIGN

Any changes to the ban needs to be accompanied by a comprehensive retailer education program to ensure retailers understand the reasons behind the change in legislation and exactly what that change entails.

7. QUESTIONS TO CONSIDER

Do you consider single-use plastic products are causing environmental problems?

The primary message for the public is one of litter reduction. The new, thicker bags introduced by a number of retailers are designed for continued reuse, so should not be considered part of the 'single-use plastic' category.

What do you consider to be the most important problem associated with single-use plastic products that needs to be addressed?

The NRA understands that the Government has adopted a state-based approach to a national issue and applauds them for making the bans as consistent as possible in an effort to address the concerns of national retailers. Therefore, the NRA stresses the need for a nationally consistent policy on single-use plastics.

The NRA suggests a nationally consistent policy of a legislated ban on lightweight, single-use plastic shopping (checkout) bags (including degradable, biodegradable and compostable plastic shopping bags) which are have a thickness of 35 microns or less.

The NRA suggests that such bans should be nationally-consistent in stipulating that information provided by bag suppliers is forthcoming, accurate and not misleading, in order to allow retailers to make informed, reliable decisions. National consistency on implementation, education and measurement standards are also important aspects to consider to reduce consumer, manufacturer and retailer confusion.

What are your views on extending South Australia's ban on lightweight single-use shopping bags to include thicker plastic bags? What would be the consequences of such action for community, businesses and the environment?

The NRA supports the Government's review of single-use plastic and is also supportive of the aim of reducing the impact of litter on our natural environment. The NRA believes the current measures have been effective in reducing litter and therefore there is no need to extend the ban to thicker bags at this time.

Should all checkout bags and produce bags (i.e. for grocery items) be made from compostable (Australian Standard 4736-2006) material? What would the impacts be for retailers, consumers and industry? Would there be demand and flow-on benefits in establishing new industry to produce compostable bags here in SA?

The NRA considers that the ban should include degradable, biodegradable and compostable plastic shopping (checkout) bags with a thickness of 35 microns or less. This is consistent with recent legislation in other jurisdictions, and retailers are to direct customers to the suite of alternatives on offer. Plastic shopping bags need to be thicker to be considered reusable, and the biodegradable nature of current bags deemed “biodegradable” or “compostable” remains an issue of debate in contemporary research.

Keeping consistent with bans in other states, barrier or produce bags should remain exempt from the ban for all retailers in every category to ensure the health and safety needs of unpackaged food are met. Barrier bags are commonly used in fresh food areas such as fresh produce, seafood, meat products and delicatessens. Given current discourse regarding biodegradable and compostable plastics, the NRA therefore believes more research and evidence is needed before stipulations can be made regarding produce bags.

What do you do with biodegradable, degradable or compostable bags once you have finished using them? What do you think about the idea of banning lightweight single-use shopping bags even those made from biodegradable, degradable or compostable substances, as has 12 been proposed in other Australian jurisdictions?

There is significant confusion and misinformation around biodegradable, degradable and compostable bags as reference on page 38 of the Appendix of the Turning the Tide on Single Use Plastic Products Discussion Paper. Importantly, all of these bags contaminate the REDcycle soft plastics recycling program. It should also be noted that degradable bags do not break down, they break up. Any consideration of biodegradable or compostable bags must include full life cycle analysis.

Do you think South Australia should introduce measures to address items such as single-use plastic straws and plastic-lined takeaway coffee cups? What other single-use plastic items or problematic products would you like to be considered for possible government intervention?

Australians consume many millions of beverages and meals outside the home per year and use bags primarily in order to carry objects from the point of retail sale to our homes.

We understand that items like straws and utensils are then discarded into the waste stream to landfill, while a proportion are discarded illegally as litter or other deliberate activities.

We would ask that the retail community is given time to contribute to this discussion as not alternatives are suitable in all circumstances. We consider a voluntary approach, which will reward early adopters and allow time for innovation.

Do you think that labelling describing how to recycle or dispose of a product, or parts of the product is helpful to consumers? For which products would better product labelling enable better disposal?

National manufacturers are adopting the Australasian recycling label which clearly outlines the waste streams for recycling. To maximise community awareness, the NRA also suggests to have the information on a website for consumer reference.

8. TIMING

It is important that consideration is given to adopting measures that are consistent with other states to maintain uniformity, as well as ensuring implementation does not coincide with any major retail events (i.e. Christmas or Easter).

Retailers require 18 months to implement any new policy due to existing stock levels, current contracts and the procurement process. This also allows sufficient opportunity for an educational campaign to inform consumers of any impending change.

9. CONCLUSION

We hope that by coming together and forming a unified view on any plastic policy, retailers have demonstrated that we want to make a positive contribution to your deliberations around a way forward.

Our members are eager to be an active part of solutions and the NRA are well placed to assist with this. We are currently engaged by the Queensland, Western Australian, and Victorian Governments to educate the retail community and to assist them in preparing for and managing the transition away from lightweight plastic shopping bags.

Any change in legislation needs to have wide level support and understanding by retailers and consumers. Should changes be enacted, the NRA are keen to assist with the development and implementation of key messages which will ensure the impact on customers is kept to a minimum in terms of both cost and inconvenience.

Thank you for the opportunity to provide this submission. The key issue we would like to highlight is the need for national consistency on plastic bag regulation and a recognition that retailers are already engaging in innovative practices to manage single-use plastics.

We appreciate your assistance in this matter and look forward to hearing from you. I may be contacted on 0409926066 or by email d.stout@nra.net.au.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'D Stout', written in a cursive style.

David Stout
Manager Policy