

NSW Container Deposit Scheme Information Session

Friday 4 August 2017

NSW Environment Protection Authority

Agenda

- Update on Container Deposit Scheme implementation
- Scheme Coordinator overview
- Network Operator overview
- Scheme overview
- First supply application and examples
- Supply Arrangement and payment mechanism
- Container approvals and fees
- Refund mark
- MRF protocol overview
- Next steps

Scheme update

- The NSW Government is committed to keeping our environment clean and reducing the volume of litter in NSW
- The Minister for the Environment announced the Scheme Coordinator and Network Operator on 29 July 2017, following a competitive selection process
- Exchange for Change is the successful Scheme Coordinator
- Tomra-Cleanaway is the successful Network Operator across NSW



Scheme operators

Scheme Coordinator

- Exchange for Change is a consortium of Asahi, Carlton United Breweries, Coca-Cola Amatil, Coopers and Lion Group.



Network Operator

- TOMRA-Cleanaway is a joint venture between TOMRA and Cleanaway Waste Management Ltd.
- TOMRA is a global provider of reverse vending technology.
- Cleanaway is a leading Australian waste management company.
- Single Network Operator for all NSW.
- TOMRA-Cleanaway will have the majority of collection points open by 1 December 2017 and will roll out more collection points into 2018.



Scheme name and logo

- Return and Earn
- The EPA tested the name and logo extensively including:
 - street testing 650 people across Sydney in May 2017
 - street testing 350 people across Albury and Wagga Wagga were similarly undertaken
 - interviews with stakeholders and online survey completed by 2,000 respondents.



Scheme Coordinator overview

- Exchange for Change selected as Scheme Coordinator
- Exchange for Change will establish, manage, administer and operate the Scheme.
- Scheme Coordinator is responsible for:
 - signing up relevant beverage suppliers to the Scheme
 - payments being made on time and flow through the Scheme
 - ensuring high community awareness of the Scheme
 - ensuring containers for which refunds are paid are accurately and reliability counted, and the integrity of the Scheme is preserved.
- Initial term is 7 years starting from the Scheme Commencement Date
- The Minister reserves power to extend the 7 year term by 3 years, twice (i.e. another 6 years)

Scheme Coordinator Overview

Scheme Coordinator obligations

1. mobilising by 1 December 2017
2. ensuring fair dealing
3. reporting
4. ensuring flow of funds from Suppliers to Network Operators
5. maintaining Scheme integrity

Scheme Coordinator overview

Mobilisation

From now until Scheme commencement, the Scheme Coordinator must:

- execute a Supply Arrangement with each Supplier
- execute a Network Arrangement with the Network Operator
- establish the Scheme Payments Account
- establish the Scheme Coordinator Liquidity Buffer
- develop, establish and test the payment and invoicing systems including any interface with Suppliers' and the Network Operator's payment and invoicing systems
- develop, establish and test the audit and verification systems.

Scheme Coordinator overview

Fair dealing

Under the Scheme Coordinator Agreement between the Scheme Coordinator and the Minister for the Environment:

- the Scheme Coordinator must not act unfairly, or unreasonably discriminate against or in favour of any particular Scheme Participant in negotiating, entering into, performing obligations under or enforcing any Scheme Arrangement
- the Minister can terminate the appointment of the Scheme Coordinator where the Minister believes it no longer passes the fit and proper person test.

Scheme Coordinator overview

Scheme Coordinator reporting

When providing the **monthly invoice** to a Supplier, the Scheme Coordinator will provide information on:

- the Scheme Coordinator's calculation of the Supplier's market share
- assumptions with respect to estimated container volumes by material type
- any adjustments with respect to prior billing periods, including volumes by container type.

After the **end of each financial year**, the Scheme Coordinator delivers to Suppliers:

- number of containers for which refund amounts have been paid by collection point operators or Network Operators
- the number of containers for which the MRFS have lodged claims
- Scheme Coordinator's calculation of the Supplier's market share
- Network Fees paid by the Scheme Coordinator to the Network Operators
- the aggregate of the Administration Fee for the financial year.

Scheme Coordinator overview

Scheme payments account

- The Scheme Coordinator must establish a Scheme Payments Account.
- The Account is to be used solely for the purpose of:
 - receiving Supplier Contribution payments
 - receiving interest on the Scheme Payments Account
 - making payments of the Administration Fees, Processing Refund Amounts for Material Recovery Facilities, Refund Amounts, Network Operator fees and Scheme Compliance Fees.
- The Scheme Coordinator is not to use the Scheme Payments Account to pay its operating expenses.

Scheme Coordinator overview

Fraud controls

- The Scheme Coordinator acknowledges it is an offence under section 47 of the Act for a person to provide any information they know is false or misleading:
 - in connection with a claim for payment under a Scheme Arrangement, or
 - in purported compliance with any requirement under Part 5 of the Act or the Regulations.
- The Scheme Coordinator must:
 - take all reasonable steps to minimise and prevent fraud in connection with the Scheme
 - promptly give notice in writing to the State Representative, after becoming aware of any fraud under the Scheme by any Scheme Participant, Material Recovery Facility Operator or any other person.

Network Operator overview

- TOMRA–Cleanaway is the Network Operator across NSW.
- TOMRA–Cleanaway will establish, manage, administer and operate the Collection Points across NSW.
- Initial term is 5 years starting from the Scheme Commencement Date.

Network Operator overview

Mobilisation

From now until Scheme commencement, the Network Operator must:

- enter into a Network Arrangement with the Scheme Coordinator
- establish the collection points it is operating
- prepare, negotiate and execute Collection Point Arrangements with its third party Collection Point Operators
- obtain EPA approval for the Collection Points Arrangements
- obtain EPA approval for the collection points it is operating
- establish the Network Payments Account

Network Operator overview

Mobilisation

From now until Scheme commencement, the Network Operator must:

- establish majority of Collection Points including in the Priority Collection Areas in Zone 7
- develop, establish and test their payment and invoicing systems
- develop, establish and test their audit and verification systems
- establish a customer service and complaints handling process.

Network Operator overview

Services Delivery

From Scheme commencement, the Network Operator must:

- operate and maintain established Collection Points to receive and pay refunds on returned containers
- continue to establish Collection Points to meet target under the Network Operator agreement

Scheme Overview

- The Scheme will have over 500 collection points across the state, including more than 800 reverse vending machines (RVMs).
- More than half the collection points will be automated, and contain two or four RVMs.
- Collection points may also be local shops, depot sites, existing recycling centres, or a combination of all, where anybody can return an eligible drink container for a 10-cent refund.
- An interactive map of collection points across the state will be available towards the end of 2017.
- Return and Earn branding will be applied across collection points and community education and marketing material.

First supply obligations

Section 20 of the WARR Act

- ***supplier*** means a person who carries on a business that is or includes the supply of beverages in containers, but does not include a person of a class excluded from the operation of this Part by the regulations.
- ***supply*** means supply, by way of sale or otherwise, in the course of carrying on a business.

First supply obligations

Section 38 of the WARR Act

- (1) A supplier must not supply or offer to supply a beverage in a container to any person unless:
 - (a) a **supply arrangement** is in force between the supplier and a Scheme Coordinator in respect of a class of containers to which the container belongs, and
 - (b) a **container approval** is in force in respect of that class of containers.
- (2) This section applies only to the **first supply in the State** of the beverage in the container

First supply examples

- The EPA's view is the supply of a container occurs in the location where the recipient of the supply receives the container.

Scenario	First supply point	First Supplier
Manufactured* in NSW, supplied to a distributor/retailer** in NSW	Supply from manufacturer to distributor/retailer	Manufacturer
Manufactured/bottled in NSW, supplied by delivery to a distributor/retailer outside NSW	None (as no supply in NSW)	None (as no supply in NSW)
Manufactured/bottled in NSW, supplied to an airline or cruise ship catering in NSW	Supply from manufacturer to distributor/retailer	Manufacturer

First supply examples

Scenario	First supply point	First Supplier
Manufactured outside NSW, supplied by delivery to a distributor/retailer in NSW	Supply from manufacturer to distributor / retailer	Manufacturer
Manufactured outside NSW, supplied to a distributor outside NSW, distributor supplies by delivery to retailer in NSW	Supply from distributor to retailer	Distributor
Manufactured/bottled outside NSW, supplied to a retailer outside NSW, retailer transports containers to NSW and sells them in NSW	Supply from retailer to consumer	Retailer
Manufactured outside NSW, sold to retailer outside of NSW, retailer sells to consumer in NSW (via online, etc.)	Supply from retailer to consumer	Retailer

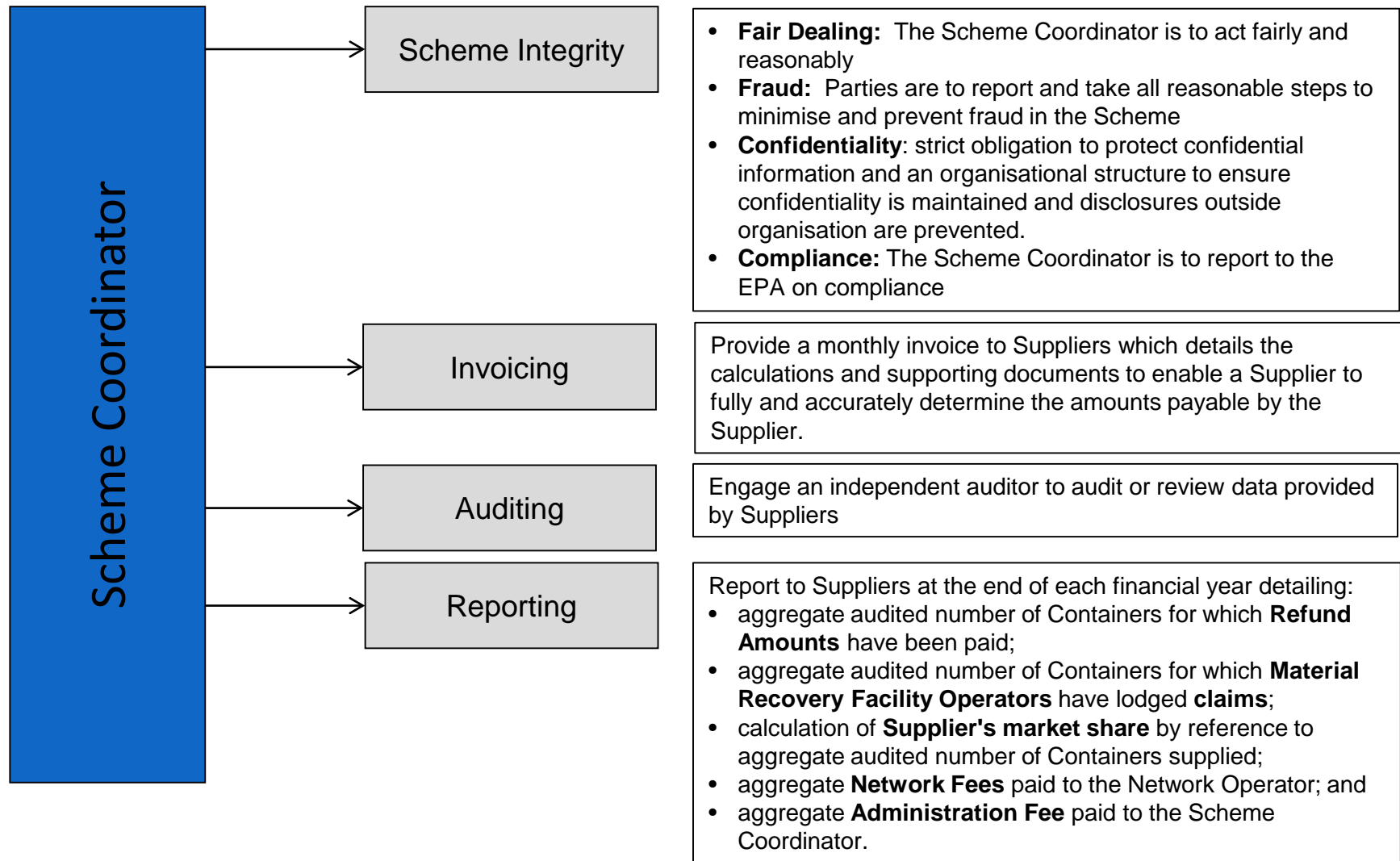
Supply Arrangement

- The Supply Arrangement will be in a standard form for all Suppliers
- As a condition to a Supply Arrangement coming into force, Suppliers will be required to enter into two further agreements, the Common Dispute Deed and the Supplier Side Deed
- Each of the Supply Arrangement, the Common Dispute Deed and the Supplier Side Deed will be made available online by the Scheme Coordinator

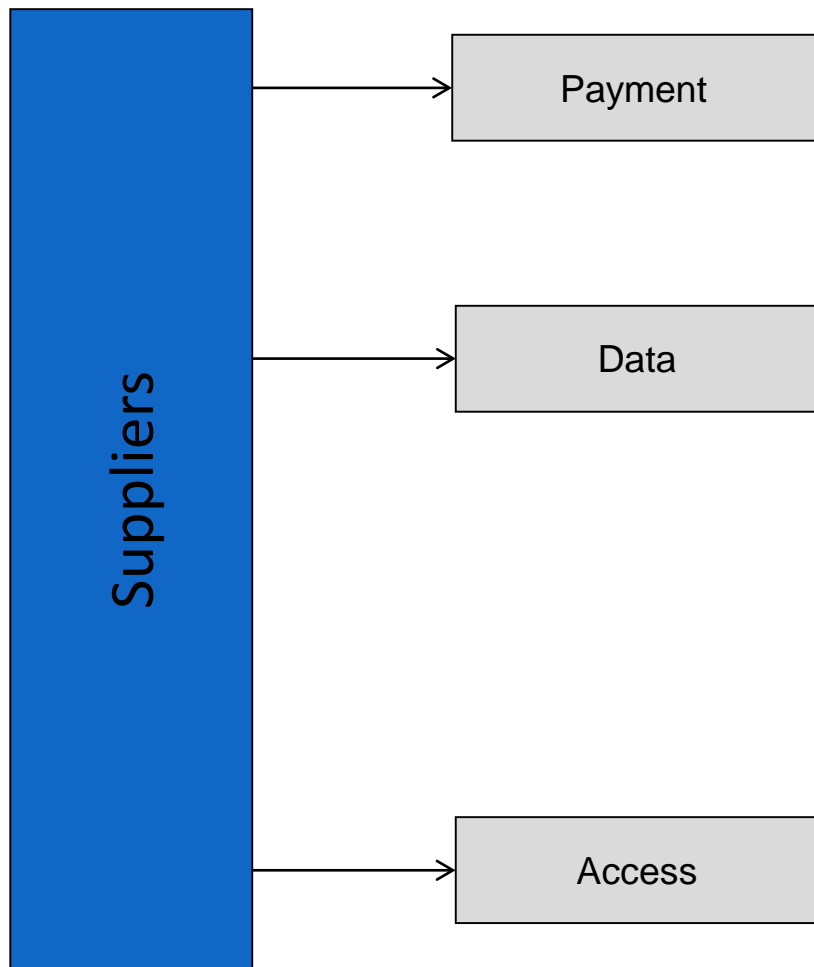
Supply Arrangement

- The **Common Dispute Deed** provides a process for the determination of a common dispute between Suppliers, the Scheme Coordinator, Network Operator and the State
- The **Supplier Side Deed** enables the State to:
 - carry out an obligation of the Scheme Coordinator under the Supply Arrangement which it failed to carry out; and
 - novate the Supply Arrangement to any replacement Scheme Coordinator or to the State.

Scheme Coordinator Obligations



Supplier Obligations



- Make payments to the Scheme Coordinator monthly in advance within 7 days of receiving an invoice from the Scheme Coordinator
- Pay interest on any amount that is not paid when it is due and payable

- Provide data as directed, including via the Scheme Coordinator's dedicated online portal
- Provide a monthly Supplier Statement detailing aggregate Containers supplied in NSW during the previous month by material type
- Provide an annual statutory declaration declaring that each monthly Supplier Statement in the previous financial year was true and correct and confirming the aggregate number of beverage Containers supplied in the previous financial year in NSW and for each Container material type

Provide access and reasonable assistance to the independent auditor to review data provided by the Supplier to determine if the Supplier is complying with the Act and the terms of the Supply Arrangement.

Supply Arrangement

Term

- The Supplier Arrangement will remain in force for the duration of the Scheme unless otherwise terminated in accordance with the agreement

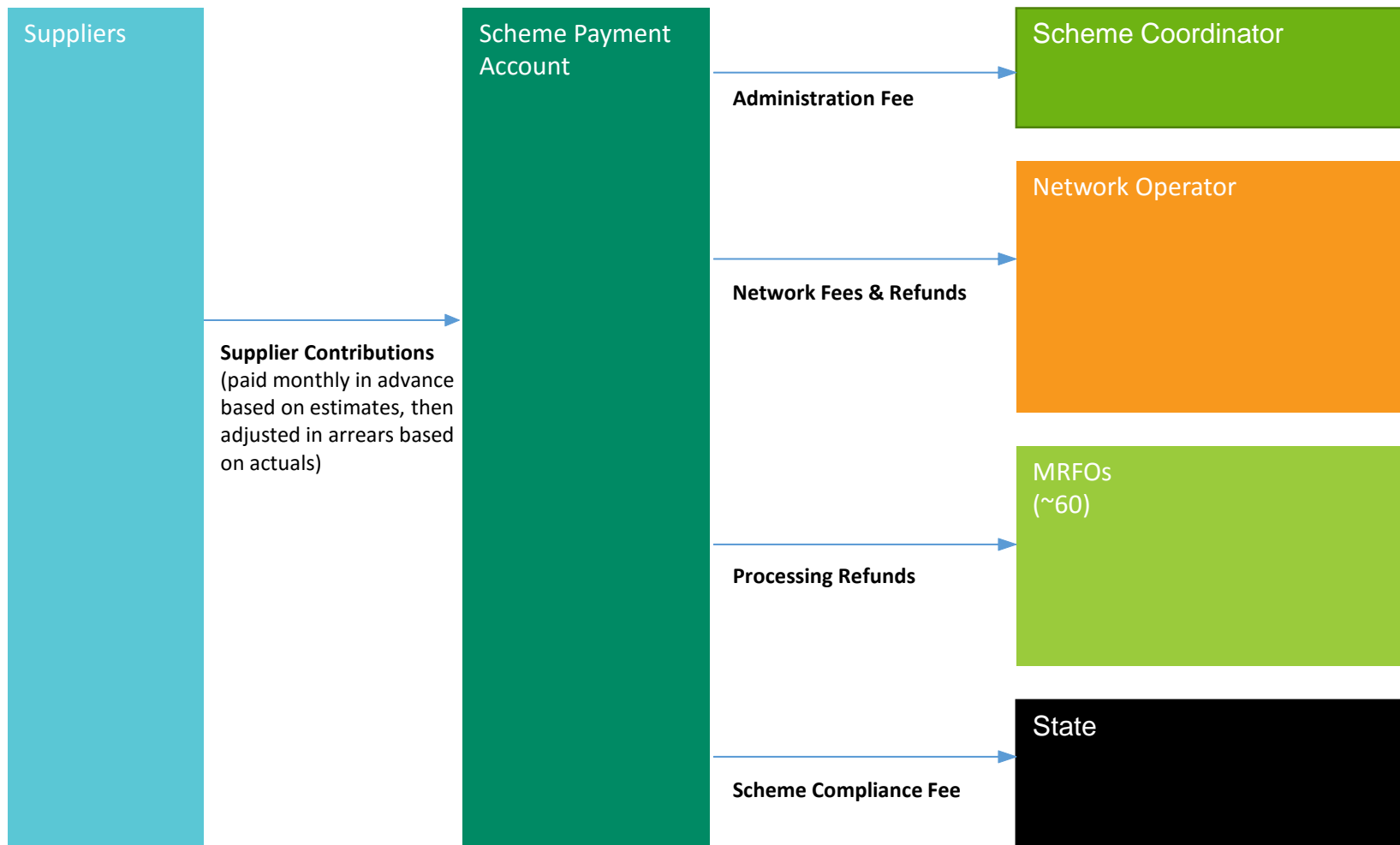
Suspension

- A Supplier may notify the Scheme Coordinator that it seeks to have a Supply Arrangement and the obligation to contribute to the Scheme Costs suspended to the extent that a Supplier ceases to supply Containers in NSW

Termination

- A Supplier may terminate a Supply Arrangement if it ceases to supply Containers in NSW or if it becomes insolvent
- If the State has given its consent, Scheme Coordinator may terminate if a Supplier fails to pay an invoice within 20 Business Days of a due date; fails to provide data or access (e.g. provide a monthly Supplier Statement, provide access to an independent auditor); or contravenes the Act or Regulations

Summary of the Scheme Payments and Contributions Methodology for Suppliers



Overriding principles

- **Suppliers are only charged for what containers are redeemed through the Network or through the kerbside MRFs.**
- **There is no concept of “unredeemed deposits”.**
- **The key elements of the Scheme cost are contractually fixed – the primary variable outstanding is the container volumes collected through the various channels.**

How are Scheme Costs calculated?

- **Administration Fee is an annual amount divided by 12**
- **Network Fees are incurred at rates per container redeemed**
- **Refunds = 10¢ per container redeemed through the Network**
- **Processing Refunds = 10¢ per container count agreed to have been recovered by MRFs**
- **Scheme Compliance Fee is a fixed amount per month**

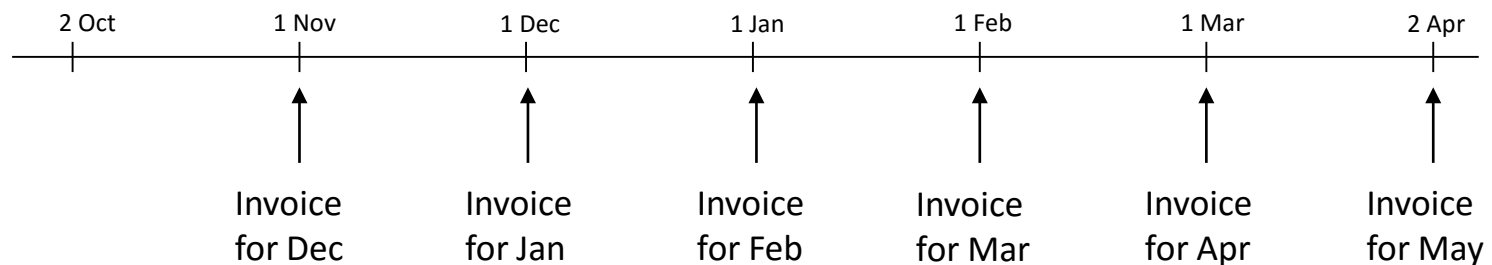
How are costs allocated to suppliers?

- **Scheme Costs are allocated to suppliers by market share, based on disclosed number of containers “supplied”.**
- **Some costs are split by total market share, some are split based on market share for the relevant material types.**

Fee component	Basis of allocation between suppliers
Administration Fee	By market share of total containers
Network Fees and Refunds	By market share of each material type
Processing Refunds	By market share of each material type
Scheme Compliance Fee	By market share of total containers

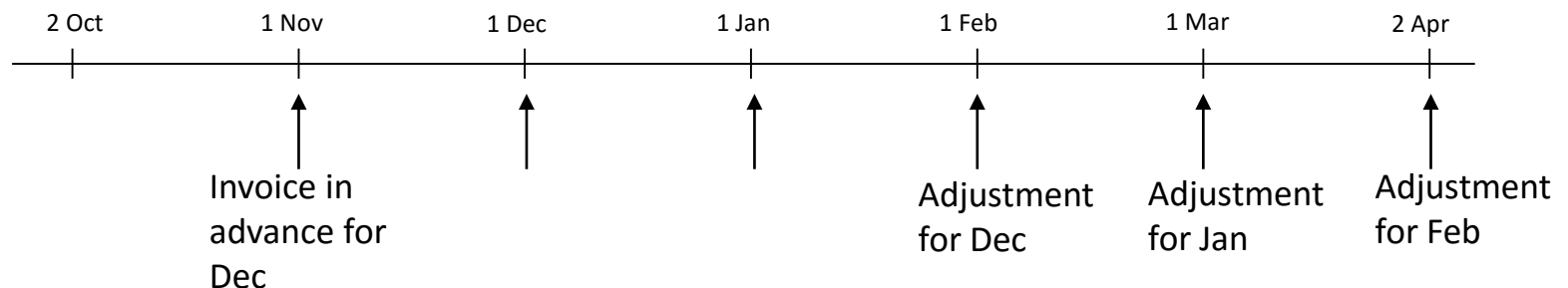
Invoices in advance and adjustments in arrears

- **Suppliers will be invoiced monthly.**
- **Invoices will be issued one month in advance, on the first Business Day of the month.**
- **Based on the Scheme Coordinator's forecast Container volumes redeemed, and the supplier's historic market share**



Monthly adjustments for Network volumes

- Invoices one month in arrears will include an adjustment for actual:
 - Reported volumes recovered through Collection Points
 - Suppliers' actual disclosed volumes and thereby recalculated actual market shares



Quarterly adjustments for MRF volumes

- **Once MRF volumes are confirmed and agreed quarterly in arrears, an adjustment is made to the next invoice to Suppliers to reflect actuals versus forecast MRF volumes used in the previous relevant invoices.**

Forecasting principles for invoices in advance

- **Invoices in advance depend on assumptions for:**
 - **Forecast container volumes redeemed of each material type.**
 - **Suppliers' historic market shares by material type**
- **The Scheme Coordinator must have regard for historical data when forecasting these variables.**

Forecasting for the first two invoices

- **The Scheme Coordinator will not have historical data for volumes of containers for the invoices to be issued on 1 Nov and 1 Dec.**
- **The Scheme Coordinator will determine a forecast redemption rates to ensure the Scheme is liquid through the opening months.**
- **These forecasts will be subject to the same monthly adjustment mechanism as described, and adjustments will be made in the invoices issued 1 Feb and 1 Mar respectively.**

Payment terms

- **Suppliers' payment terms are 7 calendar days.**
- **This is required in order to ensure that sufficient funds may flow down to keep the collection network funded, which is also on 7 day terms**
- **Late payment attracts interest, calculated at Bank Bill Swap Rate + 5%**

Data from Suppliers

- **In advance of the Scheme, Suppliers must provide the Scheme Coordinator with the last twelve months supplied volumes, by material type.**
- **If entering the Supply Arrangement:**
 - **prior to 15 October: 12 months to August.**
 - **after 15 October, 12 months to September.**
- **On the 15th of every month thereafter, Suppliers must provide monthly volumes supplied, for the previous month.**

Deadlines for entering Supply Arrangements

- **To facilitate orderly commencement of the Scheme, Suppliers should enter the Supply Arrangement by 1 October.**
- **For those that do not sign before 1 October, there will be an additional 2¢ per container in the invoice for December.**
- **The additional 2¢ amount will be reversed in the invoice issued 1 February 2018**
- **It is prohibited by law to supply into NSW without a Supply Arrangement after 1 November, and the EPA will be entitled to prosecute.**

Further information for Suppliers

- **The Scheme Coordinator will publish information on a website in the coming weeks for the benefit of Suppliers, including:**
 - **Estimated Scheme costs, and the estimated cost per container supplied.**
 - **This will vary depending on the assumptions made around redemption rates through the Network and MRFs**
- **The Scheme Coordinator will also provide other relevant information, including**
 - **How do you know if you are a Supplier and what volumes you are “supplying”.**
 - **Legislative requirements for Suppliers.**
 - **Instructions for entering Supply Arrangements and contractual requirements.**

Container approvals

- Supplier who makes first supply of a container in NSW must ensure a container approval in respect of the container is in force
- Only one container approval required for each class of containers
- A class of container defined by:
 - Product name and product type
 - Container material
 - Physical dimensions – height, diameter, designed volume, weight

Container approvals

- Legislation relating to container approvals commenced on 1 August 2017
- Suppliers can apply for container approvals from mid-August 2017 via the CDS Portal linked to the EPA website
- Container approvals are for five years.
- Each container approval has an application fee but no approval fee
- Suppliers will be required to pay an application fee to renew a container approval when it expires.
- Fee amounts are being determined and will be published in the Gazette and on the EPA website.

Refund marking

- Queensland and ACT governments have committed to introducing a scheme in 2018.
- The EPA is working with other jurisdictions towards a consistent refund mark.
- It is expected the refund mark will be published before November 2017.
- The requirement for eligible containers to have refund marking will commence two years after.

Material Recovery Facility Protocol

- A MRF operator is a person who carries on a business that includes processing for reuse or recycling domestic waste designated for recycling, and holds an EPA licence for this
- Additionally, each of the following is prescribed as a class of material recovery facility operator:
 - alternative waste treatment plant operators,
 - bottle crushing service operators.
- Under the Container Deposit Scheme:
 - Returns to collection points – 10c refund
 - MRF operators can also claim directly from Scheme Coordinator
- MRF operators need to follow ‘Processing Refund Protocol’ to make a claim. First Protocol will not apply to bottle crushing service operators or AWT plant operators

MRF Operators making a claim

- Weigh inputs (by source)
- Weigh outputs (by material stream), or
- Count outputs
- Adjust for non-eligible inputs – eg interstate
- Report range of data monthly, claim quarterly
- Assessed and declared by ‘approved person’

Overview – Quarterly claims process

Supporting information to be included within each claim:

- The total tonnage recycled during the period by the MRF by material type;
- Or total container count
- a description of the method used to weigh or count

Claims assessed by the Scheme Co-ordinator.

Processing refunds calculated by Coordinator using ECF, minus sampling costs, will be deposited into the nominated bank account of the MRF within 10 business days of the issuance of the claims assessment.



A MRF operator may make a processing refund claim under the NSW CDS to the Scheme Coordinator (SC) for the **3 month periods ended 31 March, 30 June, 30 September and 31 December** each year

Within 28 days of the end of each quarter the quarterly claim must be submitted to the scheme co-ordinator. The claim must be accompanied by a statutory declaration.

The Scheme Coordinator may amend a processing refund claim if the MRF to whom the claim assessment is issued requests, in writing, an amendment.
A MRF may request the Scheme Coordinator to reconsider an assessment in writing within 60 days after the assessment is made.

Overview – reporting and assurance

The ARS must include:

- **A throughout reconciliation for each MRF**
- **If using weight:** the total weight claimed for each material
- **If counting:** the total number of eligible containers counted

Each Annual Recycling Statement must be accompanied by an independent assurance report.

It is the responsibility of the MRF operator to engage an independent assurance practitioner for each Annual Recycling Statement.



Each MRF operator is required to prepare and submit to the Scheme Coordinator **within 60 days of the end of each year ended 30 June** (the 'reporting period') an Annual Recycling Statement.

All records of evidence and documents supporting each claim must be kept in a form that is easily and quickly accessible for inspection of an audit. This may be an electronic or hard copy format. The MRF operator must retain the records for **5 years** from the end of the reporting period to which the records relate.

The scheme coordinator may appoint an appropriately qualified assurance practitioner as an assurance team leader to carry out assurance of a MRFs compliance with one or more aspects of the Protocol.

The scheme coordinator must give written notice to the MRF operator of a decision to appoint an assurance team leader.

Next Steps

- First suppliers must enter into a Supply Arrangement with the Scheme Coordinator by 1 October 2017
- Suppliers must start obtaining container approvals for eligible beverage containers via the CDS Portal, launching in mid-August 2017
- Exchange for Change and TOMRA-Cleanaway will continue implementing their service solutions for the 1 December 2017 Scheme Commencement Date.

Further Information

EPA website:

<http://www.epa.nsw.gov.au/>

Contact:

container.deposit@epa.nsw.gov.au

USEFUL LINKS



EPA website

<http://www.epa.nsw.gov.au/waste/container-deposit-scheme.htm>

Scheme Coordinator

www.exchangeforchange.com.au

Network Operator

TCNSW.com.au

Waste Avoidance and Resource Recovery Amendment (Container Deposit Scheme) Act 2016

<https://legislation.nsw.gov.au/#/view/act/2016/57>

Waste Avoidance and Resource Recovery (Container Deposit Scheme) Regulation 2017

<https://legislation.nsw.gov.au/#/view/regulation/2017/66>

**EPA Environment Line:
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