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Review of proposed NSW CDS and Legislation

1. Overarching Issues

The Boomerang Alliance of 42 groups welcomed the NSW Government's 2016 decision to adopt a genuine container deposit system. However the design details were scant and we looked forward in assisting design of the best practice scheme promised at original 2015 election policy announcement.

This submission cannot endorse the CDS as proposed as best practice and it potentially has serious flaws. We acknowledge that the draft bill and Discussion Paper are open for consultation and urge the government to remedy these issues. Our submission analyses all the key components and subjects them to a multi-criteria review addressing:

Design Feature	Drive High Performance	Cost Effective	Fair & Equitable	Proven	Eliminates Risks
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The priority issues that need substantial attention from government are:

- consumer convenience and retail engagement (enhanced by use of barcodes);
- the financial viability of the Coordinator and clear liability by the bottlers;
- confidentiality of sales and recovery information;
- the undesirability of combining Coordinator and Network Operator and control of either by a few bottlers; and
- obligations by bottlers and retailers to promote the scheme and educate their customers.

Based on the flaws apparent within the proposed regulatory framework, we believe it is necessary to delay final design considerations by up to 6 months so that the NSW EPA can properly investigate how best practice schemes (e.g. Germany, Sweden, Michigan) operate. This does not necessarily stop the passage of legislation (most of the relevant design issues can be addressed in regulation) or the appointment of a coordinator, but obviously could delay the proposed July 2017 start date. While this is disappointing, it is preferable to delay than introduce a scheme with features that are fundamentally flawed. There is also virtue in time-separating appointment of the Coordinator and Network Operators. It is recommended that the Coordinator is appointed in the first quarter of 2017; and Network Operators soon after (giving the Coordinator time to prepare to engage with NO establishment).

Finally, the government should establish a program to encourage domestic reprocessing of the CDS material to value add to the NSW economy. While we believe that the proposed CDS will support kerbside recycling and enhance the viability of NSW Material Recovery Facilities (MRFs), there are genuine risks to Australian reprocessors whose costs to secure recyclate are heavily weighted to capital investments made rather than the scrap market price.

The key problems are as follows:

- Container coverage – Glass is A major problem in NSW kerbside, regardless of what is or isn't included in the SA scheme in NSW wine and spirits should be included.
- There appears to be a high level of financial risk to the Coordinator as it seems reliant on good behavior by bottlers paying on invoices, transferring the bottlers liability for the costs onto parts of the redemption network. Bottlers should not escape ultimate liability when it is their product marketing decisions that have created the disposable container and litter problems.
- Access and consumer convenience in high population areas such as the metro regions will be inadequate unless supermarkets, shopping centres, petrol stations are engaged in the system. Consequently consumers will feel robbed.
- It is unclear how the Coordinator can control collection point coverage to the extent necessary to meet scheme targets; nor whether it is required to have the skills to handle barcode data.
- Statewide Network Operators are may not be viable and could exclude social enterprise, when a regional approach would be better suited.
- It is very unclear how collection systems other than kerbside are involved (eg C&I, charity collections, public space bins).
- More information is needed on how handling fees and transport costs will be set and charged to individual suppliers.
- There is a lack of an assurance framework to prevent competitors WHO may have equity in the appointed Coordinator (eg bottlers or other parts of the supply chain) gaining advantage by access to business data; and despite non-discrimination clauses, there is a lack of confidence that conflict of issues will not occur if there isn't clear separation of interests between bottlers, Coordinator and Network Operators.
- No provision has been made to ensure bottlers and retailers undertake promotions and education of the CDS to their customers.
- We endorse the concept of targets (with meaningful penalties) but these should be made public for comment prior to gazettal of the regulation.
- The disbursement of refunds between MRFs and councils and negotiation about contracts should be on a level playing field.
- It is questionable whether MRFs should receive refunds on shattered glass collected via kerbside where a bulk weight approach is used, as it won't be recycled. If they do redeem, then the refunds should be directly returned to consumers via council rates.
- The Bill's penalty regime is confused.

2. The Regulatory Framework

The table below reviews the key features of the CDS and discusses their inadequacies:

Area of Design	Parameters & Features (as described by NSW EPA)	Issues Arising from Design Feature	Best Practice Alternative / Recommendations
Container Universe	<p>Similar to SA / NT. Creates a lower limit of 150ml containers on the basis they are not commonly found in the litter stream. Doesn't explain whether wine and spirit based 'ready to drink (RTD) alcopops' which may be considered a wine or spirit without clearer definition (alcopops are part of SA and NT) are excluded or included. Doesn't specifically cover flavored milk products, cider etc.</p>	<p>The proposed lower limit (excluding containers of 150ml or less) creates additional labelling requirements from the current SA / NT requirement – this adds to the cost of establishing the scheme and will create consumer confusion e.g. a 150ml bottle will need a label that says 10c refund in NT and SA but not in NSW'. There is potential for significant elasticity with bottlers expanding the 150ml range to embrace current 200ml containers. Brewers claim there is significant elasticity between beer and wine when beer is included in a CDS and wine exempted. Nevertheless 150ml minimum is the current international specification. Feedback to the NSW EPA from industry (specifically WCRA, ACOR, Visy) has made it clear glass is a major problem in kerbside but fails to include a major beverage source of glass in kerbside (wine and spirits bottles) in the CDS. Including more glass in the CDS would increase recovery and support kerbside recycling financially by removing contamination. The only argument offered for excluding wine and glass is that it needs to be consistent with SA (but already establishes different rules in terms of minimum size). EPA claims can unilaterally change container scope but has no information on evidence/review process.</p>	<p>Recommendation:</p> <ul style="list-style-type: none"> - Reconsider exempting wine and spirits in glass from the CDS. - Retain minimum size of 150ml <p>Every waste and recycling industry association has identified that glass is a major problem in kerbside (see attached information from WCRA) and identify that the economics of kerbside recycling are dramatically improved by reducing glass from the system. Despite receiving this feedback, the proposed CDS fails to address some of the 3 largest sources of glass found in kerbside (wine and spirits bottles).</p>
Coverage & Access	<p>Claims 'statewide coverage' and 'access' but no detail on how this will be achieved. Is supposedly subject to enforceable targets. Notes performance criteria to ensure operating hours of collection point meet consumer need. Market forces will determine where collection sites are</p>	<p>No detail on role of EPA in enforcement or its role in mediating Coord and Network Operator(s). Appears reliant on Coord using private litigation to deal with non-cooperation / obstruction from a bottler or retailer. Doesn't provide a regulatory underpinning to ensure participation - without retailer obligations it would be expected that, like the NT experience the roll out of a NSW network will be sub-optimal in terms of convenience and participation.</p>	<p>Recommendations:</p> <ul style="list-style-type: none"> - Network rollout should be planned not solely market dictated. - Rollout should ensure regional access and allow for additional redemption points to be established in future (so Network Operators are not forced to over capitalize while redemption rates are growing) - Retailers (supermarkets, shopping centres) must participate in the scheme - provide

	<p>established (ie where greatest throughput). Notes potential higher handling fee where remote/greater transport cost to obtain better coverage. EPA provides permit to Network Operator. No retailer obligation to ensure convenience. Kerbside can participate but no other detail regarding participation from established schemes (e.g. recovered containers from litter traps, AWT, public recycling bins, C&I)</p>	<p>Retailers have a fundamental role in the sales and distribution of beverages and therefore also should have a fundamental role in the CDS return system. Needs clarity on participation by commercial sector, AWT's, litter recovery (traps etc.) and public place bins.</p>	<p>clear guidance regarding the role of retailers in ensuring convenient redemption.</p> <ul style="list-style-type: none"> - Provide space for the return of refund containers in walking vicinity - Option of obtaining refund from store - Ensure that the provided service is up and running
<p>Producer Responsibilities</p>	<p>Must enter into a supply arrangement with Coord. Must report sales figures annually. Must label. Payment is on commercial terms. Supply agreement subject to Part 7, POEA Act compliance. Coord penalties can't all be passed onto suppliers.</p>	<p>Focus on ensuring performance is enshrined within Coordinator responsibilities rather than bottler. Coordinator carries commercial risk because there is no Producer Responsibility Organization (PRO), who would normally be the 'liable party' within a CDS. The original polluter is the producer of the disposable bottle. Bottlers should have obligations to promote scheme and educate its customers regarding redemption process (even NT had this requirement). Coordinator makes significant cash outlays before reimbursement will drive up costs despite the fact bottlers and retailers have already recovered deposits via sales. (providing cash flow benefits to producers and retailers at the expense of system liquidity). Annual reporting is much too slow to adjust for under-reporting (threatens solvency of fund). Accuracy of reporting is enhanced by barcode reading. Bad debts are worn by the Coordinator and appears to include the Coordinator making provisions to cover the Network Operators' risk in the instance of a bottler's insolvency? This will drive up the cost of the scheme as the Coordinator's fee is typically a very small component</p>	<p>Recommendations:</p> <ul style="list-style-type: none"> - Scheme ideally should require a Producer Responsibility Organization (PRO) be formed. The PRO membership should be automatic when a bottler applies to register their containers. The PRO is the body that carries any liability for the financial viability of the scheme. Alternatively legislation and the supply agreement must ensure zero financial risk to Coordinator. - To further ensure that the scheme remains solvent, bottlers should be required to place sufficient funds into an escrow account to cover 3 months' redemption. - Annual reporting is too slow – require quarterly reporting (like NT).

		of the overall refund and handling fee (<1¢ on a 14¢ payment). This will mean building in significant contingency fees and insurances to cover bad debts.	
Producer Payments	While unclear it appears that the Coordinator bills each producer based on the amount of their product returned?	Payment terms are slow – monthly invoice then paid on commercial trading terms. Coordinator will typically carry 2 months refunds + payments to Network Operators + their own expenditure. In the instance of a bottler becoming insolvent the Coordinator would wear this debt + up to 3 months of beverages sold but not yet redeemed (i.e. on a retailers’ shelves or in the fridge). Collection points and NOs will also need to carry significant debt. The low ratio of return on turnover created by this arrangement and extreme cash outlays is likely to discourage small business and social enterprises from participation in the scheme.	Recommendations <ul style="list-style-type: none"> - Charges to individual bottler should be based on a % of overall beverage sales and material - so that poor performing brands don’t pay less per container than the best performers. - Refunds should be made via the redemption of a voucher to the retailer (who has collected funds at the time the beverages were sold) where RVM used.
Retailer Responsibilities and Participation	In effect no role.	Retailers are not the ‘primary polluter’ but play a significant role – proposed scheme has no retailer obligations to promote the CDS or educate consumers (including informing people about refunds and they have paid a charge). Even the badly flawed NT scheme has specific retailer provisions about signage at check outs, provision of information on where to return. No role from retailers to ensure that a convenient and cost efficient network is delivered – without this claims regarding access and coverage are little more than ambitions. There is no detail justifying why the NSW CDS network will be any better than in the NT (where there are just 4 depots across the Greater Darwin area, no collection points at a shopping centre and no collection points open at the same hours of major retailers). No transparency on CDS related charges (refund, handling etc.) that are passed onto consumer.	Recommendations: <ul style="list-style-type: none"> - Retailers (supermarkets/shopping centres) must have clear responsibilities regarding: assistance to provide a convenient local redemption point, provision of information at the checkout regarding what beverages are subject to a CDS; or where their customer can most conveniently redeem & payment of refunds, including by the store.
System Coordinator	Established via EOI. Can be owned by individual bottlers or another group(s). Expected to deliver performance.	EOI process is welcomed but doesn’t address the conflicts of interest between a bottler being a Coordinator (access to a competitor’s sales data or rebating / reducing costs for a bottling shareholder at the expense of bottlers without equity).	Recommendations: <ul style="list-style-type: none"> - Establish a PRO with provisions to charge in advance and hold funds in escrow OR establish an independent fund holding advance refunds in escrow.

	<p>Holds contract with Network Operator (but doesn't control network); or may be single Coordinator/NO. Strong regulatory provisions to manage Coord performance. No mention of barcode capacity. Unclear who is responsible for consumer education, consumer complaint handling, or pricing surveillance.</p>	<p>Confuses the role of Coordination (administration of a network and clearing house functions) with scheme management and governance – which is typically contained within either a PRO or an arm of government itself. Coordinator carries all risks for insolvency rather than the beverage industry itself. Coordinator has responsibility for performance but degree of control over network operation, coverage, access unclear and subject to potential commercial dispute/EPA being compliance ready. Potential for conflict of interest if joint Coordinator/NO entity, despite Bill non-discrimination and penalty provisions. While barcode use not obligatory, the system must have the capacity to use them where appropriate.</p>	<ul style="list-style-type: none"> - Must have potential to handle barcode information. - Ensure clearing house data is safeguarded. - Prevent joint Coordinator/NO entity.
<p>Network Operators</p>	<p>Claims statewide coverage? Networks operators own recovered scrap. Allows multiple Network Operators but seems to favor large statewide networks over individual collection point operators. Audit trail provisions by Coord of the network operator. Compliance provisions.</p>	<p>Unclear how statewide coverage will be achieved. How does Handling Fee interact with Network Operator owning the scrap:</p> <ol style="list-style-type: none"> 1. A MRF gets refund + scrap value (double dipping?); 2. Collection Point to Collection Point the product mix is different – if handling fee is the same whatever material the income per container handled is very different point to point – poor equity and will drive some areas to have low coverage e.g. Bin audits show rural containers have a very high proportion of aluminum. <p>Need clarity of what aspect of the Network Operator owns the scrap (the Operator or the individual collection point?). Need to be provisions to ensure regional small business and local community organizations are not locked out of network operations. Unclear how a net of scrap value will reflect changes in scrap commodity prices (e.g. in a 2007 GFC scenario). If scrap values are gross of handling fees (i.e. a windfall) it</p>	<p>Recommendations:</p> <ul style="list-style-type: none"> - Clarify which aspect of Network Operators actually owns the scrap. - Draft provisions to ensure Network Operators must accept any compliant collection point operators within their network - Target regional rather than statewide arrangements. - Differentiate handling fees (like SA and NT) - to net out impact of scrap values between material types and different transport costs. - Need an independent mechanism to review/adjust pricing based on major changes in commodity pricing.

		increases system costs by as much as 40%. Likely outcome is pricing will be based on discounted scrap values.	
Kerbside Participation	Included in scheme & MRF gets the refund. Addresses redemption process differently from other collection. Can retain material (partly offsets MRF security of supply issues). Weight or other formula to assess refund value of a bale. Local govt contract review in 18 months to assess sharing the refund revenue.	Why is the focus on kerbside recycling rather than MSW recycling (seems to differentiate on the type of collection rather than the service provider)? We would question whether the MRF receiving the refund the best pathway correct (i.e. for local gov't) rather than respecting the existing arrangement where local government owns material placed in the kerbside bin by default and has the option to vary their arrangements via contract. Based on international experience there are very large windfalls in the kerbside stream in the implementation period (first 2 years) as many consumers have not gotten into the habit of redeeming – this windfall should be shared across the MSW recycling chain not given (without justification) to one part of kerbside operations. Should shattered glass receive the refund? Councils in particular smaller ones will need help to negotiate v big company lawyers.	Recommendations: <ul style="list-style-type: none"> - EPA should provide a rationale on why the MRF is the best point to receive the refund within the MSW stream. - EPA to set up advisory resources for councils. - Review at 6, 12 and 18months - don't wait till the 17th month to negotiate. - If all glass containers receive the refund despite some not being recyclable, then council/ratepayers should receive these refunds; OR broken and non-auditable glass should be excluded from refund payment.
Other existing collection	Not addressed – need details	Need clarification on how other established networks participate (e.g. litter traps, recovery from AWTs, C&I).	Recommendation: <ul style="list-style-type: none"> - Clarify which other sectors can participate and how.
Handling Fees	Based on geographic location. Fees per container between different materials and sizes must be the same. No independent setting or scrutiny of proposed fees.	Unclear if handling fee is net or gross of transport. Container transport costs are dramatically different between materials (6k glass containers per tonne Vs 66k aluminum per tonne). Scrap values are also dramatically different - glass is worth (at best) \$70/tonne where aluminium is worth \$1,800/tonne; as are existing NSW recycling rates (by material) and redemption performance in SA (LPB flavoured milk performs at half the rate of aluminium). Inconsistent with both existing Australian schemes and international where typically deposit value is consistent regardless of material (and generally size) but handling fees are generally different.	Recommendation: <ul style="list-style-type: none"> - Differentiate handling fees (like SA and NT) - to net out impact of scrap values and different transport costs. - Differentiate components of handling fees to reflect the service/value delivered - Importance that fees being transparent and will be revisited if targets of the scheme are not met - Handling fees should consider volume component of collection points and ensure lower volume areas can be served.

Cash Flows	Billing process is unclear – appears to be based on simple commercial trading terms.	If billing in arrears: - Coordinator is carrying 2 months operational cost of scheme while bottlers carry no debt to run operation. - Coordinator fee is a very small proportion of overall payment. Costs to carry this level of debt and potential to not be paid for work carried out (insolvency and commercial dispute) are very high compared to reward for their direct part of the operation. - No mediation process to ensure bottlers do not withhold entire invoice when disputing parts of the scheme - Relies on litigation to resolve disputes	Recommendations: <ul style="list-style-type: none"> - Payments should be made in advance (suggest based on 60 days’ sales) to an escrow account and adjusted to actual performance monthly. - Pay now, dispute later. - EPA mediation and dispute resolution processes should come into play before litigation. - Bottlers should have a collective (i.e. joint and several) responsibility (typically done via a PRO) to ensure schemes financial viability at all times – i.e. are clearly the liable party.
Attractiveness to investors	Scheme provides little certainty of income to Coordinator and Network Operators, in absence of advance billing. Coord and Network Operator carry all commercial risk without commercial control to enable performance.	Typically a Coordinator will have to carry 2 months payments (1 month invoiced and awaiting payment), the current unbilled month) + up to 3 months of beverages sold and on the shelves of retailers or in stock at home should a bottler become insolvent. Typically the Coord component of handling costs is around 20% of the handling fee (i.e. no more than 1¢ on a 4.5¢ handling fee) and 7% of the overall payment (refunds + handling). Cash flow costs (bank overdraft + bad debt insurance) to carry 2 months’ refunds + handling will necessitate a very high Coord fee and limit investor interest. Network Operators investment will be heavily dependent on confidence the Coordinator is viable.	Recommendation: <ul style="list-style-type: none"> - Establish a PRO with provisions to charge in advance and hold funds in escrow OR establish an independent fund holding advance refunds in escrow with sufficient advance billing to ensure scheme liquidity.
Targets & Performance Indicators	None revealed - generalizations about targets and access / coverage targets. All targets are focused on Coord and Network – none on bottler nor retailer.	Government must lay out performance expectations and be subject to public scrutiny about whether their targets meet community expectation before regulation is gazetted (accountability). Bottlers need to be part of accountability process to deliver on performance beyond basic network – removing liability from bottlers and onto Coordinator ignores polluter pays principles and risks viability of entire network.	Recommendations: <ul style="list-style-type: none"> - Place liability on polluter not the service provider - Oblige range of industry participants in supply chain (particularly retailers) to undertake CDS comms support activity. - Targets need to be in place right from Year 1 – with some potential leeway for start-up.
Enforcement Provisions	Up to 400 penalty points (\$40,000) per container?	Penalty systems are a poor tool for Product Stewardship Schemes as they fail to reflect the scale of benefit	Recommendations:

		<p>received by polluter non-compliance. Regulations need to ensure a bottler receives no financial advantage from non-compliance by ensuring they will have to pay their share of scheme operations + penalties for non-compliance.</p> <p>A \$40,000 overall penalty is very low represents an insignificant amount to a bottler (a major bottler can readily sell over 2million beverages a day (\$200,000/day in refunds) in NSW - compared to their windfall if activities avoid the payment of refunds.</p>	<ul style="list-style-type: none"> - Consider charging bottlers on a % of total recovery rather than their own recovery so they don't avoid payment of refunds via non-compliance. - Penalties should be additional to avoided refunds and handling fees. - Specifically state a person who breaches the provisions will be guilty of an offence.
Consumer Education/Labelling	<p>No information on roles and resources to promote the scheme and educate the public.</p> <p>EPA claims 'national label' under discussion but has provided no details.</p>	<p>No program to promote the scheme on commencement has been outlined.</p> <p>Retailers should be expected to have signage at the checkout and information on receipts to ensure consumers are aware they can earn a deposit (BA NT surveys indicated that after 8 months of operation 27% of grocery shoppers remained unaware a CDS was in place). If an interim use of the SA/NT label without any notation within NSW, there is a risk inflow from other states and legacy container refunds – how will the EPA control this?</p>	<p>Recommendations:</p> <ul style="list-style-type: none"> - Charges to bottlers should include charges to allow for a comprehensive marketing program to ensure the public is aware of the scheme. - Ensure NSW specific labelling has been introduced as much as possible on the commencement date. - Require information regarding the opportunity to receive a refund is featured on retail sales receipts and at the checkout; including specific information about where a consumer can redeem.
Information Supply and transparency	<p>Annual data supply and reporting by Coord.</p> <p>Bottler and brand confidentiality?</p> <p>POEA Ch7 enforcement/inspection powers.</p>	<p>Coordinator will need more than annual data supply from bottlers and networks to be warned of any problems.</p> <p>Annual reporting too long given seasonal changes.</p> <p>Nothing to assure sales data is kept confidential.</p> <p>Barcodes are essential to control for commercial incentives to sort scheme and provide transparency and equity</p> <ul style="list-style-type: none"> - E.g. avoid underreporting of sales figures and prevent free riding - Avoid overclaiming by SC, NOs and/or CPs - Control for MRF black hole - Determining under achieving brands and reasons 	<p>Recommendations:</p> <ul style="list-style-type: none"> - Require quarterly reporting (like NT) to track seasonal movements and alert early about problems. - Coordinator must not include any shareholders who are part of the beverage supply chain (to eliminate access to competitor's sales data). - Ultimately barcodes are scanned at some point in the CDS network chain.

3. Effectiveness Rating

The following represents a simple multi-criteria analysis reflecting whether proposed features will: maximise recovery, ensure cost effectiveness, are fair to all parties, proven (as opposed to untested approaches) and minimize any risks to the scheme and its objectives. The analysis reflects whether the scheme delivers on Premier Baird’s promise to deliver the ‘world’s best container deposit system’ requires more work or is in fact inadequate:

Design Feature	Drive High Performance	Cost Effective	Fair & Equitable	Proven	Eliminates Risks
Container Universe Effectiveness: Adequate	X - limited scope	X - doesn’t minimize glass in MSW	√ generally consistent with SA and NT but embeds inequity issues between wine makers and brewers	√ - broadly consistent with other markets	X -creates potential elasticity towards smaller containers (in turn creating new litter)
Coverage & Access Effectiveness: Inadequate	X -Unsure as there is no detail provided. Lack of retailer obligations will limit reach and convenience	X -to achieve reach and access ‘ambitions’ will require leasing premium property without retailer obligations to restrict shopping centre’s charging excessive rent. Likely to unnecessarily increase handling costs	X – unclear whether ‘ambitions’ to ensure rural and remote coverage will be achieved via a free market approach or handling fee incentive	X - only similar approach we are aware of is the NT, where this approach delivered very poor coverage and access	X - lack of regulatory underpinning or ‘hard targets’ (at this stage); creates significant risk that large parts of the community will be denied opportunity to redeem
Producer Responsibilities Effectiveness: Inadequate	X - bottler doesn’t need to educate customers or play role in scheme performance	? -Depending on invoice approach degree of commercial risk Coordinator has to carry, will drive up costs	√ - only scores on this rating if Coordinator is either owned by all bottlers OR owned by no bottlers	X - super collector styled approaches like this one are no longer used internationally. They are a feature of the older CDS approaches. This obligation light approach to the polluter was a major issue in NT roll out	X -Significant risks: <ul style="list-style-type: none"> - lack of consumer education - passing commercial risk from bottler to Coordinator - if no provision to cover insolvency of or Coord - few regulatory tools to resolve financing issues
Producer Payment (if based on brand return rate) Effectiveness: Inadequate	X - disincentive for bottler to pursue higher return rates	X - in absence of specific obligations, approach discourages bottlers marketing etc. leading to higher direct system costs	X - rewards poor performance and penalises high performance	N/A	X - discourages high performance which risks overall results

Retailer Responsibilities and Participation Effectiveness: Inadequate	X - without retailer involvement in locating collection points and consumer education; participation (& in turn redemption rates) will not be maximised	X - site and marketing costs will be substantially higher without retailer participation	√ - no bias toward one party over the other (though approach lacks transparency in terms of consumer spending)	X - it's PROVEN that without retailer participation redemption rates; site costs; and network coverage will be negatively impacted	X - reduced access and reach; higher site costs pushing up handling fees
System Coordinator Effectiveness: Inadequate?	? - All depends on capacity to achieve targets without litigation barriers	X – unclear HOW Coord can fully control costs when govt appoints Network Operators and has say in handling fee	? - approach is fair and equitable but has potential inherent conflicts of interest if a few big bottlers have equity in the Coordinator; or if the SC is also the NO.	? - independent Coord is a proven approach, although conditions and nature of system operation doesn't appear consistent with any other known approach	X - solvency risks apparent
Network Operators Effectiveness: Adequate	? - unsure how access and coverage ambitions outlined will be achieved (which will limit performance)	√ - unlikely the full value of scrap will be reflected in network pricing but does promote competition	X - unless specified limited opportunities for small business and charities to participate	√ - seems to be a unique feature designed by the NSW EPA rather than a proven approach without reference to international practice; but is consistent with approaches used by other PS schemes (e.g. TVs) where multiple operators compete	√ - most obvious risk seems to be based on commodity prices which recyclers already deal with day to day
Kerbside Effectiveness: Best Practice	√ - good involvement	√ - may over reward kerbside (refund + scrap value) but functional (so long as MRF recovery doesn't also get a handling fee from system)	√ - no issues noted	√ - yes	√ -yes – NT, SA (informally) and consistent with California and Hawaii (at least)
Other existing collection Effectiveness: Adequate?	? - lack of clarity but understood to be involved	? - will pay handling fees on material where refund has been forfeit?	? - lack of clarity on long established networks to collect litter / increase recycling	? - lack of clarity	√ - no obvious material risks
Handling Fees	? - unknown	X – aspects of design will result in handling fees well above the optimum	√ – recognises need to pay more to service rural locations	? – market forces setting prices are only fine if	? – no direct risk in fees (but significant risk in trading terms)

Effectiveness: Adequate				properly underpinned by performance targets	
Cash Flows (if paid in arrears) Effectiveness: Inadequate	X - high degrees of risk will limit investor interest to roll out network	X - Coord carries much higher levels of risk than most other schemes – will need to increase charges to reflect this	X - places too much burden on Coordinator rather than bottler (the traditionally liable party of a CDS)	X - haven't seen Coord liability approach anywhere – even in SA and NT commercial arrangements between bottlers and super collectors include advance payment	X - high risk approach in terms of commercial surety of Coord and network
Attractiveness to investors Effectiveness: Inadequate	X - as above	X - business case to attract investment is poor	N/A	X - degree of risk borne by Coordinator and network is unprecedented	X - high degree of uncertainty regarding commercial risks to network
Targets & Performance Indicators – no info Effectiveness: ?	? – Unknown Penalties if general, dwarfed by savings a bottler receives by being non-compliant	? - Unknown	X - regulatory bias is focused on the solution providers rather than source of pollution	X - international feedback consistently identifies that individual bottler targets and penalties are a primary driver of high performance	? -
Consumer Education Effectiveness: Inadequate	?	X – creates new labelling over and above SA / NT re 150ml - no consumer education or system marketing described. - if undertaken no provision to require bottlers / retailers to participate or pay.	N/A	X - even NT scheme has specific provisions about signage at check outs, provision of information on where to return	X - lack of focus on consumer education risks speed by which consumers start to redeem

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