

# Reforming Extended Producer Responsibility to deliver a circular economy

*April 2023*

The Department for Environment, Food and Rural Affairs (Defra) held a recent ‘sprint’ process which mapped out a vision for packaging Extended Producer Responsibility (pEPR) 10 years from now. We note that the sprint team have captured summaries of the discussions and concepts generated through the sprint group workshops and created a vision overview. This consists of an overarching vision statement of “creating a world class packaging system across the UK which creates resource efficiency through a circular economy resulting in minimal environmental impacts, alignment to net zero and other environmental goals.” To achieve this, four key enablers were highlighted:

- Holistic representative governance
- Ensuring performance through whole of system accountability
- Creating the right infrastructure
- Empowering citizens to make the right decisions.

We believe that these laudable goals will only be achieved through stronger policies to enable their delivery as well as alternative ways of measuring their success. Each of these areas requires greater ambition, particularly in order to promote increased reuse/refill as opposed to just greater recycling.

## **HOLISTIC REPRESENTATIVE GOVERNANCE**

The Scheme Administrator will play a crucial role in achieving the outcomes of pEPR and must be empowered to deliver a substantial shift towards greater resource efficiency, enabled by reusable packaging systems. In the pEPR consultation in 2021, the Government sought views on whether a “requirement should be placed on producers, delivered through the Scheme Administrator, to proactively support market development and the commercialisation of reuse systems, through direct funding and to encourage their adoption through modulated fees”. Disappointingly this is not being taken forward under the initial pEPR roll-out, however we would strongly urge the government to use this sprint process to consider again how the Scheme Administrator can proactively support reuse/refill systems in the future.

We note that concerns were raised about the Scheme Administrator proactively supporting reuse systems in the Summary of Responses to the pEPR consultation:

- **Scope of the Scheme Administrator:** It was stated that there were concerns the proposal is “beyond the scope of the SA’s functions”.<sup>1</sup> We strongly oppose this view and believe that the scope of the Scheme Administrator’s functions should extend to proactively promoting

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<sup>1</sup> p.64 [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1063589/epr-consultation-government-response.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1063589/epr-consultation-government-response.pdf)

reuse/refill. While the Scheme Administrator may not possess the expertise to manage reuse/refill systems itself, in providing financial support for the development and commercialisation of these systems the Scheme Administrator could enable retailers and producers to better deliver in this area. Retailers and the HORECA sector are already exploring the potential of reuse systems so effective policies, which send a clear signal of intent from Government, could hugely boost this trend. The Scheme Administrator is central to pEPR's success or failure in meeting its targets, including the proposed target on reuse/refill. As such, it should be prepared to use the financial means it has available to promote activities which deliver this.

- **Need for further research:** It was noted that some respondents were concerned that additional assessments of hygiene, investments and environmental impacts should be undertaken but the "SA should not lead on this." We believe that additional analyses of the hygiene and environmental aspects of reuse systems should not be a barrier to their uptake at this stage. Research is already being undertaken in the UK<sup>2</sup> and reuse/refill schemes are already operating effectively around the world; a trend that will accelerate with the EU progressing plans for reuse targets.<sup>3</sup> In Germany, for example, a high percentage of bottles are refilled in a system which ensures they are reused up to 50 times.<sup>4</sup> The benefits of reuse/refill are well established<sup>5</sup> and additional assessments cannot be allowed to delay Government action through pEPR.

Regarding the design of the Scheme Administrator, we acknowledge there is a contentious issue regarding whether it should be a public or private sector organisation, with the Government maintaining its position that it will be in the public sector. We understand the merits of both approaches and would urge that the focus remains on the Scheme Administrator delivering the benefits of the pEPR reforms. Clear targets and accountability with penalties for failing to meet the scheme's requirements must remain the central purpose of the Scheme Administrator, regardless of whether it is a public body or industry-led. We would also welcome the involvement of representatives from the eNGO sector in a stakeholder/advisory capacity to ensure the continued environmental ambition of the scheme.

## **ENSURING PERFORMANCE THROUGH WHOLE OF SYSTEM ACCOUNTABILITY**

### ***Reuse targets***

With the EU progressing plans for reuse targets,<sup>6</sup> establishing similar or even more ambitious targets in the UK will be essential to avoid falling behind our closest trading partners on environmental

<sup>2</sup> <https://grantham.sheffield.ac.uk/research-projects/many-happy-returns-plastic/>

<sup>3</sup> <https://www.reuters.com/business/sustainable-business/eu-sets-recycling-reuse-targets-cut-packaging-waste-2022-11-30/>

<sup>4</sup> <https://www.dw.com/en/how-does-germanys-bottle-deposit-scheme-work/a-50923039>

<sup>5</sup> See [https://www.reloopplatform.org/wp-content/uploads/2020/12/zwe\\_reloop\\_executive-summary\\_reusable-vs-single-use-packaging\\_-\\_a-review-of-environmental-impact\\_en.pdf](https://www.reloopplatform.org/wp-content/uploads/2020/12/zwe_reloop_executive-summary_reusable-vs-single-use-packaging_-_a-review-of-environmental-impact_en.pdf)

<sup>6</sup> <https://www.reuters.com/business/sustainable-business/eu-sets-recycling-reuse-targets-cut-packaging-waste-2022-11-30/>

regulations. It has previously been confirmed that reuse targets will be consulted on for EPR in its second year of operation.<sup>7</sup>

These targets must be ambitious, ideally aiming for 100% reusable packaging for some sectors (effectively a ban on single use items). This is achievable in sectors including:

- Eat-in food and drink
- Toiletries and single service condiments in hotels
- Consumer boxes for large white goods

Overall targets should aim for:

- At least 25% of consumer packaging being reusable by 2025, increasing to 50% by 2030.
- At least 75% of transit (or secondary and tertiary) packaging being reusable by 2025, increasing to 90% by 2030.

Further, the scheme would clearly benefit from greater clarity of purpose with regards to cutting resource use if the Government adopted a legally binding resource-related target. We have advocated for a target for halving resource consumption by 2030.<sup>8</sup> This target is ambitious but necessary as it would help drive action to address the biodiversity, climate, pollution and waste crises, starting the process of bringing UK material consumption down to sustainable levels and within our fair share of planetary means.<sup>9</sup> It would send a clear message across all Government departments, the private sector and to the public.

### ***Addressing the wider material footprint of consumption***

At present, pEPR reforms fail to account for the wider material footprint of our packaging consumption. As EPR schemes in the UK evolve, the Government should consider how wider environmental and social costs could be internalised into the scheme to inspire design for reduction and reusability, as well as sustainable sourcing (with different standards depending on the packaging material). These wider environmental and social costs associated with global packaging supply chains and material flows are not currently acknowledged by the proposed system, but they can have serious and harmful effects on the environment and people in the UK and around the world. This applies to all materials used for packaging.<sup>10</sup>

While there is a long way to go with improving supply chain transparency, monitoring and data collection to enable this, the future vision for EPR can and should include an ambition to go beyond incentivising recyclability and to tackle the UK's overseas impacts related to packaging material sourcing. Government should require businesses to start the journey of understanding the impacts of their material consumption as part of tackling scope 3 supply chain emissions.

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<sup>7</sup> Former Waste Minister Jo Churchill MP explained that with EPR “we want to get people to use less, so reducing consumption, and to reuse items as much as we can... As it stands, we will consult on reuse targets by 2025, but we are very much in that work phase at the moment.” <https://committees.parliament.uk/oralevidence/10190/html/>

<sup>8</sup>See [https://www.wcl.org.uk/docs/Environment\\_Act\\_targets\\_consultation\\_response.pdf](https://www.wcl.org.uk/docs/Environment_Act_targets_consultation_response.pdf)

<sup>9</sup> [Thriving within our planetary means full report.pdf \(wwf.org.uk\)](https://www.wwf.org.uk/sites/default/files/2021-12/UK_Global_Packaging_Materials_Footprint.pdf)

<sup>10</sup> [https://www.wwf.org.uk/sites/default/files/2021-12/UK\\_Global\\_Packaging\\_Materials\\_Footprint.pdf](https://www.wwf.org.uk/sites/default/files/2021-12/UK_Global_Packaging_Materials_Footprint.pdf)

## CREATING THE RIGHT INFRASTRUCTURE

### **Reuse**

Discussions about creating the right infrastructure tend to focus on improving recycling. However, the vision overview arising from the sprint process notes the need for “increased investment in reuse infrastructure”. This is clearly a necessity for shifting consumption patterns, allowing consumers to make the switch to affordable and accessible reuse systems. However, the vision overview does not specify who will deliver new infrastructure.

Alongside other policy mechanisms such as investment subsidies and fiscal incentives, we believe that pEPR can play a central role in funding these essential investments. The scope of “necessary costs” covered by pEPR should include financing a transition towards reusable/refillable packaging systems. This transition will require upfront costs related to infrastructure and design which should be financed by packaging producers; these firms have profited from our polluting single-use packaging systems and they must help finance our transition to a more sustainable system.

‘Necessary costs’ could support a variety of expenses linked to emerging reuse systems. These could include the purchasing of reusable takeaway containers, supporting innovation in reuse (such as improved reusable container design), or more effective communications to drive changes in consumer behaviour. The Scheme Administrator could also support the adaptations required within supply chains to transition to reusable packaging systems.

This principle has been adopted elsewhere. Indeed in France, the ‘anti-waste law for a circular economy’ allocates 5% of certain EPR scheme funds, totalling 50 million Euros a year, towards reuse schemes. These funds are intended to “make it possible to develop reuse and thus limit the wastage of thousands of tonnes of objects. By developing reuse networks, this will also contribute to job creation.”<sup>11</sup>

We note that concerns about market competition linked to this policy were raised in the Summary of Responses to the pEPR consultation. It noted concerns “*that the proposal raised competition issues, specifically market manipulation, and that it could therefore be anti-competitive. Some respondents felt that requiring the packaging supply chain to promote a refillable / reusable packaging system that undermined its core business proposition would be ‘perverse’.*” This argument is highly flawed and could be made against any environmental tax or regulation which seeks to drive change in a specific sector. While there is little direct hypothecation in UK taxation, it is reasonable for an industry to face charges which are then distributed to more environmentally friendly alternatives (levies on oil and gas profits may be used to subsidise renewable power for example). To achieve greater uptake of reuse/refill we will require a shift in the market and responsible businesses should embrace this change.

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<sup>11</sup> [https://circulareconomy.europa.eu/platform/sites/default/files/anti-waste\\_law\\_in\\_the\\_daily\\_lives\\_of\\_french\\_people.pdf](https://circulareconomy.europa.eu/platform/sites/default/files/anti-waste_law_in_the_daily_lives_of_french_people.pdf)

Furthermore, we welcome the recent Competition and Markets Authority consultation on draft guidance on the application of the Chapter I prohibition in the Competition Act 1998 to environmental sustainability agreements between actual or potential competitors.<sup>12</sup> Eliminating competition barriers will enable more meaningful industry co-operation when exploring the most beneficial shifts to reuse and refill systems.

### ***Waste exports***

Recognising that recycling has a role to play in a successful circular economy, improved mechanical recycling infrastructure is needed to boost domestic recycling capacity and to drive down the UK's reliance on waste exports while avoiding more waste being sent to domestic landfill and incineration.

Through EPR modulated fees, there is a clear opportunity to incentivise recovery and reprocessing of packaging waste within the UK versus continuing to rely on exporting waste for treatment. For too long, the cost of Packaging Export Recovery Notes (PERNs) has been favourable versus domestic Packaging Recovery Notes (PRN), giving rise to a system where, despite asking for increased investment, UK recyclers have to compete with volatile prices and a market-based policy instrument that incentivises waste exports. This issue is especially acute given plastic waste is exported to countries which result in said exports being mismanaged, creating environmental and human health harm, in addition to resulting in recycling capacity displacement in recipient countries. And even with the expected consultation to ban plastic waste exports to non-OECD countries, which in 2022 only accounted for 9% of UK plastic waste exported, OECD countries, such as Turkey and certain EU Member States, will continue to be recipients of our waste despite the thoroughly documented harm these exports create.<sup>13</sup> In line with the recent EFRA Committee recommendations, the Government should consider banning plastic waste exports, including plastic packaging. Other packaging waste intended for export must be priced at a much higher rate than waste intended for domestic recycling or recovery.

However, it is unlikely this financial disincentive will switch off exports for waste other than plastic completely, in part due to lack of capacity in the UK.<sup>14</sup> By incentivising domestic waste processing demand, businesses will have greater confidence to invest in domestic capacity, especially for closed loop recycling. And this will be further incentivised by the proposals to increase the evidence and greater due diligence relating to exports including via the Government's proposed mandatory digital waste tracking, forcing businesses to tighten up their processes and ensure materials are dealt with responsibly wherever they end up. It is currently unclear whether there will be a genuine economic incentive to make domestic waste reprocessing more favourable than exporting waste. We call for

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<sup>12</sup> [https://www.wcl.org.uk/docs/assets/uploads/WCL\\_CMA\\_competition\\_guidance\\_consultation\\_response.pdf](https://www.wcl.org.uk/docs/assets/uploads/WCL_CMA_competition_guidance_consultation_response.pdf)

<sup>13</sup> For more information on the problems with relying on recycling capacity in OECD countries, see [EIA report\\_0208.qxd \(eia-international.org\)](#)

<sup>14</sup> For more on waste exports see the Link response to the UK Plan for Waste Shipments which called for a number of reforms including a UK-wide threshold for waste contamination of 0.5% and a ban on all plastic waste exports outside of the UK <https://www.wcl.org.uk/docs/Consultation%20Response%20-%2001.03.2021%20-%20UK%20Plan%20for%20Waste%20Shipments%20.pdf>

the UK Government to undertake an urgent modelling exercise to understand at what level the fees need to be set in order to achieve this objective for all packaging materials, alongside considering a phasing out of all plastic waste exports from the UK and ensuring plastic waste retained is treated according to the waste hierarchy (i.e. not resulting in increased incineration of plastic waste).

## **EMPOWERING CITIZENS TO MAKE THE RIGHT DECISIONS**

### ***Modulated fees***

It is imperative for reusable packaging to be treated favourably under EPR modulated fees to incentivise reuse and refill systems. Modulated fees could support 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. It is clear that both the Government, through policy choices, and the Scheme Administrator, through funding and modulated fees, have key roles to play in levelling the playing field and enabling systems innovation, thereby giving the adoption of reusable packaging by consumers the best possible chance of success.

The Government's position appears to be that reusable packaging is already incentivised due to needing to pay a fee only once. However, if modulated fees are based on weight, reusable packaging will inevitably incur higher fees due to requiring more material to ensure they're sufficiently robust to withstand multiple uses. Therefore, we believe that this could go further and deliver very-low/zero fees as a more effective incentive, as per the Fostplus scheme in Belgium where reusable packaging is exempted.<sup>15</sup> In tandem with ambitious reuse targets, this can be a key driver for systems change.

We note that concerns were raised in the previous consultation that "a large and costly administrative burden may result from having the SA use modulated fees as an incentive for reuse/refill systems." We would argue that this should not be an undue burden on the Scheme Administrator, which should already be collecting and analysing information on reuse/refill in order to monitor the scheme's reuse targets.

### **Funding for waste/litter collection**

Increased public confidence in the function of our packaging waste systems and higher recycling and reuse rates can be supported through greater funding for management of ground packaging litter. The Government initially estimated £200m of 'necessary costs' for the management of bin and ground packaging litter through pEPR, however ground litter costs have now been dropped from the scheme.

However, we welcome the work Defra is undertaking to analyse street bin composition and would urge that these distinct payments are introduced as soon as is reasonably practicable. An ambitious EPR scheme must ensure that the scope of "necessary costs" of waste includes costs of activities

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<sup>15</sup> <https://rethinkplasticalliance.eu/wp-content/uploads/2021/08/Ecologic-report-EPR-and-ecomodulation-August2021-1.pdf>

such as litter collections in parks, as these are ultimately necessitated by the large amount of highly litterable packaging being placed on the market and inadequate “binrastructure”, especially for capturing on-the-go packaging. Although some packaging producers argue that they should not be liable for these expenses, the ‘prevention at source’ principle should apply to this issue, whereby those who place these items on the market and, in doing so, profit from their sale, are responsible for the resulting environmental and societal harm.

## Conclusion

The environment sector remains supportive of pEPR and we hope to see it delivered in-full and on time next year. We are dismayed by industry lobbying claiming that the scheme will produce an extra cost to the public of £1.7bn a year. This obscures the fact that this is not a new cost but rather a long overdue transfer of recycling costs from taxpayers and households to the producers of packaging. Further, we welcome Defra’s pushback on claims from industry that pEPR will add £60 a year to household food costs.<sup>16</sup> Defra has rightly noted that this figure assumes that all costs would be passed directly to consumers, however when producers use more recyclable or reusable packaging they could reduce their fees under pEPR.<sup>17</sup> And while a small cost may be passed to consumers, this must be balanced against their local authority having its costs covered for packaging waste services.

Notwithstanding the above, and although a welcome step in the right direction, pEPR in its current form will fail to adequately address future environmental challenges. The current scheme design is symptomatic of how waste policies lack a focus on reducing overall resource consumption by increasing resource efficiency, for example, through incentivising reuse. Indeed, in its present form pEPR is squandering the potential environmental, economic and social benefits of the scheme. However, we welcome that policymakers continue to consider what further short- and longer-term benefits the scheme can deliver.

It will take greater ambition from the Government to tackle the UK’s consumption patterns of “take-make-use-dispose” which perpetuate our high levels of resource consumption and waste creation. pEPR and future EPR schemes for other waste streams could deliver transformational change if designed in the right manner.

We understand that it remains the Government’s intention that by 2025 action will also be taken on EPR for:

- Electrical and electronic equipment
- Batteries and end of life vehicles
- Bulky waste (which includes furniture)
- Certain materials in the construction and demolition sector

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<sup>16</sup> Defra rejects call to pause EPR over cost of living fears - letsrecycle.com

<sup>17</sup> <https://www.wastepackgroup.co.uk/2022/08/11/defra-rejects-pause-to-epr-over-cost-of-living/>



- Vehicle tyres
- Textiles
- Fishing gear

These proposals must be delivered at pace alongside EPR on other items such as tobacco filters.<sup>18</sup> While pEPR is crucially important, Defra appears bogged down by various external factors seeking to stall pEPR implementation to the detriment of tackling other high waste sectors. The Department must be granted the resources and Ministerial support necessary to deliver this programme of work to extend the polluter pays principle across the economy.

Beyond pEPR, incentivising reuse can be a central aim of future EPR proposals. We welcomed the suggestion in the draft Waste Prevention Programme to direct future EPR funds to reuse/repair activities, including the setting up of ‘circular economy hubs’ which could promote activities that keep materials in use and support local councils achieve their net zero commitments.<sup>19</sup> However, this must be done in the right manner and the Waste Prevention Programme provides little information on how these schemes would operate in practice. If ‘circular economy hubs’ are to be effective they must do more than simply provide guidance and become local powerhouses in promoting and supporting shifts in citizen behaviour.

Finally, we believe that pEPR will only be successful if delivered alongside the full suite of Government waste reforms; Deposit Return Scheme, Consistency and the Plastic Packaging Tax. As it currently stands, pEPR will assist in delivering packaging which is better designed for recyclability and it is essential that the wider financial and physical infrastructure is in place to ensure that this results in the necessary increases in recycling rates. Prioritising improvements in mechanical recycling infrastructure over alternative recycling processes is central to this.

pEPR presents a huge opportunity to address both the upstream and downstream environmental damage caused by the packaging sector. Tackling the UK’s high levels of waste is essential for cutting greenhouse gas emissions, reducing the global biodiversity loss linked to UK consumption, and addressing marine and terrestrial pollution.<sup>20</sup> Action to shift consumption away from single use packaging will be crucial for meeting the Government's legally binding target to halve residual waste by 2042, and to meet the future resource related target.<sup>21</sup>

*Wildlife and Countryside Link (Link) is the largest environment and wildlife coalition in England, bringing together 70 organisations to use their strong joint voice for the protection of nature. See <https://www.wcl.org.uk/about.asp> For questions or further information please contact Matthew Dawson, Resources and Waste Policy Officer, Wildlife and Countryside Link E: [matthew@wcl.org.uk](mailto:matthew@wcl.org.uk)*

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<sup>18</sup> As suggested in a recent Call for Evidence [https://consult.defra.gov.uk/environmental-quality/call-for-evidence-on-commonly-littered-and-problem/supporting\\_documents/Call%20for%20evidence%20document.pdf](https://consult.defra.gov.uk/environmental-quality/call-for-evidence-on-commonly-littered-and-problem/supporting_documents/Call%20for%20evidence%20document.pdf)

<sup>19</sup> [Circular economy | Islington Council](#)

<sup>20</sup> See [https://www.wcl.org.uk/docs/assets/uploads/WCL\\_The\\_case\\_for\\_reuse\\_final.pdf](https://www.wcl.org.uk/docs/assets/uploads/WCL_The_case_for_reuse_final.pdf)

<sup>21</sup> Targets: [https://consult.defra.gov.uk/natural-environment-policy/consultation-on-environmental-targets/supporting\\_documents/Resource%20efficiency%20and%20waste%20reduction%20targets%20%20Detailed%20evidence%20report.pdf](https://consult.defra.gov.uk/natural-environment-policy/consultation-on-environmental-targets/supporting_documents/Resource%20efficiency%20and%20waste%20reduction%20targets%20%20Detailed%20evidence%20report.pdf)