

Consultation on Reforming the UK Packaging and Producer Responsibility System

Comments by

Northern Ireland Environment Link

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These comments are made on behalf of Members, but some members may be providing independent comments as well. If you would like to discuss these comments further we would be happy to do so.

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NIEL welcomes the opportunity to respond to the government's proposals to reform the UK Packaging and Producer Responsibility System.

We strongly support proposals that will help optimise the use of resources, and minimise waste through the use of circular materials. This requires measures to tackle the use of difficult-to-recycle packaging, through the design of packaging with optimal recyclability. A reduction in littering, improved recycling rates and quality of recycle will result in increased opportunities for businesses, as well as job creation. Further legislative provisions are required to strengthen producer responsibilities and accelerate progress.

Despite the absence of Ministers, mechanisms should be sought to deliver producer responsibility reforms in NI to ensure that Standards in NI do not differ from those in the rest of the UK.

Principles

While we are supportive of the principles, there are gaps that would limit the ability to achieve the most effective environmental outcome from these proposed measures. Crucial areas remain unaddressed within the proposed principles and the EPR scheme that they underpin. As with the Government's approach to waste more widely, too much focus is placed upon enhancing recycling and recyclability; improvements which are important but alone insufficient given the scale of the problem now faced.

We strongly encourage the EPR principles to be refocused to incentivise a wholesale transition away from a system reliant on single-use packaging, primarily through prevention and reusable packaging solutions, rather than a simple substitution of one single-use material for another. Furthermore, we advocate that the EPR principles should be designed to ensure producers internalise the full life cycle costs of packaging materials. Currently, 'costs' are defined purely as those related to waste-management services, whereas there are environmental and social risks at each stage of the life cycle for all packaging materials – from extraction, to production and transport, through to consumption and disposal.

This consultation places too much focus on meeting recycling targets and improving packaging recyclability in isolation. An Extended Producer Responsibility) EPR system should ambitiously incentivize businesses to introduce innovative, packaging-free product delivery solutions, to reduce the production and use of packaging. We propose alterations to the principles below, based upon the following key arguments:

- 1. Exponential and growing production and consumption of single-use packaging mean that recycling improvements alone are not enough.** Recent decades have seen a proliferation of single-use packaging, in particular plastic packaging – now the dominant delivery mode for many products. Without a significant turnaround in industry trends, UK plastic packaging waste could increase 22% between 2018 and 2030, growing to nearly 4,500,000 tonnes.¹ Only a third of consumer plastic packaging is recycled;² the rest sent to landfill or escapes into the natural environment. The UK's recycling record to date has relied on the export of plastic waste, without oversight of how much is ultimately recycled nor the working conditions involved. In order to close the gulf between consumption levels and recycling capacity, it is clear that a significant focus on reduction will be required. There is currently no evidence to suggest that the expected increase in packaging production can be met with a commensurate increase in recycling capacity in nearly enough time,

¹ [https://www.wwf.org.uk/sites/default/files/2018-03/WWF Plastics Consumption Report Final.pdf](https://www.wwf.org.uk/sites/default/files/2018-03/WWF%20Plastics%20Consumption%20Report%20Final.pdf)

² WRAP, 2018. Plastic Flow 2025: Plastic Packaging Flow Data Report. Available at <http://www.wrap.org.uk/sites/files/wrap/PlasticFlow%202025%20Plastic%20Packaging%20Flow%20Data%20Report.pdf>

meaning under business-as-usual scenarios leakage of plastic waste into the environment is highly likely.

2. **The limited recyclability of plastic as a material.** Every time plastic is recycled, the polymer chain grows shorter and its quality decreases, meaning that it can only be recycled a finite number of times; so each time plastic is recycled, additional virgin material is needed to “upgrade” its quality.³ In this sense, plastic is not a material that can be used sustainably and within a ‘closed loop’ system.
3. **A focus on re-use, as well as recycling.** In line with circular economy principles and the waste hierarchy, packaging reduction efforts must focus foremost on prevention, in parallel to scaling up reusable and refillable packaging alternatives. This would be in line with Article 8 of the EU Waste Framework Directive, which describes EPR as a policy measure to “*strengthen the re-use and the prevention, recycling and other recovery of waste*”.⁴ Currently, the proposed EPR principles fail to incorporate re-use criteria. The UK Government has committed to match the level of ambition seen in the 2018 European Strategy on Plastics in a Circular Economy, going further where possible.⁵ A failure to promote re-use would leave the UK falling short of this commitment.
4. **Focus on reduction and waste prevention is needed to meet ambitious climate targets.** Action at the recycling stage is too late into the life cycle of a product to deliver the kind of carbon savings that will be required to meet ambitious emissions reduction targets.⁶ While single-use plastic packaging is sometimes heralded as a means of increasing shelf-life, growth in the application of plastic packaging has increased alongside growth in food waste, with a significant proportion of food thrown away still inside plastic packaging.⁷ With the UK having just declared a climate emergency, all future policies including EPR reform must reflect deep-reduction emission strategies.
5. **The environmental and social costs of packaging materials at all stages of its life cycle, not just waste management.** Currently, the proposed EPR principles define the costs associated with packaging solely in terms of those arising at the waste management stage. However, all packaging materials have potential environmental and social costs arising at each stage of their life cycle - including the extraction of fossil feedstocks for plastic,⁸ forest management concerns associated with pulp and paper,⁹ and pollution and health risks of bauxite ore mining for aluminium production.¹⁰ In light of this, we strongly caution against a simple substitution of one single-use material for another.

³ Geuke, B., 2014. Plastic Recycling. Food Packaging Forum dossier. https://www.foodpackagingforum.org/fpf-2016/wp-content/uploads/2015/11/FPF_Dossier08_Plastic-recycling.pdf

⁴ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32008L0098&from=EN>

⁵ <https://researchbriefings.parliament.uk/ResearchBriefing/Summary/CBP-8515>

⁶ <https://www.ciwem.org/assets/pdf/Policy/Policy%20Position%20Statement/Waste-Management-and-Climate-Change.pdf>

⁷ Friends of the Earth Europe, 2018. Unwrapped: How throwaway plastic is failing to solve Europe’s Food Waste Problem. Available at: http://www.foeeurope.org/sites/default/files/materials_and_waste/2018/unwrapped_-_throwaway_plastic_failing_to_solve_europes_food_waste_problem.pdf

⁸ CIEL, 2019. Plastic & Health: The Hidden Costs of a Plastic Planet. Available at: <https://www.ciel.org/wp-content/uploads/2019/02/Plastic-and-Health-The-Hidden-Costs-of-a-Plastic-Planet-February-2019.pdf>

⁹ Environmental Paper Network, 2019. The Paper and Packaging Boom: A growing wave of pulp production threatens the world’s forests and climate. Available at: <https://environmentalpaper.org/2019/03/the-paper-and-packaging-boom-a-growing-wave-of-pulp-production-threatens-the-worlds-forests-and-climate/>; Innovation Forum, 2019. Packaging drives pulp’s deforestation risks. Available at: <https://innovation-forum.co.uk/analysis.php?s=packaging-drives-pulps-deforestation-risks>

¹⁰ Lee, K. Y. et al, 2017. Environmental and Occupational Health Impact of Bauxite Mining In Malaysia: A Review. IJU Medic, 16:2. Available at: http://iiuimed.net/imjm/v1/download/volume_16_no_2/IMJM-Vol16-No2-137150.pdf

In line with original definitions of EPR, proposed as *“a policy principle to promote total life cycle environmental improvements of product systems by extending the responsibilities of the manufacturer of the product to various parts of the product’s life cycle”*,¹¹ we urge the government to incorporate a full life cycle approach into the EPR principles. This would correspond to EU minimum requirements for countries looking to establish EPR schemes, which state: *“measures shall take into account the impact of products throughout their life cycle”*.¹²

Without reduction-led solutions for packaging, it will be impossible to ensure our use of resources is kept within planetary boundaries. With these arguments in mind, we suggest the following changes to be made to the proposed principles:

Principle 1 should be rephrased to emphasise the need for a significant focus on reduction and wholesale shift towards reusable packaging delivery modes, in addition to improving recycling. In line with the waste hierarchy, we suggest this principle is reframed to aim: *“to reduce all but the most essential packaging applications, to incentivise a wholesale transition towards reusable packaging delivery models, and improve the recycling of packaging within a closed-loop system.”*

Principle 2 states that under the scheme, *“businesses will be incentivised to reduce unnecessary and difficult-to-recycle packaging, and to design and use packaging that is recyclable”*. We welcome the direction of this principle and its focus on reduction, but further clarity is needed to prevent a simple substitution with other single-use materials that are more recyclable, or for reductions achieved primarily through lightweighting - reducing the volume of packaging, rather than removing it from the shelf altogether. It is this latter, unit-based reduction which is important for reducing the impacts of pollution. For example, if a company achieved a reduction target by streamlining the weight of packaging, but did not reduce the quantity placed on the market, the number of items leaking into the natural environment may not actually decrease. Furthermore, lightweighting can encourage a shift into plastics like films and laminates which are non-recyclable and therefore have no role to play in a circular economy.

We therefore call for this principle to be rephrased to read *“businesses will be incentivised to reduce all non-essential and difficult-to-recycle packaging. Business will be incentivised to transition towards reusable and refillable packaging delivery models, and encouraged to make sustainable upstream sourcing and production decisions.”*

Principle 3 sets out that *“businesses will bear the full net cost of managing the packaging they handle or place on the market at end of life. Subject to this consultation, this should include the cost of collection, recycling, disposal, the clear-up of littered and fly tipped packaging, and communications relating to recycling and tackling littering”*.

We enthusiastically welcome and support the principle of producers covering the full net costs associated with the packaging they place on the market. However, environmental and social costs can arise across the full life cycle of packaging, and are not limited to end of life expenses. More information relevant to understanding and defining ‘full costs’ is contained in response to question 10. We urge the government to

¹¹ Lindhqvist, Thomas. (2000). Extended Producer Responsibility in Cleaner Production. IIIIEE Dissertations 2000:2. Lund: IIIIEE, Lund University

¹² <https://eur-lex.europa.eu/legal-content/en/ALL/?uri=CELEX%3A32018L0851>

change the wording of this principle from “*at end of life*” to “*across the full life cycle, including waste management*”.

Principle 4 says that that “*fees raised from obligated businesses will be used to support the management of packaging waste and the achievement of agreed targets and outcomes*”. Covering the costs associated with the management of packaging waste is an important function of EPR schemes, but as currently framed this principle fails to recognise the role of fees in internalising the full life cycle costs associated with packaging.

Fee levels should be designed to incentivize producers to make sustainable design and sourcing decisions. This can in turn address certain upstream problems – for example, through encouraging design choices that reflect best practices in forest management – as well as addressing downstream issues through enhanced recyclability and reuse. Eco-modulation of fees is the primary tool to embed and incentivise these decisions.

Fee levels which are determined primarily to collect a specified amount of money to cover the ‘full costs’ of dealing with packaging waste, without sufficient weighting given to the role fees play in incentivising eco-design, undermine the potential of EPR reform to catalyse a whole scale shift towards more sustainable packaging systems. Furthermore, this understanding would be in line with minimum requirements for EPR schemes introduced in 2018 under EU Directive 2018/851 which state that:¹³

(b) in the case of collective fulfilment of extended producer responsibility obligations, are modulated, where possible, for individual products or groups of similar products notably by taking into account their durability, reparability, re-usability and recyclability and the presence of hazardous substances, thereby taking a life-cycle approach ...

We encourage the government to include this function of the fees in the principles, either as part of principle four or in a new principle.

We agree with the general direction of **principles 5, 6 and 7**, although in each case prompt additional references to be made to support the reduction and reuse of packaging, in addition to recycling.

Principle 8 contains a welcome focus on transparency and accountability. We encourage a cautious approach to understanding the statement that “*costs to producers do not exceed those necessary to provide packaging waste management services in a cost-efficient way and are fair*” and suggest its replacement with “*costs to producers are appropriate to ensure environmentally and socially optimal outcomes are met efficiently*”. It is important that accountability mechanisms do not allow producers a disproportionate say in defining what is “*necessary*” or “*fair*”, as they may have commercial interests that substantially differ from those of the environment and public.

Principle 9 seeks to put measures in place “*to ensure packaging waste is managed in an environmentally responsible way, promote compliance and limit the opportunities for fraud and waste crime.*” Robust accountability and compliance measures are essential and will require independent, third party audits. We call on the government to enshrine in principle 9 that these will be guaranteed under the new EPR scheme, with associated expenses built into the definition of ‘full costs’.

Finally, we propose a **tenth principle** to emphasise the need for the UK to progressively phase out reliance on exporting packaging waste overseas, and to stimulate a closed-loop circular economy within the country. More information on this proposal is contained in answer to question 69.

¹³ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32018L0851&rid=5>

Outcomes

While we broadly welcome these proposed objectives as a baseline standard for what packaging EPR should achieve, the objectives place too much emphasis on increased recyclability/weight-based reductions of packaging, rather than a systemic shift towards entirely packaging-free delivery models. This requires ambitious, legally binding targets to drive reduction and reusability supplemented by modulated fees that explicitly encourage reusability, not just recyclability, in line with the waste hierarchy.

We have proposed the following alternative environmental outcomes that we think are essential for reformed EPR to achieve (at a minimum):

- For a significant overall reduction in packaging, achieved through a holistic and systemic approach which considers the many drivers of packaging choices (including, but not limited to, lack of availability and accessibility of reusable and refillable alternatives, branding/marketing requirements, length of supply chains, and convenience culture) and quantified in clear and specific, long-term reduction targets
- For more packaging to be designed for reuse and refilling both by customers and producers, with supply chains redesigned to facilitate this wholesale shift
- For packaging formats which are difficult to recycle (including plastic multi-layered laminates, flexible films etc), in addition to polymers (PVC, EPS, PLA etc) to be phased out through a ban on their use by the end of 2020
- For hazardous substances to be completely and urgently removed from packaging
- For the full life cycle externalities associated with packaging to be priced into the market
- For the creation of an environmentally and socially level playing field between UK and exported packaging wastes

We have concerns about how the outcomes will be achieved in NI without the development of comprehensive reprocessing facilities. This is an economic development opportunity which needs to be harnessed by Councils and InvestNI working with DAERA to deliver locally.

The target in point 4 appears relatively low considering the 2016 figure was 64.7%. – with the appropriate collection service in place, availability of reprocessors and a strong UK wide communications campaign a higher target should be achievable.

Scope

Single-use packaging items not currently legally considered as ‘packaging’ should be included in the scope of the new Packaging EPR system. Foil, clingfilm, jiffy bags, paper cups, sandwich bags etc. are still consumed by the general public in a similar way to items eligible to EPR regulations ‘packaging’. There is a risk that if they are not considered in the scope of the system, there may be a significant rise in their usage rather than a shift to reusable packaging options; providing a loophole and encouraging market distortions. For example, online retailers may switch to extensive use of jiffy bags if these were to be exempt from the legislation. Furthermore, if retailers provided more unpackaged goods but customers used non-eligible packaging types to collect these, then the overall material reduction will be significantly undermined. We therefore encourage these packing items to be included within the EPR scheme.

Part A: 1

Full Net Cost Recovery

We welcome and support the Government's intention to incorporate 'full net cost recovery' into EPR.

However, as mentioned earlier, in order to meet the Polluter Pays principle, these reforms should take into account the net environmental impact of packaging, including upstream impacts arising from the choice of materials and the manufacturing process, in line with the recommendations of the OECD. Taking responsibility for downstream impacts from disposal of products is a minimum standard that producers should adhere to, and cannot be viewed as taking account of or bearing responsibility for the net environmental costs of choices in packaging.

We therefore propose that a full review of the environmental and social (including health) costs associated with the full lifecycle of packaging types is included in the definition of 'full net cost recovery'. This should include a focus on reduction as the key mitigating tool, ensuring eco-modulation of fees to encourage sustainable design, and money allocated to contribute towards addressing the environmental and social harms where necessary.

Aside from not fully holding producers accountable for their pollution, these reforms would only indirectly tackle consumer behaviour. Evidence suggests that reducing residual waste collection increases recycling rates. Therefore, in order to directly incentivize citizens to fully engage in best practice when it comes to household recycling, the Government should consider stringent caps on the frequency of residual waste collection and consider a move to a 'pay as you throw' system in the future.

While producers should be required to fund the costs of collecting and managing household and household-like packaging waste, consideration should be given to smaller businesses that may require additional support where margins are tighter. Small businesses should not be exempt from the Regulations, but rather it is not that they are exempt from the regulations; rather they should receive additional support to reduce the financial burden.

Commercial/ industrial packaging should be included within the scope of full net cost recovery. This element makes up a large proportion of fly tipped and deposited waste and should bear equal costs to other waste streams.

DRS and EPRS

Any scheme that increases recycling and reduces littering and waste to landfill should be welcomed. However, emphasis still needs to be placed on waste prevention in line with the waste management hierarchy. This point is supported in our response to the proposed DRS.

As a DRS scheme can be seen as a form of producer responsibility, we do not see a need to 'double-charge' producers. However, this is subject to the following conditions being met:

- Any drinks containers that are excluded from DRS are subject to modulated producers fees to drive reuse and recyclability
- Any packaging used in the delivery of these drinks containers to consumers that is not included in a DRS is subject to modulated fees that disincentivize their use, for example, packaging around multi-packs
- Funds raised by a DRS through unreclaimed deposits are required to fund system improvements and increase return rates, so as to prevent producers profiting from an inefficient system
- The deposit management organisation (DMO) should be responsible for meeting ambitious collection, recycling and reuse targets set by Government

Deposit return is likely to be an efficient and cost effective way for drinks producers to comply with their responsibilities.

Part A: 2

Driving Better Design of Packaging

We strongly agree with the development and adoption of an ‘approved list’ to underpin the setting of either modulated fee rates or deposits. This will be an essential mechanism for ensuring environmentally optimal design of products. To date, few EPR schemes have successfully developed mechanisms to ensure producer fees reflect prevention, reuse and recyclability criteria to favour eco-design at an industrial scale.¹⁴ We encourage the UK to cement its position as a global leader on the circular economy and adopt a pioneering approach. Noting that the government seeks to consult on the ‘approved list’ at a later stage, we propose notions below to shape thinking around its development.

- **Incentivising reuse as well as recyclability:** Foremost, the approved list must be designed to incentivise design for reuse in addition to recyclability of packaging. This would be in line with Article 8 of the EU Waste Framework Directive, and could build on existing standards for assessing reusability criteria such as EN 13429:2004. Packaging which is designed to meet the fulfilments of these criteria should be exempt from fees, with criteria to encourage firms to maximise the number of rotations for reuse. Other ideas to consider could include the introduction of standardised packaging formats for items such as bottles, takeaway containers and tubs; allowing for the same design to be reused and refilled by different brands and product lines.
- **Incorporating responsible sourcing and production criteria:** Upstream sourcing and production criteria should be considered in the approved list, incentivising responsible design and procurement. This could include but is not limited to best practices in sustainable forestry, maximising recycled content (noting that the proposed 30% tax on recycled content is only relevant for plastic packaging), ensuring best practices in pre-production pellet loss prevention have been applied through the plastic supply chain, and encouraging use of renewable energy in packaging manufacture.
- **Narrowing down ‘recyclable’:** When developing the list, careful consideration must be given to how ‘recyclable’ packaging is defined. Nearly all packaging materials can technically be recycled, but the list must only include those formats and polymers that are in practice widely collected, sorted and reprocessed at scale, with an end market for the secondary material. This should not include items which are theoretically recyclable but are not currently due to a lack of economic scale (such as PLA) and therefore commonly sent to landfill or incineration, or risk contaminating existing recycling systems.¹⁵
- In line with EU Article 3(17) of the Waste Framework Directive, definitions of recycling must not include “*energy recovery and the reprocessing into materials that are to be used as fuels or for backfilling operations*”.¹⁶ We also urge caution around forms of chemical recycling which have

¹⁴ https://www2.deloitte.com/content/dam/Deloitte/fr/Documents/sustainability-services/deloitte_sustainability-les-filieres-a-responsabilite-elargie-du-producteur-en-europe_dec-15.pdf

¹⁵ <http://tema.miljodirektoratet.no/Documents/publikasjoner/M1206/M1206.pdf>

¹⁶ <https://eur-lex.europa.eu/legal-content/En/ALL/?uri=celex%3A32008L0098>

high energy demands, and therefore a much higher carbon footprint than mechanical recycling.¹⁷ In order to create a truly circular economy, preference should be given to packaging that can be recycled within a closed-loop system into an equivalent application; for example, food grade PET to food grade PET – rather than downgraded into lower value materials, such as for use in park furniture.

- **Removal of harmful and toxic chemicals:** Plastic packaging can contain harmful chemical additives including stabilisers and plasticisers, such as phthalates, as well as chlorinated, brominated and fluorinated compounds.¹⁸ These pose risks to human health and can leach into the environment. We urge for no packaging containing hazardous substances to be included on the ‘approved’ list and for these to be urgently phased out.
- **Narrowing down ‘essential’ packaging requirements:** There are many drivers behind the recent proliferation of single-use packaging, of which product preservation is just one. Other factors include branding and marketing aims, cost-reductions and economic-efficiencies, the length and complexity of supply chains, the convenience market and other features and demands of modern consumerist lifestyles.¹⁹ Whilst reversing these trends will require an holistic approach, the ‘approved list’ presents an opportunity for the UK to incentivise companies to focus on using packaging only in the most essential applications. Concerns about competitive losses due to a loss of marketing and branding objectives served by packaging could be overcome by leveling the playing field, establishing and enforcing more stringent, industry-wide rules to prevent all but the most essential packaging applications.
- **Urging caution on non-conventional plastics.** We deeply caution against a move into non-conventional plastic ‘alternatives’, including bio-based, compostable and biodegradable plastics. These should not be included on the ‘approved list’. Foremost, they continue to pose a risk to marine life as they require conditions for biodegradation that are not met in the natural environment. For example, some need prolonged exposure to temperatures of more than 50°C.²⁰ Their wide-scale adoption could present additional problems such as complicating waste collection and recycling systems, as well as causing microplastic pollution if the conditions required for full biodegradation are not met. Most bio-based plastics are produced from agro-based feedstock,²¹ requiring an estimated 600,000 hectares to produce 1.6 million tonnes in 2013 – a fraction of the total demand for plastics (< 0.5% of 2015 total demand).²² If their

¹⁷ Grigore, M. 2017, Methods of Recycling, Properties and Applications of Recycled Thermoplastic Polymers. Recycling 2017, 2, 24; doi:10.3390/recycling2040024

¹⁸ Ellen MacArthur Foundation, The New Plastics Economy: Rethinking the Future of Plastics (2016), pp. 29-30.

¹⁹ For example, see http://www.foeeurope.org/sites/default/files/materials_and_waste/2018/unwrapped_-_throwaway_plastic_failing_to_solve_europes_food_waste_problem.pdf; <http://www.arena-international.com/Journals/2018/03/21/v/i/o/GlobalData---Dominic-Cakebread.pdf>

²⁰ European Bioplastics, 2009. Industrial Composting. Available at: https://docs.european-bioplastics.org/2016/publications/fs/EUBP_fs_industrial_composting.pdf

²¹ Ißbrücker, C., 2018. How much land do we really need to produce bio-based plastics? Available at: <https://www.european-bioplastics.org/how-much-land-do-we-really-need-to-produce-bio-based-plastics/>

²² Bioplastics, 2015. Frequently Asked Questions on Bioplastics. Available at: www.corbion.com/base/DownloadHelper/DownloadFile/7462

production is scaled up, land-use demands could bring about competition with agriculture and cause biodiversity loss.²³

Eco-modulation of fees must be sufficiently granular and differentiated to provide a clear incentive that tips the cost-benefit analysis in favour of reusable/refillable, sustainably sourced and recyclable packaging design choices. Furthermore, fees must be unit-based, rather than tonnage based. Examples from Europe show that weight-based fee structures have led to a focus on light-weighting, rewarding lighter but less recyclable materials. This was the case in Sweden, where packaging EPR led to a 50% reduction in average packaging weight, attributed to increase in use of hard-to-recycle plastic laminate.²⁴ Unit-based fees can be seen under the French scheme, which is considering modulation by Consumer Sales Unit (CSU) – product units that a consumer can buy separately.²⁵

Part A: 3

Obligated Producers

A single point of compliance should be developed to provide clarity, transparency and cost minimisation. From the information given, the brand-owner approach as a single point of compliance would be most appropriate. Due to a lack of evidence to support option A, we support B.

Small cafes and restaurants should not be exempt, however consideration should be given to how the fees are calculated in relation to the size of business/turnover.

The compositional analysis of litter could be used to enable a decision to be made on how to change packaging provided by, and behaviours associated with, small cafes and restaurants. 'On the go' packaging is a sizeable component of litter, which indicates that some form of 'flat fee' charge should be placed on small cafes and restaurants – as a prompt for behaviour change rather than as a major component of the wider obligation scheme, and to contribute to a communications fund.

Ensuring operators of online marketplaces take full account and responsibility for all products that are sold on the UK market should be included in these measures. We would strongly encourage Government to investigate this area further, as there are risks that given the difficulty of enforcing producer responsibility in this area there will continue to be loopholes, for example in peer-to-peer trading platforms such as eBay or Etsy.

Exclusion of online businesses could provide an unfair market advantage, as well as undermining the core principle of producer responsibility.

Part A: 4

²³ CE Delft, 2017. Biobased Plastics in a Circular Economy Policy suggestions for biobased and biobased biodegradable plastics. Available at: <https://www.ce.nl/publicaties/download/2405>

²⁴ <https://ieep.eu/uploads/articles/attachments/9665f5ea-4f6d-43d4-8193-454e1ce8ddfe/EPR%20and%20plastics%20report%20IEEP%2019%20Dec%202017%20final%20rev.pdf?v=63680919827>

²⁵ https://www.citeo.com/sites/default/files/inside_wysiwyg_files/Rate%20table%202018%20packaging%20english%20february%202018.PDF

Supporting Improved Collections and Infrastructure

Given their central role in waste management and recycling, it is important that Councils are included in the design of any new schemes.

Any payments should be based on the provision of a collection system that meet the minimum standard ('minimum standard' should be agreed with all NI councils as collection agents).

All Councils in Northern Ireland receive revenue for a large proportion of the dry recyclables collected, many of which will be included on the 'approved list'. Consideration should be given to how this 'revenue' will be affected if the collection is on behalf of the producer.

We agree with the proposed approach for making payments for collections. (Q28)

Discussions at UK level should account for the particular geography of Northern Ireland, the impact of the border on waste movements and management, and the high levels of illegality in relation to waste management in NI.

Consideration needs to be given to the potential for unintended consequences in determining payments to local authorities, particularly given the complexities of introducing several complementary schemes simultaneously. Further research and calculations needs to be done to estimate the quantities (and quality) of materials expected to be collected through a council collection system and any new DRS.

It is critical to ensure that 'recycling' is clearly defined so as not to include energy from waste or waste that is exported- this definition has been blurred in the past. Government should implement a timebound phase down on the export of waste and introduce a tax on incineration to disincentivize this being an acceptable method of waste management.

The distribution of funds raised by EPR reforms should also serve as a mechanism not only for full cost recovery, but in order to incentivize local authorities to improve recycling infrastructure.

Q31 - 33

Keep Northern Ireland Beautiful maintain detailed records of litter and clean-up costs across Northern Ireland.

It would be appropriate to see some support of innovation and R&D of new trials such as Seabins (used by one council), behaviour change projects and other trial projects to further develop skills and technology to progress waste reduction and recycling. Education/awareness raising and development of technology and infrastructure is essential.

There is no practical way to define or distinguish 'on-the-go' packaging uses in the first instance, particularly if this term is used as a means of limiting the breadth of waste policy measures such as DRS or EPR reforms. As mentioned, the fundamental aim of producer fees should be to incentivise packaging-free product delivery, redesign for reusability and redesign for recyclability in that order. Many packaging items included in this category - including bottles, coffee cups and food containers, lend themselves well for reusable solutions. We suggest the government prioritises the scaling up of these solutions.

Disposable Cups

In a circular economy, there is no place for a single-use cup, and ultimately the Government's aim should be for a complete phase out of single-use cups in the form of a ban on the sale of single-use cups in the UK. One retailer, Boston Tea Party, has taken a lead on this, becoming the first chain in the UK to ban all disposable cups, with customers having to use their own, or borrow a reusable cup. However, this decision has resulted in a £250,000 drop in sales. Retailers should not be penalised for putting planet over profits, instead the Government should be facilitating a level playing field.

In the short term, Government should introduce a charge for single-use cups at the point of sale to encourage reduction in their use, with application across all cups with plastic linings and not just exclusively applicable to cups designed for hot drinks. This includes single-use cups that are classified as 'biodegradable', 'oxodegradable' or 'bioplastic'. These materials should be treated in the same way as any traditional polymer plastic, especially as they cannot be closed loop recycled so in many ways are worse than traditional plastics.

While there were discussions within Government regarding the introduction of a 'latte levy', the idea was disappointingly scrapped. The Treasury has committed to revisiting this levy if industry cannot be shown to have made significant improvements within one year, and it would be entirely inconsistent with the principles and desired outcomes stated within these consultations to continue to allow their sale unchecked, especially since, in the interim, Scotland have committed in principle to introducing a charge.

Since the government decision not to introduce a levy on disposable cups, the intended progress has not been made to address this problem. Disposable cups present difficulties for recycling due to plastic lining. The voluntary scheme for cups should continue but this is unlikely to have the desired effect in the long-term.

Reusable cups should also be promoted further and efforts are required to train staff to alter deeply ingrained working practices, as well as forcing producers to install appropriate operating systems. Currently, coffee is routinely served by default in disposable cups when they are not required in large chains such as Costa and Starbucks. For example, airport Costa's with substantial seating areas are full of people 'sitting in', yet drinking out of disposable cups. Costa does not have cleaning facilities for ceramic cups in their airport shops which would help address this flawed practice in the interim. Furthermore, fast food chains, such as McDonald's only serve 'eat in' food in single use packaging. Much of the packaging is unnecessary and serves no purpose. Customers then dump a tray full of cardboard, plastic and food waste into a single bin liner which is then disposed of. This kind of practice must be discouraged and chains should be encouraged to develop operating systems with reusable cutlery, plates, cups etc. that can be washed in store.

Part A: 5

Communications and Labelling

We strongly agree with the principle that consumer communication should be accounted for within producer fees. This is consistent with the requirements of EU Directive 2018/851, amending Directive 2008/98/EC on waste, in relation to the minimum requirements for EPR schemes:

'Member States shall take the necessary measures to ensure that the waste holders targeted by the extended producer responsibility schemes established in accordance with Article 8(1), are informed about waste prevention measures, centres for re-use and preparing for re-use, take-back and collection systems, and the prevention of littering. Member States shall also take measures to create incentives for the waste holders to

assume their responsibility to deliver their waste into the separate collection systems in place, notably, where appropriate, through economic incentives or regulations.'

This is supported by a number of studies that suggest that in EPR schemes where producer responsibility organisations have expanded their remit beyond aggregating producer costs and into supporting communication campaigns there is a correlation with increased success of that scheme.

Councils in NI have historically used WRAP and national campaign communications to produce their own messages to ensure local relevance. This maintains consistency and understanding across the regions. Local communication campaigns do continue to be delivered locally via council leaflets, newsletters, social media platforms and face to face campaigns. It is worth noting that due to differences in markets and materials collected here in NI it is often the case that a different message has to be delivered than that of the mainland UK.

While an agreed and mandatory labelling of packaging as 'recyclable' or 'non-recyclable' is necessary, how this is done requires further consideration. These terms are only applicable if the product is recyclable within the region where it is being used/recycled. The term 'recyclable' often creates issues in NI where the product cannot be collected for recycling as there is no cost effective means for recycling it, i.e. there is no market available.

The percentage of recycled content should be stated on product packaging, although as packaging is becoming increasingly heavy with 'labelling', particularly nutritional value it may be more useful to state recycled content via another means – manufacturers website via a barcode perhaps. There should be a method for monitoring and reporting this publicly.

Part B: 6

These proposed targets seem unambitious and inadequate to meet both the need for minimizing waste leaking into the natural environment and concerns from the general public about plastic pollution.

We propose that, in line with the waste hierarchy, reduction and reusability targets are also set in the UK as a means to measure the success of the EPR. This would be in line with the recent EU Directive 2018/851 amending Directive 2008/98/EC on waste, which states:

(30) The promotion of sustainability in production and consumption can contribute significantly to waste prevention. Member States should take steps to make consumers aware of that contribution and encourage them to participate more actively in order to improve resource efficiency. As part of measures to reduce waste generation, Member States ... may include ... the setting of quantitative targets, and provide, as appropriate, adequate economic incentives to producers.

(43) The targets for preparing for re-use and recycling of municipal waste should be increased in order to deliver substantial environmental, economic and social benefits and to accelerate the shift towards a circular economy.

Issues with obtaining and managing nation-specific data

Q51 The proposals for reporting of packaging and packaging waste by nation appears rather complex. For Northern Ireland in particular, the issue of cross-border movement of goods needs to be considered more closely. As reporting systems may not be as robust from one nation to another the data may not be comparable.

Other Potential Targets

Q52 & 53 We support the setting of targets for closed-loop recycling or composite packaging. Composite packaging that is difficult or impossible to recycle should be discouraged as part of efforts to influence design behaviours, or producers required to pay adequately for disposal.

Part C: 7

Governance Models

In selecting the governance model for a redesigned EPR scheme in the UK, the Government should prioritise achieving the best environmental outcome and ensuring the highest level of transparency and accountability. We support the adoption of Model 2, a single not-for-profit compliance scheme. While we favour this model, there are potential strengths and weaknesses associated with each of the models. Whichever scheme is selected, certain principles and conditions should be applied to maximise the environmental and social outcomes as the foremost priority, as well as ensuring cost-efficiency and avoiding monopolistic schemes.

Model 1 would be inadequate as it would be highly complex to implement and monitor and is too close in function to the current flawed PRN system.

We have concerns that model 3 would be unnecessarily complicated. There is also a risk that producers would be 'double-charged' for compliance.

A deposit-based system could theoretically be the most effective in achieving the Government's proposed outcome of driving unrecyclable material off the market. However, we have concerns that in the immediate establishment of the system, costs would be significantly higher to producers and therefore incentivize misreporting.

Part C: 8

Responsible management of packaging waste domestically and globally

Q67 – 70

Government should seek to ensure export of packaging waste is undertaken in a transparent and environmentally responsible manner; the measures outlined in the consultation document are likely to help ensure this.

We urge the government to use this opportunity to move beyond incremental improvements to the waste export system and fundamentally reconsider the current situation, making a commitment within the next five years to phase down the export of packaging waste altogether.

The UK's recycling record to date (averaging just 30-34% of consumer plastic packaging)²⁶ has relied on the export of plastic waste to countries with lower labour and energy costs, and increasingly to countries with the highest levels of ocean plastic pollution,²⁷ without oversight of how much is ultimately recycled nor the working conditions involved.²⁸ The vast majority of waste exported from the UK and other high income countries has historically gone to China, but this came to end in 2018 when the country passed a regulatory

²⁶ WRAP, 2018. Plastic Flow 2025: Plastic Packaging Flow Data Report. Available at <http://www.wrap.org.uk/sites/files/wrap/PlasticFlow%202025%20Plastic%20Packaging%20Flow%20Data%20Report.pdf>

²⁷ Independent, 2018. UK now exporting more waste to countries with highest levels of ocean plastic pollution. Available at: <https://www.independent.co.uk/environment/uk-plastic-pollution-oceans-recycling-export-waste-malaysia-vietnam-thailand-a8400761.html>

²⁸ Mirror, 2018. Britain's plastic shame: UK sends tonnes of household waste overseas to be sorted by kids paid £3.60 for 12 hours work. Available at: <https://www.mirror.co.uk/news/world-news/britains-plastic-shame-send-tonnes-12784714>

action to permanently ban the import of nonindustrial plastic waste.²⁹ This ban has forced many exporting countries to look to markets with even less developed waste management infrastructure; and has led some countries to follow China's suite – including India³⁰ and Vietnam.³¹

To address and close the current gulf between the UK's consumption of packaging and ability to recycle it (particularly in the case of plastics), there is a clear need for a three-pronged approach to:

- Phase-down the export of packaging waste
- Significantly reduce packaging consumption levels
- Substantially boost investment in UK-based infrastructure that can deliver on a circular economy. This can be delivered through a blend of reduction and reuse strategies and targets, alongside capacity-building in reprocessing and supporting the market for products made of recycled content.

Lessons might be learnt from Flanders (Belgium), where a suite of domestic measures were introduced to boost recycling and lower pressure on natural resources.³² Government action helped the creation of a market for recycled materials through product specifications, standards and regulation. In addition, economic incentives were introduced, such as higher rates for dumping debris at landfills, and imposed several restrictions on the dumping of unsorted construction and demolition waste. Flanders' policy includes financial incentives for reduction at source: subsidies to Flemish reuse centres, financial aid for municipalities setting up a prevention policy within the framework of the municipal covenants, and subsidies via the 'PRESTI' prevention stimulation programme, which encourages the drawing up of prevention manuals for different sectors, including construction.³³

There is a risk that increasing the amount of packaging waste dealt with domestically could lead to an increase in incineration. To prevent this, the Government should introduce a moratorium on the construction of new incineration capacity (new incinerators and proposals to extend existing infrastructure), with money currently earmarked for incinerator capacity channelled into recycling infrastructure, and the introduction of a tax on all waste incineration. The Government is already considering the latter measure, and we argue it should be enacted as soon as possible. This would also be consistent with the EU Waste Framework directive which states: *"any recovery operation by which waste materials are reprocessed into products, materials or substances whether for the original or other purposes. It includes the reprocessing of organic material but does not include energy recovery and the reprocessing into materials that are to be used as fuels or for backfilling operations"*.³⁴

The Government must reconsider whether it is ethical to export packaging waste en masse to developing countries. At present, the significantly lower labour costs are a large factor for high level of exports to non-EU

²⁹https://www.researchgate.net/publication/325881851_The_Chinese_import_ban_and_its_impact_on_global_plastic_waste_trade

³⁰ <https://resource.co/article/india-implements-ban-imports-plastic-waste-13128>

³¹ <https://resource-recycling.com/plastics/2019/04/03/officials-say-vietnam-to-end-plastic-imports-in-2025/>

³² http://ec.europa.eu/environment/enveco/resource_efficiency/pdf/studies/RE_in_Business_M9_Measures_supporting_EPR.pdf

³³ <https://www.green-alliance.org.uk/resources/Creative%20policy%20packages%20for%20waste%20-%20Flanders.pdf>

³⁴ <https://eur-lex.europa.eu/legal-content/En/ALL/?uri=celex%3A32008L0098>

countries, with serious concerns around health and safety and child labour. Low labour costs in Asian countries make the manual sorting of highly contaminated waste an economically attractive option. Until these social inequalities are reflected in the costs of recycling, a level playing field between the UK market and exporters will not be established.

*An investigation in Vietnam documented over half of the plastic imported “sold on to “craft villages”, where it is processed informally, mainly on a household scale. Informal processing involves washing and melting the plastic, which uses a lot of water and energy and produces a lot of smoke. The untreated water is discharged to waterways and around 20 percent of the plastic is unusable so it is dumped and usually burnt, creating further litter and air quality problems. Burning plastic can produce harmful air pollutants such as dioxins, furans and polychlorinated biphenyls and the wash water contains a cocktail of chemical residues, in addition to detergents used for washing. Working conditions at these informal processors are also hazardous, with burners operating at 260-400°C Workers have little or no protective equipment.”*³⁵

Similar concerns have been reported in Malaysia, with reports of plastics being openly burned and residents reporting of health complications, which make it difficult to ensure environmentally sound management, worker health and safety and can generate negative economic impacts.³⁶

We urge the government to consider guidelines contained in a practical manual drafted for the Secretariat of the Basel Convention related to the work programme of the Open-ended Working Group for 2018–2019: strategic issues: development of guidelines for environmentally sound management:³⁷

- *Separation at source is a basic element for EPR systems. Waste pickers can strengthen, or introduce, separate collection of products when they become waste. Where waste pickers are present, they should actively be provided with the opportunity to be included in the EPR collection systems in accordance with the rules governing each country; contributing their labour to improve the management of waste while including them socially.*
- *When including waste pickers, it is necessary to ensure ESM [Environmentally Sound Management], worker health and safety and to prevent child labour. The inclusion of waste pickers in cooperatives, associations and companies, and their training, should encourage their formalization.*
- *Waste pickers should not be involved in hazardous waste management, as it will make it difficult to ensure ESM and worker health and safety. However, for some hazardous waste EPR systems, waste pickers may be involved in separate collection, but exposure to hazardous substances should be prevented.*
- *Although the potentially positive contribution of the informal sector for collection and sorting activities is recognized, there are serious concerns about informal dismantling and recycling operations, which make it difficult to ensure ESM, worker health and safety and which can generate negative economic impacts.*

³⁵ <https://theconversation.com/heres-what-happens-to-our-plastic-recycling-when-it-goes-offshore-110356>

³⁶ <https://www.reuters.com/article/us-malaysia-waste/swamped-with-plastic-waste-malaysia-struggles-as-global-scrap-piles-up-idUSKCN1MZ0P4>

³⁷ UNEP, Open-ended Working Group of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal Eleventh meeting UNEP/CHW/OEWG.11/INF/7 Draft practical manuals on Extended Producer Responsibility and on financing systems for environmentally sound management

Additional measures might include:

- Implementation of requirements mandated by the Modern Slavery Act, with incorporation of additional recommendations made by the Independent Review of the Modern Slavery Act;³⁸
- Requirement for human rights due diligence to be performed and monitored throughout the waste supply chain, integrating and acting on the findings;³⁹
- Consult with expert organisations such as the Global Alliance of Waste Pickers to discuss the development of guidelines to inform health, education and social security schemes for those employed in the waste management sector around the world.⁴⁰

Part C: 9

A more transparent system

Q71 – 74

Accredited reprocessors should be required to report both financial information and non-financial information. The EU Non-Financial Reporting Directive requires non-financial disclosures concerning the following categories, which the UK could look to replicate:

- Environmental matters (pollution, energy usage, etc).
- Social and employee aspects
- Respect for human rights
- Anti-corruption and bribery issues
- Diversity on board of directors

In principle we support monthly reporting as a means of ensuring maximum transparency, and laud the ambition in this goal.

Q79

We urge the government to collect unit-based as well as tonnage data. Tonnage payments incentivize producers to reduce the weight of packaging, but this could lead to a shift into flexibles which are much harder to mechanically recycle. Examples from Europe show that existing (weight based) fee structures have led to a focus on light-weighting, which risks rewarding lighter but less recyclable materials.

Tonnage data skews data on recyclability. A 2018 survey of the UK's largest supermarkets found that the percentage of own brand single-use plastic packaging widely recyclable by weight ranged from 79% (Co-op) to 58% (M&S), with the mean average 66.2%, suggesting around a third of plastic packaging is not currently widely recyclable, using the On-Pack Recycling Label (OPRL) guideline definition. However, Co-op also measures the recyclability of plastic packaging on a per item basis, much lower at 55%. This difference is due to certain heavier items (such as plastic bottles) being more recyclable than more numerous but lighter weight items such as plastic films.

We also propose that the government considers the establishment of a clearinghouse or similar database wherein additives and other chemical inputs into plastic are made publicly available, with this information passed along the supply chain from producers to converter, and every step in between. In the report

³⁸

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/773372/FINAL_Independent_MSA_Review_Interim_Report_2_-_TISC.PDF

³⁹ <https://www.ungpreporting.org/framework-guidance/>

⁴⁰ For example, see https://globalrec.org/wp-content/uploads/2018/05/2018_aiw_SocialEntitlementManual.pdf

Considerations and Criteria for Sustainable Plastics from a Chemicals Perspective, prepared for the OECD, identifying the chemicals in plastics and creating a system for passing this information along the supply chain were considered priority actions.

Q82

We do not believe that compliance schemes should carry out their own audits of producers. We would support the use of third-party independent auditors to carry out this function, paid for through revenues raised by EPR fees.

Q83

We strongly support legally enforceable notices to obtain required information in order to ensure adequate reporting and accountability.

Q84

Producers who fail to meet their obligations under the EPR scheme could face import restrictions on their products. In April 2019, ten electronic giants, including Apple, Samsung, HP and Canon were barred from importing equipment for missing their e-waste collection targets under India's EPR scheme.

A draft practical manual on Extended Producer Responsibility was developed by UNEP for an Open-ended Working Group of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal. It recommends enforcement should ensure:

- A public register of producers is available and maintained in order to identify all producers including internet sellers and free-riders. All producers should be identified and required to take up their responsibility individually or through a PRO;
- There is no collusion between producers and that PROs are open to small and medium sized as well as large scale producers;
- Compliance with targets and other EPR system requirements;
- Transparency in terms of contributions paid by the producers, including the impact on sale prices
- Sound financial management of the EPR system, including calculation of the entire costs per type of product and the use of the funds collected;
- Quality of data and reporting;
- All waste management operators contracted by the EPR systems are compliant with applicable legislation;

Q86

We strongly agree that producers that fail to meet packaging recycling targets should be penalised and that the primary responsibility for meeting these obligations should fall on producers. Any penalties applied to producers should be sufficiently punitive to drive better behaviour.

In principle, we agree that compliance schemes should also be held to account for failure to meet targets, however before applying any penalty there should be analysis of the reasons for the failure, as it may be as a result of issues along the chain of compliance (for example an oversupply of hard-to-recycle material due to producers failing to adequately redesign their packaging in time).

Final comments

While we welcome this consultation as a highly encouraging first step we have a number of concerns, namely:

- A lack of substantive policy framework for driving an increase in reusable packaging or entirely packaging-free delivery systems
- A failure to hold producers to account for the environmental impact of material use at all stages of a products' life cycle

- A less-than-clear strategy for ensuring that new policies introduced through these consultations is subject to appropriate oversight and are not managed entirely by industry, who have historically failed to police themselves when engaging in fraudulent or negligent practice

These concerns are heightened in Northern Ireland, where the political impasse creates the potential for policy stagnation and a further divergence of standards between NI and rest of the UK.