Perchards

SENATE STANDING COMMITTEE ON ENVIRONMENT, COMMUNICATIONS AND THE ARTS :

ENQUIRY INTO THE MANAGEMENT OF AUSTRALIA'S WASTE STREAMS

9 July 2008

Introduction

We apologise for the late arrival of this submission. We are aware that the closing date for written submissions to this enquiry was 23 May, but this short paper is submitted in urgent response to additional information sent in by the Boomerang Alliance on 2 July.

The comments made by the Boomerang Alliance in respect of packaging policy in Europe are inaccurate in almost every respect. We do not propose at this late stage to discuss in detail the arguments they have put forward, but only to correct misinformation.

It is important to do this as they have impugned our professional integrity by implying that we have published deliberately distorted information.

We stand by the statement in the paper which we co-authored and which was submitted to you by the Packaging Council of Australia, which said that EU member states with deposits for [non-refillable] beverage containers and kerbside and bring systems for other packaging, achieve lower recycling rates than comparable countries without container deposit laws (CDL).

Our credentials

Perchards Ltd is a UK-based consultancy specialising in monitoring and analysing packaging policy worldwide. We have carried out studies for the European Commission, the International Finance Corporation (part of the World Bank group), governmental bodies in Australia, Ireland, the Slovak Republic and the UK, and have been engaged by nearly 300 companies or organisations based in 33 countries in every continent. We have been operating since 1987.

The most comprehensive account of the evolution of the beverage container market and of beverage container legislation in Europe can be found in Chapter 4 of the report of a ten-month study for the European Commission on *Progress of the implementation and impact of Directive 94/62/EC on the functioning of the Internal Market.* Perchards were the lead consultancy on this report, which can be downloaded from the Commission's website at http://ec.europa.eu/enterprise/environment/reports_studies/index.htm. It is unlikely that the Commission, the governments and the many stakeholders consulted would have overlooked any errors or omissions in the review of European packaging legislation contained in this 400-page report.

EU rules require member states to submit any proposed new legislation on packaging to the Commission before signing it into law. Thus, if any new container laws have been adopted since the Commission published this report in June 2005, they can be found at http://ec.europa.eu/enterprise/tris/pisa/app/search/index.cfm?lang=EN. The main points we are going to make are therefore on the public record and can easily be verified.

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Corrections to the Boomerang Alliance's submission

Confusing deposits on refillables with deposits on non-refillables:

"The Packaging Council of Australia has made a submission to The Senate Enquiry offering the paper 'Excerpts on CDL Recycling Comparisons from Draft Report 'Status of Packaging Sustainability in Australia' by MS2 and Perchards for the Packaging Council of Australia'. This paper contends that 'Of the five EU deposit states, only Germany exceeded the average recycling rate in the EU-15 countries in 2005." The Boomerang Alliance feels that the information submitted creates a somewhat distorted picture of the reality of common practice in packaging recycling across the European Union. The PCA submission attempts to illustrate current recycling in Europe based on the graph found overleaf.

While this graph accurately cites those EU jurisdictions that have specific Container Deposit Legislation it conveniently fails to identify those nations who have broader based legislation that, in practice, results in a deposit / refund on common beverage containers."

Correction: In many European countries refillable bottles can still be found in the bar and catering trades, and in some cases there are a dwindling number of refillables in the take-home trade also. The majority of packaged beer sales in Austria, Belgium, the Czech Republic and the Netherlands are indeed still in refillable containers, for instance. Deposits have always been charged on refillables – not because legislation requires it, but because the bottlers have charged it to encourage consumers to bring the bottles back for refilling.

The Boomerang Alliance is pushing for an Australian CDL that will encourage consumers to return beverage containers for recycling. They believe that this will add significantly to the amount of packaging material that gets recycled.

Deposits on refillables are very different. The aim is to keep beverage containers *out* of the waste stream by refilling them. The more successful the refill system is – i.e. the higher the market share and the more trips refillables make before being lost or broken – the fewer beverage containers there are to recycle. To achieve any given recycling rate, you have to recycle a higher proportion of non-beverage packaging, which is less valuable as a secondary material.

Thus, where deposit-bearing refillable beer bottles are in circulation, as in Belgium and the Czech Republic, the availability of beverage containers for recycling is minimised rather than maximised, and it's harder to achieve a good recycling rate. It is absolutely incorrect to say that the existence of deposit-bearing refillables in Belgium was "conveniently" omitted from the MS2/Perchards paper in order to hide the fact that this was a major contributor to Belgium's outstanding recycling performance. In fact, it hindered Belgium's recycling activities.

We did not discuss refillable containers in our report for the Packaging Council of Australia because they are not relevant to the Australian situation.

Belgium:

"In Belgium the Ecotaxes Act of 1993 requires all beer, soft drink or soda water products to: be offered in refillable containers; to place a deposit of at least 12¢ on containers; and for these containers to be actually reused at least 7 times to avoid be subjected to an ecotax of US52¢ a litre. So while there is no deposit legislation per se it is a requirement of Belgium."

Correction: An Act amending the Ordinary Act of 16 July 1993 aiming to complete the federal structure of the State introduced a tax of EUR 9.86 per hectolitre on non-refillable containers and EUR 1.41 per hectolitre on refillables. While the tax offers an incentive to use refillable containers, there is no requirement to do so.

(Expressing the tax rate in US cents indicates that the Boomerang Alliance used an unreliable secondary source.)

Austria:

"In Austria the 1990 Order Concerning Refillable Bottles, and the 1992 Federal Order for the Establishment of Goals for the Reduction and Recovery of Container Packaging and Related Packaging is established to ensure the success of the refillable system. These ordinances require deposits on refillable PET bottles and operates in almost exactly the same manner as the Belgium system above.

Correction: The purpose of Ordinance no. 513 of 19 July 1990 on Charging Deposits and Returning Refillable Plastic Packaging for Drinks was to ensure that consumers could get their deposits refunded when they took their bottles back (PET bottles were new to the market then). It has no resemblance to the Belgian tax measure whatsoever.

Ordinance no. 646 of 9 October 1992 establishing Targets for the Prevention and Recycling of Waste from Drinks Packaging and Other Packaging Materials set combined refilling and recycling targets for beverage containers. It was repealed in 2003 and replaced by a voluntary agreement which maintains the previous statutory target but includes some new provisions designed to support refillables, whose market share was falling rapidly. Although industry continued to meet the combined refilling and recycling target, the market share of refillables continued to decline and a new agreement abandons attempts to maintain the supply of refillable drinks containers in favour of encouraging bottle-to-bottle recycling of PET.

Luxembourg, the Netherlands and the Czech Republic:

"Luxembourg, the Netherlands and the Czech Republic all operate in a similar manner."

- There are no special regulations relating to beverage containers in Luxembourg.

- In the Netherlands, the third Packaging Covenant –a voluntary agreement between Government and industry – imposed no restrictions on beverage product/packaging combinations on the market before 2003, but producers and importers were permitted to use new product/pack combinations to replace existing refillable container systems only provided certain conditions were met. The European Commission challenged these special authorisation requirements, and the Dutch authorities decided to allow large (more than 0.5 litre) non-refillable PET bottles onto the market from 2006, albeit with a mandatory deposit system.

  A Decree which came into effect in January 2006 contained provision for the more general introduction of mandatory deposits, but this part of the legislation cannot be activated unless Parliament votes to introduce an Implementing Decree, and successive governments have decided on a different policy – a litter tax which, they say, will be a holistic way of addressing all litter rather than focusing on just one component of it. Thus there is no deposit on small PET bottles, glass bottles or cans.

- The Czech Packaging Act no. 477/2001 empowers the Government to specify products or types of packaging on which deposits must be charged, and an implementing Regulation lists seven types of *refillable* bottle on which a standard deposit must be charged. There are no special rules on non-refillables, though deposits have been under discussion.

Norway and Switzerland:

"Norway and Switzerland both use Container Deposit Systems and have been excluded as they are not members of the EU 15. Norway is probably the best packaging recycling / reuse performers in Europe."

- Norway's Regulation on Return Systems for Beverage Packaging regulates the establishment of return systems. Return systems have to be approved by the State Pollution Control Authority. Ten return systems have been approved, including traditional deposit refund systems in operation for refillable glass and PET containers for beer and carbonated soft drinks. These systems are operated by the brewers for beer, waters and soft drinks and by the State alcohol monopoly for wines and spirits.

  Deposits are not mandatory under the Regulation, but the tax system provides a strong incentive for them. The EFTA Surveillance Authority has mounted a legal challenge to the Norwegian tax which, it says, discriminates against imported beverages.

- There is no mandatory deposit system on non-refillable beverage containers in Switzerland. There is an Advance Disposal Fee on glass beverage containers, and a voluntary levy on steel, aluminium and PET packaging used to fund collection so that recycling targets can be met.

- The Boomerang Alliance might also have mentioned that in Iceland, a tax on non-refillable aluminium, steel, plastic and glass packaging has just replaced the previous deposit on non-refillable beverage containers.

We agree that Norway's reuse and recycling rate is excellent. Deposits on non-refillables work best if they were introduced before refillables disappeared, as this means that consumers hadn't lost the habit of returning their empties. Also, the recycling system for non-beverage packaging was built around a pre-existing deposit system – this works much better than the other way round.

Mandatory use of refillable containers:

On page 2 the Boomerang Alliance states that *"most European jurisdictions require the reuse of glass and PET containers."* This is untrue. However:

- The tax system in Belgium and Norway favours the use of refillables.

- Companies first placing drinks on the Hungarian market must pay a beverage containers tax unless a minimum proportion of these products are in refillables. The refill quotas rise year by year. The European Commission is taking legal action against these requirements, which it says appears to have been designed to protect Hungarian companies against foreign competition.

- Maltese regulations dating from 1998 required carbonated soft drinks to be sold only in refillable glass bottles or through dispensing systems. There also had to be a refundable deposit of at least 15% of the wholesale price of the product. The EU regarded this as a barrier to trade, and Malta agreed to end these restrictions after it entered the EU.