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26 October 2012

Committee Secretary
Senate Standing Committee on Environment,
Communications and the Arts
PO Box 6100
Parliament House
Canberra ACT 2600
eca.sen@aph.gov.au

Dear Sir / Madam,

RE: ENVIRONMENT & COMMUNICATIONS REFERENCES COMMITTEE INQUIRY INTO CDL SCHEMES IN SOUTH AUSTRALIA AND THE NORTHERN TERRITORY

Thank you for the opportunity to contribute the views of Lion Pty Ltd (Lion) to the Committee's Inquiry into aspects of the operation of Container Deposit (CDL) schemes in South Australia and the Northern Territory.

Lion is a leading beverage and food company with a portfolio that includes many of Australia's favourite brands. Lion employs close to 7,500 people across Australia and New Zealand and boasts a portfolio of market-leading, household name brands in beer, spirits, wine, milk, fresh dairy foods, juice, cheese and soy beverages. In addition to direct employment, we make a significant contribution to the Australian economy as one of the country's largest purchasers of agricultural goods and are an integral part of the retail, hospitality and tourism industries.

We invest in our core strategic assets of people, brands, and production facilities for long-term, sustainable growth. We aim to play a positive role in the communities in which we operate by maintaining a culture of environmental and social sustainability. Lion has voluntarily invested tens of millions of dollars over two decades in practical, cooperative efforts to increase beverage container recycling, reduce litter and optimise our packaging. We're proud to have played an active role in the clear progress made across Australia on these and other packaging stewardship issues in recent years.

We note that this reference raises highly sensitive commercial issues around pricing, and infers that Lion is passing on 'unreasonable costs' in connection with CDL schemes in South Australia and the Northern Territory. Lion wholly and firmly rejects such allegations, which have been made on the basis of scant facts and incorrect assumptions. In our view, the appropriate body to investigate any concerns about market conduct is the ACCC. Lion reiterates our readiness to cooperate actively and provide full transparency to the regulator, should it make any request in this regard.

In terms of our submission to this Committee's process, Lion will focus on describing the fundamentals of the commercial environment in which we compete. These basic facts must frame and inform any discussion of the costs of any regulation – not just CDL – imposed upon the grocery and FMCG sectors. These fundamentals include:

- The competitiveness of the beverages sector in Australia;
- The competitiveness of the container deposit collection and handling services sectors in South Australia and the Northern Territory;
- The difference between wholesale and retail pricing; and
- Lion's approach to setting wholesale pricing, including price variability.

Competitiveness of the Australian beverages manufacturing sector

The Senate well understands that Australian food and beverage manufacturers are operating in a highly competitive domestic market, with an increasingly concentrated retail sector in which manufacturers' margins are experiencing an unprecedented squeeze. The ability of companies such as Lion to pass through cost increases to our retailer and wholesaler customers is increasingly constrained. The same competitive constraints apply even when the additional costs are imposed by government, for example the carbon tax or CDL charges.

Our ability to negotiate cost pass-through can also vary according to other factors such as local market conditions, the time of year and the strength of specific brands or brand variants (SKUs). The suggestion that Lion passes through "unreasonable" CDL compliance costs is wholly wrong and also fails to understand the commercial realities within which our business operates. Lion's approach to setting wholesale pricing is expanded upon below.

Competitiveness of CDL services sector

In both South Australia and the Northern Territory, CDL systems are market based. Robust competition exists at each point in the supply chain, from beverage manufacturers and wholesalers, to retailers, container collectors (ie: depot operators), waste contractors and materials coordinators.

While the deposit amount in both jurisdictions is set by regulation, the handling fee and other system costs are determined by the market. A notable footnote here is that in South Australia, handling fees charged by collectors to super collectors are generally collectively negotiated by the collectors' union (the Recyclers of South Australia).

As a beverage manufacturer, Lion has a choice of providers of container collection and materials coordination services in both South Australia and the Northern Territory, and uses a mix of vendors to best meet our commercial requirements.

Lion has a 75% ownership stake in Marine Stores Pty Ltd, which offers materials coordination services to beverage manufacturers in both South Australia and the Northern Territory. Marine Stores is a standalone company, run by its own Board and CEO, that competes vigorously for customers who include other companies in the beverages sector. The waste collection and coordination sectors are competitive and market based. Participants operate under the commercial imperative to offer the best possible price and service to the market, ensuring system costs are minimised within the constraints of the system design established by the respective governments.

Wholesale vs retail pricing

Accusations made against Lion of 'unreasonable' cost pass through also reflect a lack of understanding of the difference between wholesale pricing (set by Lion) and retail or shelf price (wholly determined by the retailer). In many cases, particularly in the Northern Territory, there is an additional party in the value chain – a wholesaler – to whom Lion sells its products for on-selling to retailers. At each step, each party determines its own pricing - which typically involving a host of factors. This in turn drives a natural level of price variability across the market.

Direct comparisons of market prices across different states must be done carefully in order to be meaningful. For example, the timing of retail promotions must be taken into account, along with the different product mixes available in different markets, the strength of the brand locally, the market structure, varying retailer margins and pricing strategies. In general, pricing variability indicates that the market is responsive and competitive. In and of itself, it does not suggest 'unreasonable' costs are being passed through the supply chain by any party.

In addition, and as set out above, there are other commercial operators through the supply chain between the beverage manufacturer and retailers, including wholesalers and various suppliers of CDL services. Each of these contributes to the total system cost and therefore may play some role in the price ultimately paid by consumers. It is fundamentally wrong and misleading to draw a direct correlation between Lion's wholesale pricing and retail pricing of Lion products.

Lion's approach to wholesale pricing

Pricing is a critical value driver for Lion, as it is for all businesses, and we approach pricing carefully and strategically. Pricing is reviewed periodically to drive our brand and business objectives, within the context of a highly competitive and price-sensitive market.

In terms of the costs of complying with CDL regulations, Lion has been transparent and consistent in seeking to pass on these costs to our retailer and wholesaler customers in the respective jurisdictions. We believe it is neither fair nor justifiable for other (non CDL) states and territories to bear the costs of South Australian and Northern Territory regulation – particularly regulation as expensive as CDL.

In the Northern Territory, Lion contracts Marine Stores to act as the materials coordinator for our brands in the Territory. The per container fee we pay in the Territory is higher than South Australia, but we believe it represents a fair and competitive market rate. It takes into account the higher start up and structural costs of the Territory scheme, the Territory's smaller and more scattered population, higher transport and recycling costs, the far lower initial redemption rates compared to estimates (which must be provisioned for) and higher operating risks overall.

In the case of South Australia, Lion's costs are generally predictable and stable, given the maturity of this scheme. Lion uses Marine Stores Ltd to act as the materials coordinator for our brands, on the basis of a competitive per container fee. While South Australian compliance costs are lower than those in the Territory (as we would expect), the scheme's costs are very high compared to other non-CDL policy options and we believe the efficiency of the scheme could be improved by removing unnecessary regulation and further exposing the scheme to open, market based competition.

In both jurisdictions, Lion has clearly and consistently said that we would seek to recover our compliance costs through wholesale pricing. We undertake periodic reviews to ensure this is the case. In the Northern Territory, we expect it will take some time for cost drivers in the Territory scheme to stabilise and for a reliable dataset to emerge. This is to be expected for any new cost impost, particularly a complex infrastructure cost such as CDL.

Moreover, and as set out above, Lion does not always pass through the full cost due to pricing strategy and broader commercial considerations. Any implication that Lion is deliberately over-recovering the costs of complying with CDL schemes is false and wholly rejected.

Conclusion

Lion observes its trade practices and competition obligations scrupulously. Any concerns the Committee may have in this regard should be referred to the ACCC, with which Lion would be pleased to cooperate fully and transparently.

It's undeniable that the beverage industry is highly competitive and price-sensitive. Retail price variability is not evidence of inappropriate, let alone illegal pricing behavior, but is rather a sign of a competitive and responsive market.

There is a critical distinction to be drawn between wholesale and retail pricing. Lion does not and never will set retail pricing. In determining wholesale pricing, Lion considers a range of issues as part of a sensitive complex and strategic approach. In line with our public commitments, we have sought to recover our CDL compliance costs through wholesale pricing in South Australia and the Northern Territory. The implication that Lion is deliberately over-recovering these costs is completely false.

The CDL compliance costs Lion has borne in the Northern Territory have been higher than those in South Australia, as indeed we expected them to be, but represent a reasonable and competitive market rate considering the greater cost of Northern Territory's scheme, as well as the higher risks and cost variability in the Northern Territory when compared to South Australia.

If any conclusion may be drawn from the retail price increases experienced upon the introduction of CDL in the Northern Territory, it is that CDL is an extremely expensive policy. Major government funded studies have demonstrated this fact repeatedly over more than 20 years of research. The most recent and comprehensive COAG analysis also highlighted the inordinate cost of CDL schemes compared with other more efficient alternatives.

Conversely, those concerned by the cost impacts of CDL would be better to advocate scrapping these discriminatory, outdated and inefficient schemes rather than constructing wholly baseless allegations against those charged with implementing them.

Lion appreciates the opportunity to add to the Committee's understanding on these important issues.

Yours sincerely,

Duncan Makeig

Group General Counsel and Sustainability Director