

## IEMA Response to the UK Government and the Devolved Administrations Consultation on Extended Producer Responsibility for Packaging – June 2021

### About IEMA

IEMA is the professional body for everyone working in environment and sustainability.

IEMA's growing membership of over 17,000 professionals work at the interface between organisations, the environment and society in a range of critical roles (for example from Sustainability Directors through to Circular Economy leads and in consultancy and advisory roles). We also work with a range of corporate partners (over 200). Our professional members are active across all sectors in the UK, from construction and manufacturing through to logistics, facilities, and across financial, retail, food, consultancy and the wider service and public sector.

Within IEMA, our Circular Economy Network brings together skilled and experienced experts, operating across the sectors to share good practice and case studies, who help develop tools to assess maturity, and contribute to shaping legislative, policy, research, standards and guidance initiatives on the topic of sustainable resource and waste management as part of the circular economy.

To help inform its position on this consultation, IEMA hosted individual discussions with its members and organised an online workshop to collect perspectives. The workshop was led by the IEMA Circular Economy Network Steering Group to provide an opportunity for 40 members with insight on sustainable resource management to discuss the proposals on extended producer responsibility for packaging in-depth.

## Overview of IEMA's recommendations to government:

### On packaging targets:

We agree with the proposed framework for setting packaging targets but feel that the proposed minimum recycling targets are not ambitious enough (particularly on materials such as plastic, wood and aluminium). We are concerned that low and static targets, and a lack of parity between material targets, would create a lack of clarity and comparability, and act as a disincentive to action. The targets should be at the 'high end of achievable' and 'higher than the bare minimum required to help drive us towards the net zero and current circular economy targets' set by the UK government and the Devolved Administrations. For this reason we believe we believe that the targets for these materials should be set at 62% for plastic, 50% for wood and 69% for aluminium.

### On producer obligations for full net cost payments and reporting:

Online marketplaces should be obligated under EPR for unfilled packaging in addition to filled packaging, to show parity with physical distributor retailing.

### On labelling:

We support the use of approved labels, whereby Government would specify in regulations the criteria that labels must meet. Producers could either choose to establish their own label or they could choose to subscribe to a labelling scheme and use the labels and services provided by that scheme.

### On collection and recycling of plastic film and flexible packaging:

We agree that local authorities should adopt the collection of plastic film no later than 2026, in line with the date by which government believes it will have successfully transitioned the UK recycling infrastructure to meet the current collection, sorting and commercial recycling challenges (e.g. low weight / high levels of contamination etc). As part of this transition, the resources, infrastructure and 'at source' measures would need a clear logistical route map to ensure effective synergies (and outcomes) between each.

### On payments for managing packaging waste:

Local government plays an integral role in the delivery of waste and recycling services across the UK. They are therefore a key stakeholder that will assist us in achieving these material recycling targets. We feel that local authorities should therefore be rewarded for both making significant beneficial changes to packaging waste systems and/or where they demonstrate that measures have achieved very low levels of waste.

### On payment mechanisms for packaging waste collected from businesses:

We believe that a compliance scheme led, producer funded, business packaging waste management cost rebate system is the most suited payment mechanism to embed the polluter pays principle and ensure waste producers meet full net cost obligations and therefore it should be implemented.

### On reprocessors and exporters:

The biggest challenge in terms of reporting on the quality of packaging waste received at the point of reprocessing and/or export would be conducting quality control inspections. Future

legislation should aim to introduce clear standards and definitions to help level the playing field and provide consistency in reporting.

On implementation of EPR:

We recommend a phased approach to implementing EPR starting in 2023 as opposed to later implementation (2023 is the earliest date at which government can implement the EPR scheme) as time is of the essence. We need to take further action to tackle the issue of packaging waste. We believe that if the EPR scheme is well designed in accordance with the key principles, then it should help to maximise resource utilisation and resource effectiveness. This will ensure that we extract maximum value over precious resources, such as plastic packaging waste and enhance overall economic productivity.

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**Q6. Do you agree or disagree with the proposed framework for setting packaging targets?**

Issues such as climate change, population growth and resource concerns, are part of the perfect storm of issues that are having a direct impact on business and communities. This forces us to ensure that we are innovating and actively resolving the sustainability challenge.

This means we should ensure that the proposal recycling targets proposed under this framework for packaging in scope of Extended Producer Responsibility provide for increased ambition, rather than simply continuing with business as usual reliant upon continued 'material flow innovation'<sup>1</sup>.

We therefore agree with the framework but we feel that the proposed minimum recycling targets are not ambitious enough (particularly on materials such as plastic, wood and aluminium). We are concerned that low and static targets, and a lack of parity between material targets, will create a lack of clarity and comparability, and act as a disincentive to action.

As an alternative to the overall proposed framework, we do believe there are grounds for setting an overall recycling target across the different packaging materials, in addition to individual material recycled targets (similar to the framework of the EU target but in line with the greater ambition advocated within this proposal<sup>2</sup>). This target would rely on proportionate infrastructure provision and accommodate the dynamism of shifts between choice of packaging material, and the achievements made as we gradually change the waste stream processing capabilities.

Recycling is widely recognised as a the 'suboptimal' solution within a circular economy, and hence it should certainly not take the focus away from higher level circular practice. We believe that the recycling targets should be at the 'high end of achievable' and 'higher than the bare minimum required to help drive us towards the net zero and current circular

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<sup>1</sup> IEMA (Oct, 2020) Environmental Targets under the Environment Bill - IEMA recommendations on resource efficiency - to support the implementation phase of the target setting process

<sup>2</sup> REPAK Webpage - Packaging & Packaging Waste Directive (PPWD) 2018 [\[Link\]](#)[\[Link\]](#)

economy targets' set by the UK government and the Devolved Administrations. A good example of where this approach has worked well is with the greenhouse gas emissions reduction target set by the Scottish Government as part of the Climate Change (Scotland) Act 2009, to achieve net zero by 2045. The decision to go for the higher target was as a result of business pressure on the government to maximise its ambition to resolve the climate crisis.

As pointed out in our first consultation response on this topic in 2019, While IEMA supports targets to recycle packaging waste, we recognise that this will require extensive investment in new infrastructure in order to achieve enhanced material recovery. This needs to be carefully planned and aligned to private and public-sector investment cycles. The targets must also be accompanied by an enabling system that facilitates this change including appropriate fiscal, infrastructure and behavioural incentives, and local powers and funding<sup>3</sup> to truly drive change.

Minimum recycling targets alone are not enough. They need to be accompanied by metrics and actions that reduce material consumption and waste generation and also support the sustainable management of packaging materials. This should include measures (and eventually targets) to track conversion of recycle into new product so that we can monitor and demonstrate the creation of truly "closed loop" systems. The EU metric applied for this is 'End-of-life recycling input rate' or 'Circular material use rate'<sup>4</sup> and could potentially be applied under a UK system.

**Q7. Do you agree or disagree that the business packaging waste recycling targets set for 2022 should be rolled over to the calendar year 2023?**

Currently, the 2022 targets that are intended to be rolled on to 2023 do not account for the impact of a Deposit Return Scheme in Scotland from July 2022.

The Extended Producer Responsibility targets from 2024 onwards do, however, account for Deposit Return Scheme material being absent from the system on a UK wide basis. Deposit Return Scheme material will therefore not pick up obligations under Extended Producer Responsibility or current regulations, and also cannot be used to produce recycling evidence under the Packaging Recovery Note (PRN) evidence system.

It is possible that the interim year rollover of the 2022 target to 2023 could therefore cause issues for Deposit Return Scheme material that is currently excluded from the Scottish Deposit Return Scheme.

Furthermore, under the current proposed timeline, obligated parties from the packaging supply chain would start paying household recycling fees in late 2023 (for packaging handled in 2022), at the same time as also paying PRN fees for packaging handled in 2022, which would be a double imposition.

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<sup>3</sup> IEMA (April 2019) Consultation on reforming the UK producer packaging responsibility system [\[Link\]](#)

<sup>4</sup> Europa webpage - Circular Material Use Rate Definition [\[Link\]](#)

We therefore disagree with the rollover of the business packaging waste recycling targets pending further review by Government into the above issues.

**Q8. Do you agree or disagree that the recycling target to be met by 2030 for aluminium could be higher than the rate in Table 3?**

Yes, we agree that the recycling target could be higher than 30% as set out in table 3.

Currently, the majority of aluminium recycled is aluminium cans, which are presently part of the proposed Deposit Return Scheme (not included in this target). We understand that the tonnage, once cans have been removed, consists of packaging that currently does not have a high recycling rate (such as aerosols and foils) mainly because these are not collected for recycling by all local authorities and that the government wishes to extend this requirement under the proposals in due course. However, they are technically recyclable, and so could be recovered given the supporting infrastructure and legislative 'push'.

As progress is made to enhance the amount of aluminium recyclable products, this target should be linked to the overall recycling target across the different packaging materials, as put forward in answer to Q6. Overall, this target could be set closer to the 69% estimated recycling rate following introduction of these measures.

**Q9. Do you agree or disagree with the proposed minimum target to be met by 2030 for glass set out in table 3?**

We disagree with the proposed minimum target for glass of 81% to be met by 2030.

We understand that, as a result of these EPR proposals, and assuming the introduction of recycling consistency proposals in England and an 'all in' deposit return scheme, the Government analysis indicates that the UK packaging recycling rate by 2030 for each material will exceed that of the equivalent target set in the European Union, with an estimated UK rate of recycling for glass of 96%. Furthermore, aside from drinks containers (which are managed by the DRS) glass packaging is mainly used for food products such as condiments, sauces and preserves. This packaging is readily recyclable supporting a high target being set for non-bottle glass packaging.

In line with our answer to Q6 we therefore believe that the recycling target should be at the 'high end of achievable' and 'higher than the bare minimum required to help drive us towards the net zero and current circular economy targets' set by the UK government and the Devolved Administrations. For this reason, we believe that the minimum target should be much closer to that estimated UK recycling figure (90% or more).

**Q10. What should the glass re-melt target for 2030 for non-bottle packaging be set at?**

British Glass, the representative body for glass packaging manufacturers, is currently working on improving its recycling record with kerbside: it is working with sites to ensure they collect around 76% of glass packaging for recycling into new bottles and jars. They are leading the UK Close the Glass Loop project to achieve a 90% collection for recycling rate for

glass by 2030 (+14% in 10 years) with the ambition to see “every glass bottle and jar recycled”<sup>5</sup>.

In parallel, the glass remelt target was increased by government from 67% (applicable over the period 2017 to 2020) to 72% in 2021 and 2022.

Considering the above ambition for recycling this material kerbside and anticipated continued progress in doing so, we believe the minimum target for glass re-melt target should follow the approach set out under Q6 and raise the remelt target by an additional 5% by 2030 to 77% to be at the high end of achievable.

**Q11. Do you agree or disagree with the proposed minimum target to be met by 2030 for plastic set out in table 3?**

We disagree with the proposed minimum target to be met by 2030 which currently is set at 56%. We believe that the target needs to be more ambitious and more targeted according to the plastic type (closer to the 62% estimated recycling rate following introduction of these measures). A breakdown should be integrated, by different industry sectors (e.g. food, retail, other) and as related to the plastic polymer type.

In parallel to this, we believe the entry into force of the Plastic Packaging Tax in April 2022 will have an impact on the recycling target level for plastic as the impact of the tax is still uncertain. In particular, the role of packaging-like products under the remains unclear; packaging sold as a product (e.g. cling film) is likely to be considered liable packaging. There is, however, still uncertainty as to exactly where packaging versus packaging product divide will sit, and whether the scope of the tax should be expanded to include plastic products as well as packaging. Because of this the impact of the tax is still relatively unknown and targets may need to be reviewed and revised following its introduction<sup>6</sup>.

**Q12. Do you think a higher recycling target should be set for wood in 2030 than the minimum rate shown in Table 3?**

We disagree with the proposed minimum target for wood of 39% to be met by 2030. We believe this target is static and lacks ambition. Too much wood is still sent to biomass burners under the Renewable Heat Incentive. We believe that at a minimum the business recycling target should be set to surpass the original intended level of 48% for 2020 (which was reduced by government in subsequent years following representations by producers) and be set at a minimum of 50% by 2030 in accordance with our approach set out in answer to Q6.

**Q13. If higher recycling targets are to be set for 2030, should a sub-target be set that encourages long term end markets for recycled wood?**

Yes, we support the establishment of a sub-target that encourages long-term end markets for recycled wood.

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<sup>5</sup> British Glass (2020) British Glass welcomes new Government glass recycling targets – press release – Nov 13 2020 [\[Link\]](#)

<sup>6</sup> M.Hyde – Comply Direct (2021) What do we know about the plastic packaging tax? [\[Link\]](#)

**Q14. Do you agree or disagree with the proposed minimum target to be met by 2030 for steel set out in table 3?**

We disagree with the proposed minimum target for steel of 92% to be met by 2030.

We understand that most steel packaging will be in scope of Extended Producer Responsibility (e.g. canned food) as a result of these EPR proposals and that the infrastructure is already in place to capture this material for recycling. Although we acknowledge that the need to extend data tracking on steel packaging recycling will be essential to achieve these higher targets, we still believe that the government should look to align its targets at the 'high end of achievable' and 'higher than the bare minimum required'.

With the above in mind, the target should look to match the 93% recycling rate that is expected by 2030 pursuant to EPR.

**Q15. Do you agree or disagree with the proposed minimum target to be met by 2030 for paper/card set out in table 3?**

We disagree with the proposed minimum target for paper/card of 85% to be met by 2030.

We understand that **all** paper/card will be in scope of Extended Producer Responsibility (i.e. none under the deposit return scheme); that collections of paper/card packaging for recycling are widespread; and the current recycling rate is high at around 70% with the recycling rate for non-consumer packaging estimated at around 85%. Although we understand the need to conduct ongoing review the mixed grade protocols to monitor changes in the mix of packaging and non-packaging paper going forward, we believe that the government should look to align its targets at the 'high end of achievable' and 'higher than the bare minimum required'.

With that in mind the target should look to match the 86% recycling rate that is expected by 2030 pursuant to EPR.

**Q16. Do you agree or disagree with the proposal to set recycling targets for fibre-based composites?**

We agree with the proposal to set recycling targets for fibre-based composites. The establishment of these targets must be data led and we believe there should be sufficient recycling facilities to accommodate such a target.

**Q17. Do you agree or disagree that there may be a need for closed loop recycling targets for plastics, in addition to the plastics packaging tax?**

As stated in our response to the 2019 EPR consultation and in alignment with the joint response filed with the Environment Policy Forum at that time, we believe there is a need to further scope out the alignment of the different schemes (e.g. DRS, Plastic Packaging Tax) to

avoid unintended consequences that could pose a barrier to meeting the strategic ambitions of the Resources and Waste Strategy<sup>7</sup>.

A closed loop recycling target under EPR could overlap with the planned plastic packaging tax which would further burden businesses through enhanced material audit trails and reporting requirements.

Subject to both the targets for re-use/refilling and recycling being put in place, we therefore disagree that there will also be a need for closed loop recycling targets for plastics.

**Q18. Please indicate other packaging material that may benefit from closed loop targets**

We do not believe close loop targets are necessary, provided the other measures are implemented in accordance with our answer to Q17.

**Q19. Do you agree or disagree that Brand Owners are best placed to respond effectively and quickly to incentives that are provided through the scheme?**

We agree that brand owners must share responsibility with packaging manufacturers to respond effectively.

**Q20. Are there any situations where the proposed approach to imports would result in packaging being imported into the UK which does not pick up an obligation (except if the importer or first-owner is below the de-minimis, or if the packaging is subsequently exported)?**

We do not currently know of any such situations.

**Q21. Of Options 2 and 3, which do you think would be most effective at both capturing more packaging in the system and ensuring the smallest businesses are protected from excessive burden?**

We believe that option 3 appears to be less burdensome, and that the manufacturers and importers have more control over packaging design than wholesalers.

**Q22. If either Option 2 or 3 is implemented, do you consider there to be a strong case to also reduce the de-minimis threshold as set out in Option 1?**

No, we do not believe there is a strong case to reduce the de-minimis threshold as set out in option 1, as there is no requirement for double counting.

We also believe that reducing the threshold could present a significant risk to small businesses in terms of the increased administrative burden this would impose on them. It might also make it less favourable for larger brands to trade with SMEs, due to the obligation being absorbed by those selling to businesses below the threshold and an overall lack of data availability.

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<sup>7</sup> IEMA (2019) IEMA Submits Consultation Responses under the Resources and Waste Strategy [\[Link\]](#)



**Q23. Do you think that Online Marketplaces should be obligated for unfilled packaging in addition to filled packaging?**

We agree that Online Marketplaces should pick up obligations for unfilled packaging in addition to filled packaging. We believe they should pick up this obligation to achieve parity with physical distributor retailing.

Implementing such retailer obligations appears to be minor considering the role they often play in decision making on packaging.

We believe that this approach will help to drive the online market to minimise packaging which links to modulated fees and the ambition of the packaging targets.

**Q24. Do you foresee any issues with Online Marketplaces not being obligated for packaging sold through their platforms by UK-based businesses?**

We believe Online Marketplaces should pick up this obligation to achieve parity with physical distributor retailing. If the obligation was not imposed then Online Marketplaces would retain an unfair competitive advantage over UK-based business.

**Q25. This proposal will require Online Marketplaces to assess what packaging data they can collate and then, where there are gaps to work together to create a methodology for how they will fill those gaps. Do you think there are any barriers to Online Marketplaces developing a methodology by the start of the 2022 reporting year (January 2022)?**

The timeframe identified is quite short and may present some difficulty for Online Marketplaces to achieve these goals in time. As stressed in our response to the 2019 consultation on extended producer responsibility (the 2019 EPR consultation)<sup>8</sup>, in defining key milestones, we would strongly encourage active engagement with industry stakeholders at the earliest possibility.

**Q26. Is there any packaging that would not be reported by the obligation as proposed? (except for packaging that is manufactured and sold by businesses who sit below the de-minimis)**

No, in accordance with our answer to Q6 we believe that the recycling targets should be at the 'high end of achievable' to help drive us towards the net zero and current circular economy targets' set by the UK government and the Devolved Administrations. For this reason we believe that all packaging should be caught by this obligation.

**Modulated Fees & Labelling**

**Q30. Do you think that the proposed strategic frameworks will result in a fair and effective system to modulate producer fees being established?**

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<sup>8</sup> IEMA (April 2019) Consultation on reforming the UK producer packaging responsibility system [\[Link\]](#)

No, we believe that the modulation of fees presents a barrier to innovation.

In accordance with our response to the 2019 EPR Consultation<sup>9</sup> we believe that the payment of deposits with the prospect of losing some or all of the deposit would be more effective in changing producers' choices towards the use of easy to recycle packaging.

This hybrid approach which compels producers of non-recyclable packaging to pay a fee and producers of recyclable packaging to pay a deposit (for which the deposit per tonne would vary by material and the deposit only be returned following submission of evidence that each tonne has been recycled) uses price signals to incentivise producers not only to avoid the use of packaging and/or use recyclable material, but also to engage in the development of new whole systems solutions. Continuous review of data however would be required to ensure that deposits are set at a high enough level to incentivise change.

**Q31. Do you agree or disagree that the Scheme Administrator should decide what measures should be taken to adjust fees if a producer has been unable to self-assess, or provides inaccurate information? This is in addition to any enforcement action that might be undertaken by the regulators.**

We agree that the Scheme Administrator should decide what measures should be taken to adjust fees if a producer has been unable to self-assess, or provides inaccurate information, in addition to any enforcement action that might be undertaken by the regulators.

We believe that there needs to be accountability in the system and that one actor must have the final say if inadequate information is provided.

As per our 2019 EPR consultation response:

*"We believe that there should be an approved list of recyclable packaging materials and that a single not-for-profit producer scheme that is responsible for meeting the legally binding packaging waste recycling targets should be the scheme administrator"<sup>10</sup>.*

### **Packaging labelling:**

#### **Option 1: Use of approved labels**

*Government would specify in regulations the criteria that labels must meet; such as the format, size and appearance. Producers would be required to label their packaging using a label which meets these requirements. Labels would be required to be approved by Government (or the Regulator) prior to use. This would provide a means of ensuring consistency of message to consumers but provide producers with some flexibility in how they label. Producers could either choose to establish their own label or they could choose to subscribe to a labelling scheme and use the labels and services provided by that scheme.*

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<sup>9</sup> IEMA (April 2019) Consultation on reforming the UK producer packaging responsibility system [\[Link\]](#)

<sup>10</sup> IEMA (April 2019) Consultation on reforming the UK producer packaging responsibility system [\[Link\]](#)

*As a variation of this approach, the requirements of the 'do not recycle' label could be set in the Extended Producer Responsibility regulations thereby providing no flexibility to producers in how they label packaging that is not recyclable*

Option 2: A single labelling scheme

*Under this approach producers would be required to adhere to a single labelling scheme and to use the same labels. This would provide consistency in the approach to labelling. Government would appoint a single labelling scheme and considers this could be achieved by including this as part of the Extended Producer Responsibility Scheme Administrator's functions. The Scheme Administrator could choose to run the labelling scheme itself; or it could appoint an organisation to deliver this function or include an organisation to run this function as part of its team from the outset. This would provide an opportunity for established voluntary schemes to be considered to deliver this function.*

*All obligated producers would be required to register with the labelling scheme; the operator of the scheme (Scheme Administrator or other) would establish the process of registration; develop the labels; provide the artwork and necessary support to producers on how to use the labels; and undertake auditing to ensure correct use of the labels.*

**Q32. Do you agree or disagree with our preferred approach (Option 1) to implementing mandatory labelling? If you disagree, please provide the reason for your response.**

We agree with option 1.

**Q33. Do you agree or disagree with the proposal that all producers could be required to use the same 'do not recycle' label?**

Yes, we agree that all producers could be required to use the same 'do not recycle' label.

**Q34. Do you think that the timescales proposed provide sufficient time to implement the new labelling requirements?**

Yes, we agree that the timescales proposed provide sufficient time to implement the new labelling requirements, provided the household recycling scheme updates can take place at the same time or earlier.

**Q35. Do you agree or disagree that the labelling requirement should be placed on businesses who sell unfilled packaging directly to small businesses?**

Yes, we agree that the labelling requirement should be placed on businesses who sell unfilled packaging directly to small businesses.

**Q36. Do you think it would be useful to have enhancements on labels, such as including 'in the UK' and making them digitally enabled?**

Yes, we believe it would be useful to have enhancements on labels, such as including 'in the UK' and making them digitally enabled. In terms of digital enhancements, a QR code or

similar option would be useful (e.g. one that allows individuals to search for recycling options for that material in their area)

### **Collection and recycling of plastic film and flexible packaging**

#### **Q37. Do you agree or disagree that local authorities across the UK who do not currently collect plastic films in their collection services should adopt the collection of this material no later than the end of financial year 2026/27?**

We agree that local authorities should adopt the collection of plastic film no later than 2026, in line with the date by which government believes it will have successfully transitioned the UK recycling infrastructure to meet the current collection, sorting and commercial recycling challenges (e.g. low weight / high levels of contamination etc). If they can't be recycled the potential for incineration will increase.

The resources, infrastructure and 'at source' measures would need a clear logistical route map to ensure effective synergies (and outcomes) between each.

#### **Q38. Do you agree or disagree that collections of plastic films and flexibles from business premises across the UK could be achieved by end of financial year 2024/5?**

Yes, we agree. In accordance with our answer to question 37, if the collection services are in place then it will be possible to segregate.

#### **Q39. Do you think there should be an exemption from the 'do not recycle' label for biodegradable/compostable packaging that is filled and consumed (and collected and taken to composting/anaerobic digestion facilities that accept it), in closed situations where reuse or recycling options are unavailable?**

Yes - we agree that there should be an exemption from the 'do not recycle' label for biodegradable/compostable packaging that is filled and consumed in closed loop situations where reuse or recycling options are unavailable.

#### **Q40. Do you consider that any unintended consequences may arise as a result of the proposed approach to modulated fees for compostable and biodegradable plastic packaging?**

Yes, an unintended consequence that could arise as a result of the proposed approach to modulated fees for compostable and biodegradable plastic packaging could be that it will prevent the usage and expansion of treatment facilities for these packaging types.

### **Payments for managing packaging waste**

#### **Q41. Do you agree or disagree with the proposed definition and scope of necessary costs?**

Yes we agree.

#### **Q42. Do you agree or disagree that payments should be based on good practice, efficient and effective system costs and relevant peer benchmarks?**

Yes we agree.

**Q43. Do you agree or disagree that the per tonne payment to local authorities for packaging materials collected and sorted for recycling should be net of an average price per tonne for each material collected?**

Yes we agree.

**Q44. Do you agree or disagree that the Scheme Administrator should have the ability to apply incentive adjustments to local authority payments to drive performance and quality in the system?**

Yes we agree.

**Q45. Do you agree or disagree that local authorities should be given reasonable time and support to move to efficient and effective systems and improve their performance before incentive adjustments to payments are applied?**

Yes we agree.

**Q46. Should individual local authorities be guaranteed a minimum proportion of their waste management cost regardless of performance?**

Yes we agree.

**Q47. Do you agree or disagree that there should be incentive adjustments or rewards to encourage local authorities to exceed their modelled recycling benchmarks?**

We agree.

Local government plays an integral role in the delivery of waste and recycling services across the UK. They are therefore a key stakeholder that will assist us in achieving these material recycling targets. We feel that local authorities should therefore be rewarded for both making significant beneficial changes to packaging waste systems and/or where they demonstrate that measures have achieved very low levels of waste.

**Q48. Do you agree or disagree that unallocated payments should be used to help local authorities meet their recycling performance benchmarks, and contribute to Extended Producer Responsibility outcomes through wider investment and innovation, where it provides value for money?**

Yes we agree and refer to our position in answer to question 47.

**Q49. Do you agree or disagree that residual payments should be calculated using modelled costs of efficient and effective systems based on the average composition of packaging waste within the residual stream?**

Yes we agree.

**Q50. Do you agree or disagree that a disposal authority within a two-tier authority area (England only) should receive the disposal element of the residual waste payment directly?**

Yes we agree.

**Q51. Do you agree or disagree that there remains a strong rationale for making producers responsible for the costs of managing packaging waste produced by businesses?**

Yes we agree.

**Q52. Do you agree or disagree that all commercial and industrial packaging should be in scope of the producer payment requirements except where a producer has the necessary evidence that they have paid for its management directly?**

Yes we agree.

**Payment mechanisms for Packaging Waste collected from Businesses and other relevant organisations**

*“Paragraph 8.84 In developing the payment mechanism for packaging waste generated by businesses and other relevant organisations, we are seeking to embed the polluter pays principle to ensure producers meet full net cost obligations, but the payment mechanism will also need to:*

- *Improve the effectiveness of packaging waste collection services, incentivising increased recycling and quality.*
- *Increase the efficiency of packaging waste collection services, seeking to minimise producer costs where possible, but not to such an extent that undermines the achievement of targets*
- *Be fair and transparent, ensuring costs are borne by those who place the packaging on the market, and all businesses, regardless of their size or location have the potential to have their packaging taken away for free, via a reasonable and proportionate service, provided they use it in the manner it was intended.*
- *Be deliverable and enforceable on the ground, tracking the tonnages, composition and quality of materials collected from business in a manner which is enforceable by regulators.”*

**Q53. Which approach do you believe is most suited to deliver the outcomes being sought in paragraph 8.84?**

We believe that **option 2 (A compliance scheme led, producer funded, business packaging waste management cost rebate system)** is the most suited to deliver the outcomes being sought in paragraph 8.84.

**Option 1 (A Scheme Administrator led, producer funded, business packaging waste management cost rebate system)** offers the simplest way to regulate, as it focuses on a single administrator. This would likely to be favoured by Government and local authorities. However, this would need to be a significant institution due to a need to cover several thousand processing facilities. This raises a capacity risk (in terms of income and expenditure) that the single administrator would not be able to fulfil its own mandate and

would be better supported under option 2. The administrator in this option would also run the risk stifling innovation by removing competition. The administrator could have control over the prices for system management with potential unintended consequences in the market which would need to be managed carefully.

Option 3(A compliance scheme led, producer funded, 'free bin' approach) is a novel and completely different approach to the other two suggested schemes. It would be comparable to the Waste Electrical and Electronic Equipment recycling (WEEE) management system<sup>11</sup>. However, it has potential for abuse and could offer issues in terms of quality of deposits. IEMA members, when consulted on this question, came to a consensus that a "free bin" approach on its own would present a difficult situation for Local Authorities collecting from businesses. They identified that the contamination risk is large for business waste at present. Furthermore, sorting and identifying between packaging and non-packaging or allocating the contamination cost to the right organisation could be challenging. There remained unanswered questions as to who would be responsible for contamination within a load were it to only identified at a sorting centre. The problem of contamination is already an issue in the UK and it would therefore seem that a free-bin approach could possibly exacerbate the situation.

We believe that Option 2 would possibly incur extra cost, but would bring about commercial gains from competition. This option could be seen as a facilitator on both sides of the equation both for the administrator and the organisation underneath. This solution might enable a value-added service whereby the scheme administrator provides advice to clients as well as fulfilling compliance obligations.

#### **Q54. Do you disagree strongly with any of the approaches above?**

No, we believe that each option has merit. However, option 1 appears to be the least likely to answer the needs of obligated businesses.

#### **Q55. Do you think there will be any issues with not having either Packaging Recovery Notes/Packaging Export Recovery Notes or the business payment mechanism (and as a result recycling targets) in place for a short period of time? (Workshop questions)**

The absence of Packaging Recovery Notes or the business payment mechanism could be a source of concern even for a short period of time. Timelines must dovetail to avoid the risk of losing funding within the sector. Conversely, there is a risk of double payment, if the systems are brought in at the same time. Because of this, both scenarios carry some risk as it could remove commercial drivers, crash the materials market and put many reprocessors out of business.

### **Reprocessors and Exporters**

#### **Waste exports:**

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<sup>11</sup> <https://www.hse.gov.uk/waste/waste-electrical.htm>

**Q84. Do you agree or disagree with the proposal that all reprocessors and exporters handling packaging waste will be required to register with a regulator?**

Yes, we agree.

**Q85: Do you agree or disagree that all reprocessors and exporters should report on quality and quantity, of packaging waste received?**

Yes, we agree.

**Q86: What challenges would there be in reporting on the quality of packaging waste received at the point of reprocessing and/or export?  
Please provide specific detail on any processes, measures and/or costs that would be necessary to address these challenges.**

The biggest challenge in terms of reporting would be conducting quality control inspections. They would require a process to cover decisions made in relation to storage/disposal/return of rejected materials. Future legislation should therefore aim to introduce clear standards and definitions to help level the playing field and provide consistency in reporting.

**Q87. Do you think contractual arrangements between reprocessors and material facilities or with waste collectors and carriers are a suitable means for facilitating the apportionment and flow of recycling data back through the system to support Extended Producer Responsibility payment mechanisms, incentives and targets?**

No we believe there should be a legislative requirement and link to Defra's digital waste tracking program.

**Q88. Do you agree or disagree that exporters should be required to provide evidence that exported waste has been received and processed by an overseas reprocessor?**

We agree: this should be carried out in accordance with the transfrontier shipment of waste method (TFS)<sup>12</sup>.

**Q89. Do you agree or disagree that only packaging waste that has achieved end of waste status should be able to be exported and count towards the achievement of recycling targets?**

We agree that only packaging waste that has achieved 'end of waste' status should be able to be exported and count towards the achievement of recycling targets. There are many benefits of having a UK based reprocessing infrastructure, including jobs, retention of material, reduced transport impacts, as well as a greater ability to highlight issues with packaging design impacting upon recyclability.

However, as pointed out in our 2019 EPR consultation response, given the annual 2.2 M mt of UK plastic packaging waste, extensive infrastructure needs will be required to meet the enhanced recycling targets set out in the consultation and we therefore call for an urgent

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<sup>12</sup> <https://www.gov.uk/guidance/importing-and-exporting-waste>



expansion of the UK recycling infrastructure in parallel with core consumer educational campaigns to meet this transition.

**Q90. Do you agree or disagree that there should be a mandatory requirement for exporters to submit fully completed Annex VII forms, contracts and other audit documentation as part of the supporting information when reporting on the export of packaging waste?**

We agree but it would need to be clear as to what ‘waste’ we are looking at. For example Annex VII isn’t required when shipping materials for reuse (e.g. reverse logistics on toner bottles).

**Q91. Do you agree or disagree that regulators should seek to undertake additional inspections of receiving sites, via 3rd party operators?**

We agree.

**Compliance and Enforcement**

**Q92. Do you agree or disagree with the proposed approach to regulating the packaging Extended Producer Responsibility system?**

We agree that the environmental regulators should become the primary scheme regulators for the system and monitor compliance and enforce the obligations of the following key stakeholders such as the Obligated Producers and the Scheme Administrator.

**Q93. Do you have further suggestions on what environmental regulators should include in their monitoring and inspection plans that they do not at present?**

No, we agree with the obligations which the government proposes to monitor and enforce against. These include the meeting of statutory targets, registration by producers, reporting of accurate and complete data, accreditation or registration of packaging Extended Producer Responsibility system participants to perform functions or issue evidence within the system.

**Q94. In principle, what are your views if the regulator fees and charges were used for enforcement?**

We believe that these should be ring fenced and applied to business education and enforcement to support and enhance circular economy infrastructure.

**Q95. Would you prefer to see an instant monetary penalty for a non-compliance, or another sanction as listed in 12.26, such as prosecution?**

We believe that advice and guidance from the regulator should help to trigger corrective action by the non-compliant organisation so that a warning (issued via letter or site visit) is not necessary.

In terms of civil sanctions that can be imposed to achieve the outcomes desired, we believe that SMEs should face instant low-level fixed fines for minor offences whereas those applied to larger business should be linked to their annual turnover.

**Q96. Do you agree or disagree with the activities that the Scheme Administrator would need to undertake in order to make initial payments to local authorities in 2023 (as described above under Phase 1)?**

We agree.

**Q97. Do you think a phased approach to the implementation of packaging Extended Producer Responsibility, starting in 2023 is feasible and practical?**

Yes, we think that a phased approach to the implementation of packaging Extended Producer Responsibility, starting in 2023 is feasible and practical.

**Q98. Do you prefer a phased approach to implementing Extended Producer Responsibility starting in 2023 with partial recovery of the costs of managing packaging waste from households or later implementation, which could enable full cost recovery for household packaging waste from the start?**

We recommend a phased approach starting in 2023, as time is of the essence. We need to take further action to tackle the issue of packaging waste. IEMA broadly supports the commitments made to apply the concept of EPR to a wider set of product groups and businesses. We believe that if the EPR scheme is well designed in accordance with the key principles, then it should help to maximise resource utilisation and resource effectiveness. This will ensure that we extract maximum value over precious resources, such as plastic packaging waste and enhance overall economic productivity.

**Q.101 Which of the definitions listed above most accurately defines reusable packaging and could be applied to possible future reuse/refill targets or obligations in regulations.**

We believe that the definition in The Packaging (Essential Requirements) Regulations 2015 most accurately defines reusable packaging and could be applied to possible future reuse/refill targets or obligations in regulations.

The definition is as follows:

*“...any operation by which packaging, which has been conceived and designed to accomplish within its life cycle a minimum number of trips or rotations, is refilled or used for the same purpose for which it was conceived, with or without the support of auxiliary products present on the market enabling the packaging to be refilled, and reused packaging shall be construed accordingly; such reused packaging will become packaging waste when no longer subject to reuse”*

Please make sure you retain the reference to auxiliary products.

**Q.102 Do you have any views on the above listed approaches, or any alternative approaches, for setting reuse and refill targets and obligations? Please provide evidence where possible to support your views.**

The Reuse/refill options as referenced in [table 14](#):

*“Set a packaging reduction target. This could be achieved by producers implementing reuse systems in stores, recording data on their uptake and using this to calculate the amount of single use packaging reduced as a result”.*

This could be set up like a deposit return scheme, whereby producers recondition the returned material (themselves or by partners). This is a viable system, as it is measurable.

As pointed out in the consultation, this system will require setting a packaging reduction target and implementing reuse systems in stores, recording data on their uptake and using this to calculate the amount of single use packaging reduced as a result. This would require time to set up and further investment in the infrastructure (which should in principle be financed by the ring-fenced proceeds of EPR).

**Q.103 Do you agree or disagree that the Scheme Administrator should proactively fund the development and commercialisation of reuse systems?**

Yes we agree that the Scheme Administrator should proactively fund the development and commercialisation of reuse systems. This could be done using income generated from PRNs.