

Belfast City Council response to the UK Government (Defra via DAERA) consultation on Extended Producer Responsibility for packaging (June 2021)

1.0 INTRODUCTION

Belfast City Council (BCC) in terms of population (334,000) is the largest Council within N.Ireland. It is comprised of 10 District Electoral Areas, represented by 60 councillors.

The Corporate Plan 2020-24 incorporates the priorities of the Belfast Agenda, the community plan for Belfast which was developed by the Belfast Community Planning Partnership. It sets out a shared vision and associated outcomes for the city. The corporate plan focuses on five key pillars plus several cross-cutting priorities;

- Growing an inclusive economy
- City development
- Working and learning
- Living here
- Resilience and sustainability

Resources and waste management have a significant role to play in achieving a number of these aims through the potential for job creation, combined with a positive environmental impact. The Council is pleased to have an opportunity to comment on the proposals on Extended Producer Responsibility for Packaging (EPR) and we trust that our comments will be taken into account when developing the final proposals.

2.0 GENERAL COMMENTS

BCC welcomes this consultation on an Extended Producer Responsibility scheme for Packaging. This is one of two consultations¹, which collectively represent the biggest change in UK Waste Management practices in a generation. This will have profound implications upon BCC' waste activities and particularly on the financing of collection arrangements and revenue arising from the sale of recyclables.

We welcome the premise of this consultation which is to ensure “*producers pay the full costs of dealing with the waste packaging they produce*”. The original producer responsibility scheme had flaws and did not support the principles of producer paying for the full costs, and that the benefits should be spread across all stakeholders. We are pleased to note that this new EPR scheme is focusing more clearly on addressing this shortfall to ensure that it is fairer for all stakeholders.

The consultation has much to commend it in progressing the development of a Circular Economy and should be viewed as an opportunity. The aim of placing the cost burden on producers with the expectation that this will cause them to question whether their packaging is necessary, could be reduced, or not used at all is sound.

Indeed, adopting a Circular Economy lens, we would suggest that DEFRA/DAERA should consider adopting an EPR approach to all items placed on the market. In this manner, all

¹ The other consultation is called “*Introduction of a Deposit Return Scheme in England, Wales & Northern Ireland*”

producers, retailers etc. would be encouraged to explore new models to ensure that items were (i) less polluting, less disposable (ii) lasted longer, were more easily recoverable, repairable, and recyclable. It would also reduce the burden that councils face in treating and disposing of residual waste.

BCC notes that the position in Northern Ireland continues to be different from the situation prevailing in England in a number of regards (e.g. market conditions, base costs, adjacency with another jurisdiction and EU member state, council functions &c.) Given that the EPR, Deposit Return Scheme (DRS) and “Consistency” consultations are likely to have a considerable bearing on the evolution of household and business recycling collections in England and by default the supply chain economics applied by the supermarket chains, there may be unintended consequences which impact on Northern Ireland. Taking the above into consideration, it may be necessary for further amendments to be made to the EPR scheme to ensure it best delivers for NI.

Given the devolved administration’s role and responsibility in this matter it would be helpful if the Scheme Administrator’s economic impact assessment contained costs pertinent to each devolved administration area.

At the outset it should be noted that several pieces of policy are referenced in or are otherwise pertinent to the consultation document which have not been finalised within the context of Northern Ireland waste strategy or legislation including:

- The NI Waste Management Strategy “*Delivering Resource Efficiency*” (2013) has not yet been updated
- The Materials Recycling Facility – Code of Practice was consulted upon (2015) but an outcome has not yet been finalised
- The draft Industrial Strategy for Northern Ireland was consulted upon (2017) but an outcome has not yet been finalised
- The Waste Management Plan (2019) has been completed but is expected to be overhauled as part of the Northern Ireland Environment Strategy
- The Northern Ireland Environment Strategy consultation has been completed (Feb 2020) but an outcome has not yet been finalised
- The Discussion on the “*Future Recycling and Separate Collection of Waste of a Household Nature in Northern Ireland*” has been completed (Oct 2020) but the next step has not been announced²

We trust that DAERA and other Departmental colleagues are using their good offices to ensure that the outstanding policies and strategies stated above are finalised as soon as possible.

Although we acknowledge that COVID -19 and Brexit has required a government focus and has resulted in delays in policy delivery, the lack of clarity arising locally from this policy vacuum presents difficulty in fully replying to the current consultation.

² It is recognised that many items in this discussion document parallel the recently released “*Consultation on Consistency in Household & Business Recycling Collections in England*”. It is further recognised that the next stage of consultation by DAERA on this subject is likely to have to determine what constitutes a “*Technically, Economically & Environmentally Practicable*” (TEEP) assessment for the purposes of future planning for waste collection purposes.

3.0 BCC POSITION ON AN EXTENDED PACKAGING PRODUCER RESPONSIBILITY SCHEME

BCC welcomes the opportunity to respond to this consultation piece on EPR. The Council is fully committed to delivering its statutory duty and over the years has introduced new recycling arrangements, improved its services to the public and is using waste materials and recycling services as a springboard to extending the Circular Economy locally. The introduction of EPR funding should assist this agenda. In 2019/20, the Council recorded its highest ever household recycling rate figure of 45%.

BCC is open to adjusting and restructuring its waste services in light of legislative changes, but this needs to be a two-way conversation, shaping both existing waste services and an EPR scheme in light of what is feasible, effective and desirable. The wider regional context will need to be considered in shaping this policy including the regional infrastructural requirements and the specific circumstances surrounding decision-making within the devolved administration of Stormont.

As a council, a key player in the operation of a successful EPR scheme, it is imperative that we are afforded our fair share of resources arising from any proposed changes, and that we do not fall foul of a shift in practice which may extract high value recyclables from the system, leaving councils to collect only lower value or difficult to recycle or non-recyclable items. Direct lines of communication and financial mechanisms must be set up directly between the Scheme Administrator and BCC in the event of these proposals being taken forward.

BCC is broadly in agreement with the governing principles and outcomes of the EPR scheme as set out on pages 26 -28 of the consultation document. We particularly welcome the intent to develop a more coherent system, to incentivise businesses and to have the full net cost of managing packaging borne by producers.

On councils discharging their statutory duty regarding the requirements of the Circular Economy Package (CEP), BCC would welcome guidance on how the EPR regulations will align with the CEP requirements and timetable to collect additional materials at the kerbside (textiles, hazardous waste).

In terms of the consultation document specifically, the summary indicates that those placing unrecyclable packaging on the market will pay for the privilege through modulated fees to encourage them to make the packaging more recyclable, or to encourage them to invest in infrastructure to treat this packaging. It is preferable that greater emphasis is given to delivering the former objective rather than continue to produce unrecyclable or difficult to recycle packaging. Ultimately, following this course may have to result in some packaging types being subject to new taxes (as per the soon-to-be-introduced Plastic Packaging Tax), threatened with a ban, or banned outright. This would ultimately support Section 1.13 – *“it is important that quality does not reduce but is enhanced”* – thereby encouraging opportunities for greater levels of domestic reprocessing and reducing the reliance on export markets.

Section 1.14 identifies that producers should self-assess the recyclability of their own packaging, which sounds less than ideal but it is proposed later in the consultation document that the Scheme Administrator will determine the criteria for self-assessment. BCC would

highlight that monitoring and reporting on this activity must be delivered with appropriate sanctions as recent examples on similar activity from the UK enforcement agencies highlight where objectives have not been met, or indeed have faltered and fallen back.

BCC supports the proposal that producers of commonly littered packaging should be responsible for its management. It can be anticipated that some producers will argue that they do not litter and should not be responsible for the activities of their customers. Producers paying for the communications/education campaigns required to bring about the desired behavioural change will assist in this regard.

The 2023 target date is ambitious and masks a considerable workload but is a positive intention but slippage is a distinct possibility.

Plastic film & flexible packaging and how it is treated in future are an important aspect of the EPR consultation. Ultimately, this packaging should not be placed on the market if it is unrecyclable and those producers that place it on the market should be fully responsible for funding the sorting and reprocessing infrastructure in advance of the proposed 2026/7 date. Similarly, bio-degradable, bio-based & compostable plastic packaging is not considered recyclable because of the continued difficulties in recovery and reprocessing. This makes sense as it is confusing for consumers, detrimental to the environment when disposed of inappropriately, as well as being potentially harmful to existing recycling and composting infrastructure.

Payment for the management of packaging waste from households is long overdue and BCC welcomes the intention that councils will be appropriately financially compensated by producers for collecting packaging waste within their waste streams including littering waste and residual waste.

BCC recognises the important reference to “*system outcomes*” and the need for additional local reprocessing capacity where feasible to drive the circular economy and negate the associated costs of shipping waste across the water to alternative treatment points.

4.0 RESPONSES TO CONSULTATION QUESTIONS

IMPORTANT - Question numbers

The questions are numbered as appear in the written consultation document and not as they are numbered in the consultation software.

Questions 1-5 are administrative (pages 19&20)

Q1. Your name?

Brendan Murray

Q2. Your email address?

wasteadmin@belfastcity.gov.uk

Q3. Which best describes you?

Belfast City Council – Local Government

Q4. Would you like your response to be confidential?

No

Q5. Would you like your contact details to be added to a user panel for EPR so that we can invite you to participate in user research or to test digital services as they are designed and built?

Yes

Principles, Outcomes and Targets

Q6: Do you agree or disagree with the proposed framework for setting packaging targets? (P30)

BCC broadly supports the proposed framework, but would draw attention to a number of points. Firstly, in terms of the scope of materials included in the EPR scheme, should the DRS scheme be deferred the government should give serious consideration to including these DRS materials within the scope of the EPR scheme until DRS launch.

Secondly, the discussion document on the future collections systems for Northern Ireland (2020) has not yet concluded. This is impacting on BCC contracts and it would assist the transition in a timely and controlled manner if this could be progressed as a matter of urgency.

Thirdly, the absence of a Materials Recycling Facility (MRF) code of conduct for Northern Ireland adds to the lack of clarity regarding operation of the EPR scheme here.

Finally, the consultation document suggests that closed loop recycling targets should be material specific. Given that there is a lack of infrastructure for some materials (namely plastic), this should be addressed appropriately in order to introduce circularity for this material stream. The incentives and disincentives in this consultation should drive producers

to invest in the infrastructure to meet the targets but this will need to be monitored to ensure that material collected is not being unnecessarily junked.

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? (P32)

Agree - This approach would appear to give the businesses impacted some level of consistency during the change from the current producer responsibility system to the new extended producer responsibility system.

Q8: Do you agree that the recycling target to be met by 2030 for aluminium could be higher than the rate in Table 3? (P36)

Agree. Once the outcome of discussions on the future collections for Northern Ireland is published, and contracts amended accordingly, there should be scope to increase the aluminium recycling rate.

Q9: Do you agree or disagree with the proposed minimum target to be met by 2030 for glass set out in Table 3? (P36)

Unsure as the impact of the two DRS schemes being introduced in the UK is unknown at present. The manner in which councils collect glass (bottles and jars) is likely to be influenced by the introduction of EPR and DRS which propose different payment mechanisms for their capture of these items as separate streams.

A specific point of note for DAERA to consider is the potential impact of fraudulent activity arising from differences in the proposed DRS for Northern Ireland versus that drafted for the Republic of Ireland (ROI). The ROI scheme is not proposing to include glass, which could see glass migrating from south to north, potentially for financial gain. It will be vital to ensure that packaging producers are supported by Government in both jurisdictions to prevent fraudulent glass “returns” being made.

Q10: What should the glass re-melt target for 2030 for non-bottle packaging be set at? (P37)

BCC recommends that incentives be explored, such as the plastic packaging tax, aimed at encouraging closed loop glass recycling, however the re-melt target is best advised in consultation with the industry sector.

Q11: Do you agree or disagree with the proposed minimum target to be met by 2030 for plastic set out in Table 3? (P37)

Agree. BCC considers that work will be needed to improve the collection and recycling of film and flexible plastic packaging – not least encouraging investment in infrastructure and new collection services as part of the “Consistency” approach. Additionally, clear labelling and communication/education campaigns will be required to highlight to consumers the different types of plastic and how to recycle these materials.

Q12: Do you think a higher recycling target should be set for wood in 2030 than the minimum rate shown in Table 3? (P38)

Unsure - Although a 1% increase in the target seems to be unambitious, the potential for unintended consequences of drawing material away from other markets and potentially having a negative impact on reuse, in this area of work is accepted.

Further work should be undertaken to understand how feasible higher recycling rates might be, and then maybe then higher targets might be able to be set.

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? (P38)

Unsure –BCC agrees that wood packaging waste should be sent to the most environmentally beneficial use, including longer term applications. We suggest that the cross-sector working group explore this option of sub-targets.

Q14: Do you agree or disagree with the proposed minimum target to be met by 2030 for steel set out in Table 3? (P39)

Agree - Once clarity is attained on the outworking of the EPR and the Future of Recycling in NI consultations, and contracts awarded accordingly, it should be possible to increase the recycling figure for steel when aligned with a targeted and ongoing communication campaign at more intensive levels than previously encountered.

Q15: Do you agree or disagree with the proposed minimum target to be met by 2030 for paper/card set out in Table 3? (P39)

Agree. BCC recognises that work will need to be undertaken to review the mixed grade protocols which monitor changes in the mix of packaging and non-packaging paper. Given that services for paper are already mature any increase in paper recycling will require targeted and ongoing communications at levels much higher than there has been previously

Q16: Do you agree or disagree with the proposal to set recycling targets for fibre based composites? (P41)

Agree. If Government considers that further to finalising the report (Section 4.40) and that the data gathered for 2022 and 2023 supports such an approach, BCC would consider that fibre-based composites would need to be subject to targets. Targets should be set at a level that drives investment in the development of UK-wide reprocessing infrastructure.

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? (P43)

Agree. BCC believes that adopting a closed loop approach, where feasible, best supports development of a Circular Economy, ensures best environmental outcomes and aligns with the NetZero Carbon Reduction targets. This is predicated on ensuring that “*quality*” is clarified, with agreed materials standards, particularly given the link to payments to waste management services providers. It is a sensible approach for Government to assess the impact of the introduction of these new measures before additional targets are introduced.

Q18: Please indicate other packaging material that may benefit from closed loop targets. (P43)

BCC is of the view that the list of such materials may develop over time, as technology and infrastructure develops; as such it will be necessary to keep this area under review.

Producer Obligations for Full Net Cost Payments and Reporting

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?

Agree. BCC believes that this is the most suitable place in the supply chain to apply compliance. We believe the seller may be in less of a position to drive better product design than the brand owner.

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)?

BCC is not aware of situations that the proposed approach would not cover.

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?

Option 3. This option appears to be the least complex most easily understood system. In the face of such drastic change to the resource management and recycling arrangements in the UK, this would be preferable as a 'starter' system. Should it become evident further down the line (further to review), that a more complex system would be more effective and/or better protect small businesses, then the Scheme Administrator should be permitted to make amendments to the system.

Q22. If either Option 2 or Option 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. BCC considers that the additional complexity, and resulting administration/enforcement accompanying a lowering of the de-minimis threshold would suggest the case for reduction is fairly weak. Again however, once the new system becomes established, and as the UK ambitions towards the Circular Economy and zero waste advance, this could be reviewed.

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

Yes. This material should be within the scope of the EPR system. It will be collected and treated/disposed of in the UK and therefore UK local authorities are currently bearing the waste management cost associated with this packaging. Therefore, to follow through on the polluter pays principle and the concept of full net cost recovery, operators of online marketplaces must be obligated in the EPR system.

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

Unsure

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 Inline Marketplaces developing a methodology by the start of the 2022 reporting year (January 2022)?

Yes. BCC considers that the timeline is challenging and is only likely to be achieved if it receives accelerated legislative passage and significant support from the likes of the Scheme Administrator which is unlikely to be available given that they will only just have been appointed (assuming procurement and appointment proceeds as planned). It is possible that Online Marketplaces are already collaborating but proposed date provides no room for slippage.

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)

Unsure. We are aware that in the course of the normal manufacture of certain products (i.e. food, dairy, drink) there would be cross border movement between N.I and ROI and, given that Northern Ireland is still operating within the context of EU legislation as well, this situation may also be subject to consideration within the NI Protocol.

Q27: Do you agree or disagree that the allocation method should be removed?

Agree. This is in line with the polluter pays principle. However, caution should be exercised to ensure that there is not an unsustainable administrative burden placed on small businesses, particularly during the present post-COVID recovery. BCC welcomes that the government will explore with producers, different ways of facilitating actual weights and how this could be streamlined.

Producer Disposable Cups Takeback Obligation

Q28: Do you agree or disagree that a mandatory, producer led takeback obligation should be placed on sellers of filled disposable paper cups?

Agree. BCC supports a mandatory take back scheme for disposable cups.

There has been limited progress on the recycling of disposable cups on a voluntary basis. It would be at odds with producer responsibility being implemented thoroughly in other areas of packaging not to include disposable cups.

To significantly increase the pace of change on cup take back and to ease the burden on local authority litter operations, EPR should be applied to disposable cups. Given that disposable cups are often consumed on-the-go they can easily end up as litter and so are a cost burden on local authorities. Therefore, they should be brought into the formal EPR system otherwise local authorities are receiving full cost recovery for some types of packaging, but not others. Given that the DRS consultation has stated that cups will not be included in that system it makes sense that producer obligations relating to cups are captured under the EPR system.

Q29: Do you agree or disagree with the proposed phased approach to introducing any takeback obligation, with larger businesses/sellers of filled disposable paper cups obligated by the end of 2023, and the obligation extended to all sellers of filled disposable paper cups by the end of 2025?

Agree.

Modulated Fees and Labelling

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

Yes. The proposed strategic framework provides an indication of where the fees will be levied which will encourage more recycled content, increase recycling, reuse and refillable containers and fund recycling, sorting and reprocessing infrastructure. Where we are less sure is that the fees will encourage additional investment in recycling infrastructure rather than disposal and would recommend that the Scheme Administrator pays close attention to performance in this area.

The precise nature of these fees should be determined in conjunction with the packaging supply chain.

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 taken by the regulators.

Agree.

Q32: Do you agree or disagree with our preferred approach (Option 1) to implementing mandatory labelling?

Disagree

BCC supports the mandated use of labelling indicating if packaging is recyclable or not. We would also want to see other “recycling labels” removed from packaging as much as possible as these are often misleading and in some instances no more than green-washing from a consumer recycling advice point of view.

Research by OPRL demonstrates that consumers misunderstand the wide range of other “recycling” labels that currently appear on packaging and this can lead to them taking an incorrect action when disposing of it.

Option One

Even if labels had to be approved this could still lead to considerable differences in the look and design of labels. These differences would dilute the impact and “brand awareness” of the labels and lessen their potential impact and usefulness. If the approval process would seek to limit the differences in label design, look and feel, then you are already close to having a single labelling system anyway so it would make sense to adopt that.

It is worth noting that OPRL have moved to a binary labelling system in an effort to aid consumer communications and reduce potential confusion. If one label set is doing this then having multiple labels is only going to lessen the impact of the communications message.

Consistent label designs using the Recycle Now iconography and clear and concise calls to action score highest in consumer confidence in understanding and actual understanding of the message. We therefore believe that without a single clear and consistent label for both “Recycle” and for “Don’t Recycle” consumer confusion will continue and the aspirations for increased quality and quantity of recycling will not be realised.

For the above reasons, BCC preference is for Option 2.

Q33: Do you agree or disagree with the proposal that all producers could be required to use the same ‘do not recycle’ label?

Agree.

BCC strongly supports this concept. There needs to be details around the design of this label in that it needs to be clear and eye catching.

We support the work of OPRL labels design in this regard. It is already familiar to consumers and has a depth of research behind it that supports how it is designed and used on packaging. Its use would also cause minimal change to producers using it already through their membership of OPRL. The membership of OPRL is such that this would cover a large number of producers and packaging that is already on the market.

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

Unsure. It is noted that Option 1 requires the Scheme Administrator to undertake the assessment, monitoring and compliance activity which will be a sizeable task and no doubt will take some time to establish and to come into operation.

In addition, once the labelling appears on the packaging, consumers will understandably consider these items to be recyclable and will place them into their kerbside bins/containers for collection, irrespective of their councils’ collection or contracting arrangements. In that regard, councils will have to adapt and/or revise their collection infrastructure within the same timescale which will be challenging.

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

c. Neither agree nor disagree

The requirement to label packaging should be placed at the point in the supply chain where it will be most effective and efficient to do so. Where this is needs to be clearly defined and the rules and regulations regarding the type of labelling adhered to.

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

c. Unsure

The messaging OPRL has built up over the years is successful and well recognised and acted upon by consumers because of its simplicity. Whilst there may be benefit from promoting other messages on packaging, they must be done in such a way so as not to detract from the recycle/don't recycle message to the consumer.

OPRL labels do not currently have "in the UK" to differentiate from other labels and research shows the OPRL label is well understood, well recognised, and well used. Therefore, we do not believe that "in the UK" will materially enhance consumer understanding and increase recycling.

BCC would support digitally enabled labelling which would allow further product information to be communicated to the consumer.

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?

Neither agree nor disagree.

As stated earlier, once the outcome of discussion on future collections for Northern Ireland is published, there should be scope to consider increasing the range of materials (plastic film) collected. Currently, BCC does not have arrangements in place to process plastic film and therefore sourcing suitable contractors, undertaking procurement exercises/ amending contracts, investing in MRF infrastructure, &c would need to be undertaken before this could be delivered. Any such increased costs through investment or gate fee must be fully recoverable through the EPR scheme.

March 2027 provides a reasonable lead-in period, but the Scheme Administrator would need to monitor the evolving infrastructure to ensure that it is adequate and appropriate for the likely tonnages arising and that it is geographically distributed. There would also need to be an appraisal of any new technologies which are emerging and which may be considered appropriate (will chemical recycling be eligible under the EPR scheme? And will it have sufficient capacity to deliver?)

If collection of plastic films was introduced from April 2027 and materials were labelled as recyclable, it is probable that contamination levels would increase – in many instances, these materials have been presented for collection with food residues, &c on their surface. This may compromise collections and could limit the achievement of targets. Given the nature of this material and where it originates from, perhaps it would be better served on a take-back approach at stores and possibly within the DRS?

Q38: Do you agree or disagree that collections of plastic films and flexibles from business premises across the UK could be achieved by the end of financial year 2024/25?

Neither agree nor disagree.

The points made in response to question 37 are also applicable here. If there are concerns that the infrastructure is going to be in place for the household stream by 2026/27 then it is hard to understand how it will be in place for the business stream any earlier.

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?

Disagree. BCC has concerns that unless the biodegradable/compostable packaging can be guaranteed to only be used in closed loop situations, it would be easier to label as “*do not recycle*”. This would limit the prospect of this packaging being mis-identified and misdirected by consumers into their household recycling containers, thereby causing an uncontrolled release of microplastics to the environment. We struggle to see how an absolute guarantee could be provided on a closed loop situation.

Furthermore, in Northern Ireland, there are only a limited number of facilities available and the volume of material arising could overwhelm the infrastructure. The Scheme Administrator would need to monitor the level of investment in appropriate infrastructure to ensure that this gap was plugged as otherwise there could be a requirement to transport this packaging to other facilities outside of the region.

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

Unsure

Payments for Managing Packaging Waste

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

Agree, with a number of caveats outlined below.

The proposed scope of the necessary costs is broad and seemingly comprehensive, which is encouraging. It includes covers services that are already in place (i.e. not just newly introduced services) and support/staff costs associated with running and improving the services, including communications with residents.

It is noted that transitional costs to efficient and effective systems will also be covered. It is also highlighted that councils may be investing in necessary changes now (depending on contract cycles), and we would be keen to see Government note this and work with producers and the eventual Scheme Administrator to ensure that councils in this position are adequately recompensed. Councils which act as early adopters should not be discouraged in this regard, and to counter the risk of inertia due to councils delaying until EPR payments are confirmed service changes.

BCC has some concerns in relation to the additional officer time that will be required for contract management, data (WasteDataFlow returns), compliance, procurement, transition for contracts/facilities and need to ensure that these costs will be included

We would also urge the Government to consider the following and provide clarification:

- Development of greater clarity in relation to optimisation and calculation of support/staff costs, and the mechanism used.
- Cost of contract change: how will this be calculated? When a contract change is deemed necessary and would be paid? How will Government or the Scheme Administrator differentiate between costs that an LA would incur anyway and those incurred as a result of the change mandated?
- Consequential costs associated with the removal of recyclables from disposal/recovery: calorific value, tonnages, and trust that service change costs necessary to implement efficiencies, such as modelling, route optimisation, will be appropriately taken into account by Government
- Additional disposal contract costs related to failure to achieve guaranteed minimum tonnages (assuming significant waste decreases) and changes in calorific value
- Infrastructure changes as a result of EPR implementation will need to be funded. This could be one off capital costs as well as ongoing revenue costs.
- Necessary costs may be inflated if many Councils implement service changes at the same time as result of the market reaction to being in strong supply position. These costs must be included.
- Relevant enforcement and associated IT and software costs will need to form part of necessary costs if local authorities are going to try and ensure residents place the correct materials into the system.

Payments for managing packaging waste from households

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

c. Neither agree nor disagree

There are potential issues regarding what is defined as “a cost effective and efficient” service and it could be a means by which producers will not have to pay full net costs. BCC would argue strongly against any such concept. We would have concerns about how “efficient and effective” is determined and by whom. If this is down to the Scheme Administrator what plans have been developed for any sort of appeals process where local authorities have good cause to dispute the decision that has been made?

There may be value in establishing a modelled cost for each individual local authority as a benchmark but a model will never truly be able to calculate real world costs so there should be no financial penalties for an authority that is not achieving a predicted cost profile for very valid reasons. In such circumstances support and assistance should be offered to understand why that might be the case and if measures can be introduced to improve it.

BCC would raise concerns over an insufficient number of family groupings and if these groupings are wide enough to allow for legitimate differences that impact on cost. For example, there could be regional variations across the devolved nations within the UK and the often-higher costs of disposal in these areas due to a lack of reprocessing infrastructure, should be factored into any benchmarking analysis too.

We understand the concept of a modelled approach to costs but there must be a sufficient number of groups to reflect the diverse environments within which Councils operate. There will also need to be a suitable appeals process for local authorities who believe they have been placed in an incorrect grouping.

BCC also has concerns as to how local authorities in Northern Ireland will be assessed when they are not currently subject to the consistent collection policy that English local authorities will be placed under.

A further issue to be considered is that the methodology developed by Government/WRAP is advisory and the Scheme Administrator will determine what system should be deployed. We would recommend that Government provide clear direction and determine what approach would apply from the outset of EPR and permit the Scheme Administrator to review this within an appropriate period post commencement.

Councils preferred approach to improvement is through continuous self-improvement. For many councils, the most useful benchmark is their own performance due to the difficulty in matching a range of socio-demographic factors between council “*families*”. We would encourage the Government to consider monitoring system performance (i.e. pre/post-EPR performance) as opposed to scheme benchmark in order to avoid unintended consequences.

The consultation document proposes linking EPR payments to outcomes will reward those councils with efficient systems who are performing well against targets and against their benchmark group. Those who are not performing well, and below their relevant benchmark, will receive less than full net cost. There is an argument to say that this approach may be overly-simplistic and that these are the very councils that need targeted financial support to improve performance (Section 8.40).

The consultation document recognises that it will be challenging to establish a common UK-wide payment approach when there are different arrangements, policies and drivers across the devolved administrations. Paragraphs 8.24-8.26 explain those challenges and a suggested way forward that will result in the Scheme Administrator making judgement calls where there are disparities between parts of the UK. BCC has already raised the prospect of the recently released “*Consultation on Consistency in Household & Business Recycling Collections in England*” ultimately proving a material factor in how the EPR scheme develops nationally and would request that local circumstances are properly quantified and considered so that this does not emerge as the default position without being tested or until similar Consistency arrangements are introduced into NI.

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?

c. Neither agree nor disagree

The consultation document considers that the most appropriate approach for handling material value to packaging waste from households would be to “*net off*” material value from a local authority’s payment. While this in principle is correct in that Councils are not seeking to profit from the arrangements but rather ensure full costs are met, this has implications for material ownership and existing MRF contracts. It will be necessary for Government to be aware of the nuances to existing council MRF contracts, in terms of fixed value, rebates, differing risk share and income received.

In the event that Local Authorities keep responsibility for material income, it should be based on actual values and not any reference/model values. The use of reference values further erodes the concept of full net cost recovery within the system.

In terms of Northern Ireland, we consider that the Scheme Administrator will have a key role to play here. It is likely that different market conditions (and prices) will prevail and there may need to be intervention by the Scheme Administrator to ensure fair payment mechanism.

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?

Agree. BCC believes that the Scheme Administrator should have the ability to provide incentive payments but how this is carried out needs to be carefully crafted. As stated above while there may well be a scheme to incentivise higher performers, consideration needs to be given to financial assistance to those areas which are lower performing but have greater potential to contribute in terms of capturing these packaging materials i.e. there needs to be a levelling up rather than just an incentive scheme for higher flyers. It may be useful to consider how this incentive scheme would be calculated, capped and perhaps linked to an improvement plan.

These payments need to be seen as genuine incentives and not placed almost as penalties on those authorities that collect in a manner which is effective and efficient for their areas and circumstances.

The incentives will also need to be made at a level that makes it worthwhile to the local authority to provide additional services. If the costs are not covered then there would be little reason for doing anything different.

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?

Agree. There are potentially some significant changes that Councils will have to make to implement EPR policies. There may well be capacity issues/blockages within the waste industry and associated sectors such as collection vehicle and container supply.

Each local authority will have a set of circumstances that will influence their ability to change and the speed at which that change can take place. This must be taken into account in terms of the support and time they are given to make the required changes.

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

Yes. Governments cannot claim to be implementing producer responsibility or the polluter pays principle if the full net costs of collection are being withheld. If a local authority is making the efforts to increase performance to the desired level, then they should receive a guaranteed minimum payment. These guaranteed levels would also greatly assist local authority in their budget planning and setting.

In the absence of legislation which allows robust enforcement of recycling, local authorities are limited in what they can achieve through education and public engagement. They should not therefore be penalised if residents and businesses in their area do not comply and hence they cannot achieve expected performance.

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

Neither agree nor disagree

The Scheme Administrator should perhaps be granted powers to incentivise where appropriate. This could be targeted at Local Authorities to exceed their recycling benchmarks, although this would have to be their modelled packaging recycling benchmarks as other activities can drive LA recycling performance unconnected to EPR system e.g. organics collections

As stated above however, the Scheme Administrator should also be granted powers to incentivise those LAs that for legitimate reasons are not achieving the desired level of performance.

This incentive funding element must not be taken from other authorities' full net cost payments.

There is also likely to be a role for funding or incentives that promotes innovation and allows collection trials and experiments to take place that could lead to increases in recycling or efficiencies in collection.

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?

Agree. BCC agrees in principle with this aim but it is unclear as to why there would be unallocated payments within the system which is designed to provide full net cost recovery.

If such a system did exist where producer funds are available after full net costs have been met, then these funds should be used to help local authorities try and achieve performance benchmarks in the first instance.

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?

Disagree. Residual waste composition does (and is likely to continue to) vary considerably between councils. Introducing the EPR scheme provides an opportunity to understand these differences far better by funding regular composition analyses for each council. This needs to be fully funded using EPR funding. This should lead to waste compositional analysis becoming more efficient through economies of scale and technological advancement (AI) and help inform the changes being spurred by both EPR and DRS.

The results from the compositional analyses could be combined to create a reasonable waste compositional analysis for each council grouping, upon which payments could be based. Modelled costs would only ever be a snapshot and will not reflect the “*real world*” experiences which many councils face.

In terms of using a waste compositional analysis, it will be highly dependent upon a number of factors, such as use of a common protocol and how a “*representative*” sample is chosen from each relevant waste load, along with identifying the appropriate facilities where these WCSs would be conducted (first point of deposit?) – there may be space restrictions and other planning constraints at these points which will need to be addressed. The obvious location is within the first MRF receiving these materials but the Scheme Administrator will need to be made aware of any infrastructural investment and funding requirements needed to facilitate this development. There may also be issues regarding ensuring that the sample chosen has not become “*contaminated*” in the transport/unloading process.

In terms of modelled costs, we would question the rationale for introducing financial penalties for an authority that has failed to achieve a predicted cost profile without valid reasons. We have concerns around applying this arbitrarily as previous examples of “*excellence*” used for best value sparked widespread uncertainty and resistance. Rather, the Scheme Administrator should consider the underlying factors and provide support and assistance to determine how the situation could be improved.

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?

No views on this aspect of the scheme as this arrangement does not apply in Northern Ireland.

Payments for managing packaging waste from businesses

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?

Agree. BCC considers this proposal to be consistent with the polluter pays principle.

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?

Agree. However, BCC believes more detail is required on what is considered “necessary evidence”. There needs to be suitable processes in place to prevent creating a loophole that allows a producer to avoid the “polluter pays” principle and their obligations under the EPR regime.

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

e. Do not know enough to provide a view

Option 3 could be open to abuse but given that a sprint group is looking at all the options while the consultation is under way demonstrates that this aspect of EPR policy is not yet detailed enough to make an informed opinion on and fully consider all the relevant aspects. This is concerning given the role that local authorities have in collecting business waste. In addition, as a Council collecting business waste we do not charge on a per tonne basis but rather on the type and number of bins provided and the frequency of collections.

Q54. Do you disagree strongly with any of the options listed in the previous question?

a. Yes. BCC would not be supportive of Option 3 in its current guise.

It must be remembered that when added together local authority trade waste services have a large market share, but that it is made up of a large number of small businesses. This means lots of business customers and the associated invoicing and customer services that are needed to back the collections up.

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?

Unsure.

Payments for managing packaging waste: data and reporting requirements

Q56. Do you agree or disagree with the proposal to introduce a sampling regime for packaging as an amendment to the MF Regulations in England, Wales and Scotland

Agree.

BCC considers that building on and improving the existing legislation seems logical but would highlight that the draft local MRF Code of Practice (2015) was never finalised in NI and, as such, this needs rectified to place Northern Ireland on a par with the approach adopted elsewhere.

Consideration will also need to be given to the design of the sampling protocol which needs designed in a way that is fair to both collectors and reprocessors. This will mean there needs to be clear definitions for non-targeted material. The protocol should not be designed in a way that leaves loopholes that will reduce or remove justifiable payments to councils and other waste collectors.

Q57. Do you agree or disagree with the proposal to require all First Points of Consolidation to be responsible for sampling and reporting in accordance with a new packaging waste sampling and reporting regime?

Agree.

The consultation document proposes that the First Point of Consolidation (FPoC) **of packaging** is accredited by a regulator. This could mean a council MRF or Transfer Station could become this facility. As there are proposals to remove the de-minimis threshold of 1000 tonnes the requirement for sampling and reporting could place an additional burden on Local Authorities in terms of staffing which we assume would be supported by EPR funding. As stated above, there may be space or other restrictions on some of the councils' facilities in Northern Ireland which means that a downstream MRF may have to be designated as the FPoC for practical purposes. By permitting this first point sampling to be carried out at the MRF it allows councils to share costs of technology, equipment and labour required.

Q58. Do you agree or disagree that the existing MF Regulations' de-minimis threshold of facilities that receive 1000 tonnes or more per annum of mixed waste material would need to be removed or changed to capture all First Points of Consolidation?

Agree. BCC presumes that increased requirement to undertake any sampling or waste compositional analysis will be fully funded under the EPR scheme, we would highlight that the costs of sampling of smaller facilities will be proportionally bigger than for large MRFs. In support of the principle of quantity and quality arc21 would recommend that minimum output material quality standards should be set for sorted packaging materials at a MRF which would be subject to Scheme Administrator scrutiny.

Q59. Do you think the following list of materials and packaging formats should form the basis for a manual sampling protocol?

No. The current list appears simplistic and we would suggest to Government that it may be advantageous to include materials that may fall within EPR in the future, such as film and flexibles as it could help develop a baseline for the quantities of these materials contained within the waste stream. Similarly, it would also be beneficial to include disposal paper cups as well to determine the quantity and amounts can be assessed that should inform in store takeback arrangements. The sampling protocol needs to be flexible to changes in producers' behaviour that stimulates changes to the packaging materials in use.

Whilst we understand the desire to have accurate data relating to each packaging type, we think further consideration needs to be given to the frequency and detail of input sampling and whether this represents value for money. Perhaps in-depth sampling could be required in the first year, to set a baseline, but a reduced amount following that. Occasional in-depth samples could be required to verify that composition has not changed.

Also, 'manual' should be removed from the wording of the protocol, to ensure technological sampling solutions are not excluded going forward.

Q60. Do you think it is feasible to implement more rigorous sampling arrangements within 6-12 months of the regulations being in place?

Unsure. Ultimately, this is likely to be up to the Scheme Administrator to determine but BCC would highlight that while it is feasible within 12 months, it is likely to depend on the sampling levels required. Also, there may be changes needed at sorting sites to accommodate the new regime (such as amendments to planning, operational practices, procurement of new technology, staff recruitment, training, &c). Sampling regime at 25 tonnes is challenging but at 8 tonnes extremely so and additional costs associated with these proposals must be met by the EPR scheme.

Q61. Do you think visual detection technology should be introduced from 2025 to further enhance the sampling regime?

c. Unsure

BCC believes this would be feasible but clearly more work is needed to assess if the technology would prove reliable and accurate, that the cost to develop, implement, maintain and operate are legitimate under the EPR payment scheme and that the using this approach for sampling did not restrict or limit the sorting capacity and capability

Q62. Do you think existing packaging proportion protocols used by reprocessors would provide a robust and proportionate system to estimate the packaging content of source segregated materials?

b. Yes, with refinement

Source segregated material in this instance would need clearer definition. For example, nearly all source segregation collections have mixed cans and plastics which need further sorting and so will probably need to undergo some sort of sampling as well. A system using existing packaging proportion, supported by occasional sampling, would provide a cost-effective method of accurately estimating packaging content of source segregated materials

Q63. Do you agree or disagree that minimum output material quality standards should be set for sorted packaging materials at a material facility?

a. Agree.

Minimum output material quality standards should apply but the markets will determine if the material from a MRF is of satisfactory quality. This is reflected in the cost/income from the sale of these items that should work their way through the system. While there is an emphasis on achieving closed loop recycling, this may not be applicable in every instance given the quality of materials available. The aim should be for the Scheme Administrator to incrementally increase the minimum standard thresholds over time as packaging changes.

The Scheme Administrator should maintain close oversight of MRFs to ensure that the quantity/quality balance is being struck and that the appropriate materials were being supplied to the market to support delivery of the Circular Economy. There may be occasion when support or another form of intervention is needed to avoid geographical difficulties or market distortions.

Q64. Do you agree or disagree that material facilities that undertake sorting prior to sending the material to a reprocessor or exporter should have to meet those minimum standards in addition to just assessing and reporting against them?

Agree. See above.

Q65. Do you think any existing industry grades and standards could be used as minimal output material quality standards?

Yes. The ReQIP standards could be used as a basis, updating them regularly with reprocessors current quality specifications.

Payments for managing packaging waste: reporting and payment cycles

Q66. Do you agree or disagree that local authority payments should be made quarterly, on a financial year basis?

Agree. This schedule would align with other reporting cycles and an annual reconciliation exercise may also be required. This approach would allow in-year assessment of the likelihood of targets being met and adjustments to be made by the Scheme Administrator to improve performance, if required.

Q67. Do you agree or disagree that household and business packaging waste management payments should be based on previous year's data?

Agree. BCC considers that this approach is suitable provided that the previous year's data includes all the relevant costs to ensure that producers bear the full financial responsibility for the packaging they place on the market. Given the seasonal variation in the nature of packaging placed on the market, Government may wish to consider a rolling 12-month period as this would better reflect these variations. It is only if this cannot be achieved should a "static" previous year's figures be used. In this case, there should be an annual reconciliation to account for any in-year (seasonal) changes.

Litter payments

Q68. Do you agree or disagree that the costs of litter management should be borne by the producers of commonly littered items based on their prevalence in the litter waste stream as determined by a composition analysis which is described in option 2?

Agree.

BCC considers that on the face of it, this proposal is fair and in-line with the producer pays principle; the producer of frequently littered products will be incentivised to find ways to reduce littering, and should become more aware of and involved in litter prevention.

Regarding monitoring littering, BCC would welcome details of how EPR funding could be used to undertake waste compositional analysis as well as the frequency of these. We would highlight that any such compositional analysis will need take account of season variations and variations in daytime/night-time economies in certain areas. Keep Northern Ireland Beautiful has recently undertaken a comprehensive analysis of street litter and the method adopted could serve as a template to develop a consistent approach for how to undertake such research elsewhere.

BCC is aware that the parallel consultation on DRS is also considering many of these litter items and there is a possibility of “cannibalisation” of the kerbside collection schemes. We would suggest that Government may wish to review the DRS start date in order to determine the impact of EPR in the first instance and perhaps include the DRS materials in the EPR scheme until the DRS is formally launched.

There are additional issues that we would encourage the Government to consider, including how this is linked to costs associated with fly tipping, which costs the UK tens of millions per annum, as well as litter clean-up. We believe it will be important to ensure that consumers are held responsible for their actions as part of the new system, and the Scheme Administrator should consider how to use the system to increase the recoverability of these discarded materials. We note that funding streams are available, and producers should be required to fund enforcement, help local volunteer groups, and communication/education campaigns stressing anti-litter behaviour. We would ask that clarity is provided regarding the degree of support towards enforcement costs.

Q69. In addition to local authorities, which of the following duty bodies do you agree should also receive full net cost payments for managing littered packaging? Please select all that apply.

- Other duty bodies**
- Litter authorities**
- Statutory undertakers**
- None of the above
- Any other(s) - please specify**

All duty bound organisations that incur costs from managing litter should receive full net cost payments for managing littered packaging, including voluntary and community sector organisations, schools and landowners. The scheme may be more effective with input from councils, in relation to demonstration of support for community groups via litter picking kits, collecting litter etc.

Q70. Do you agree or disagree that producers should contribute to the costs of litter prevention and management activities on other land?

Agree. This is in line with the “*Producer Pays*” principle although it may be hard to measure and could be open to interpretation. Again, as above, consideration will need to be given to how this incorporates fly tipped materials.

Q71. Do you agree or disagree that local authority litter payments should be linked to improved data reporting?

c. Neither agree nor disagree

BCC supports the use of improved data, but the process for collecting that data must be efficient and be able to be applied consistently across all local authority areas. It also needs to be designed in such a way that does not disadvantage or advantage any particular type of local authority or certain attributes.

Therefore, more detail is need on the level of reporting, the systems involved and the process for collating data before a more informed view can be taken on this aspect of EPR policy.

That said, given that any changes in data reporting would come about as a result of the EPR policy, any costs associated with changes in data reporting must fall within the remit of the litter payments.

Q72. Do you agree or disagree that payments should be linked to standards of local cleanliness over time?

b. Disagree

Some local authorities, or areas within local authorities, can experience higher levels of litter that the local authority only has so much power to influence. Any system of payments linked to cleanliness would need to take this sort of situation into account and this might make it overly complex as a result.

Local authorities have control over what they clear up, when and how they clear up litter but little to no control in whether an item is littered in the first place. This requires a big change in public behaviour. There are some very good communications and behaviour change campaigns and groups that have been working on this for a number of years, yet littering is still a problem. To then expect local authorities to change citizen behaviour is unrealistic without potentially radical new measures and policies in place, over and above those outlined in EPR.

In the past, as part of the Best Value Performance Indicator (BVPI) system local authorities used to monitor and report on cleanliness standards (BVPI 199). This was timely to do and also contained a large element of subjectivity. Whilst this might have been acceptable for performance standards, when there are payments linked to this there would need to be a much more robust process in place and LARAC has concerns that such a system can be implemented.

Scheme administration and governance

Q73. Do you agree or disagree that the functions relating to the management of producer obligations in respect of household packaging waste and litter including the distribution of payments to local authorities are managed by a single organisation?

Agree. BCC considers this to be the simplest and most efficient way to manage payments to all councils across the UK. The appointment and governance of the Scheme Administrator is critical to delivering the EPR scheme. The Scheme Administrator should be a not-for-profit organisation and the governance structure therefore needs to reflect the stakeholders involved in the system. In this situation, it is crucial that councils are represented on the Governance Board as they play such a key role in the delivery of the EPR scheme.

There is limited detail provided around governance arrangements and it is not clear how managing the Scheme Administrator through a contractual arrangement with Government allows for stakeholder engagement and feedback to both producers and councils. The process for award is to be competitive but it is not clear how bids will be assessed and what criteria will be used for awarding the contract. Also there is little detail around performance management of the Scheme Administrator and KPIs. Scheme Administrators are expected to outline how stakeholders will be represented as part of the scheme management but it is unclear how much of a role councils will have on the overall scheme administration, or indeed in developing the ITT documentation such that their interests are truly represented

Q74. Overall which governance and administrative option do you prefer?

a. Option 1

This has a level of simplicity and clarity that would be very beneficial. The fact that this model reduces the need to issue evidence and so cuts out the market aspect and trading is again a move to a simpler system that should be a benefit to producers and others.

Requiring all exporters and reprocessors of packaging waste to seek accreditation and to report centrally all tonnage data, will ensure transparency across the supply chain and ensure that accurate data is used to inform service updates, target setting and overall compliance.

Option 1 also ensures that local authorities who collect trade waste will have certainty that they will receive payments from one organisation. A concern for local authorities regarding option 2 is that they will receive payments for household waste from the single body but payments for household like (trade) from a variety of compliance schemes.

Q75. How do you think in-year cost uncertainty to producers could be managed?

d. No preference

Q76. Under Option 1, does the proposed initial contract period of 8-10 years (2023 to 2030/32) provide the necessary certainty for the Scheme Administrator to adopt a strategic approach to the management and delivery of its functions and make the investments necessary to deliver targets and outcomes?

Yes. This time period is long enough to give stability to all parties in the scheme, allowing confidence in the necessary investment without being so long that it will not have the flexibility to grow & adapt with the changing landscape.

Q77. Under Option 2, does the proposed initial contract period of 8-10 years (2023 to 2030/32) provide the necessary certainty for the Scheme Administrator to adopt a strategic approach to the management and delivery of its functions and make the investments necessary to deliver targets and outcomes?

Yes. This time period is long enough to give stability to all parties in the scheme, allowing confidence in the necessary investment without being so long that it will not have the flexibility to grow & adapt with the changing landscape.

Q78. Do you agree or disagree with the timeline proposed for the appointment of the Scheme Administrator?

Neither agree nor disagree. The timeline for launching the procurement process to appoint the Scheme Administrator seems ambitious given the complexity involved and delays to the legislative process. It is not clear how much float has been built into the programme to allow for unforeseen hiccups or even a potential challenge to the bidding process.

Q79. If the Scheme Administrator is appointed in January 2023 as proposed, would it have sufficient time to mobilise in order to make payments to local authorities from October 2023?

Unsure. There is a considerable amount of work the Scheme Administrator has to undertake from Jan 2023 to be able to make any payments to councils in Oct 2023. Prospective bidders should be asked to submit their own programmes to demonstrate how this timeline could be met recognising the number of councils and producers involved, and the systems needing to be established in realistic timescales.

Q80. Do you agree or disagree with the approval criteria proposed for compliance schemes?

a. Agree

Q81. Should Government consider introducing a Compliance Scheme Code of Practice and/or a 'fit and proper person' test?

c. Both

In order to give confidence in the established compliance schemes, the Scheme Administrator needs to ensure that there is a Code of Practice which includes a "*fit and proper person*" test to be an operator of a compliance scheme.

Q82. Do you agree or disagree with the proposed reporting requirements for Option 1?

a. Agree

Q83. Do you agree or disagree with the proposed reporting requirements for Option 2?

a. Agree

Reprocessors and exporters

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?

Agree. This is essential such that the scheme is managed and monitored effectively and all packaging is accounted for.

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

Agree. This is essential such that the scheme is managed and monitored effectively and all packaging is accounted for. The measurement of quality needs to take into account the variety of end markets and applications accessible to packaging materials.

Q86. What challenges would there be in reporting on the quality and quantity of packaging waste received at the point of reprocessing and/or export?

Reporting accurately on quality and quantity of packaging is key to ensuring the success of the scheme and flow of payments. Robust systems will need to be put in place in order that this is achieved. There is already concern around the current PERN system in that packaging of poor quality is being classed as recycled, but may not be in reality, either totally or large proportions of it.

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?

Unsure. The supply of accurate and timely data is key to having confidence in the EPR system and trying to eliminate fraud. Contractual arrangements set out the obligations of the parties but it is recognised that there are likely to be different data needs and systems in place under the EPR scheme than there are now. Therefore, current contact arrangements may not provide the levels of reporting expected. Any data systems that are brought in to meet EPR requirements will need to have their costs, implementation and ongoing, covered by the EPR scheme.

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?

Agree. Having accurate data for all packaging waste that has genuinely been recycled is a core principle behind the success of the EPR scheme

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?

Neither agree nor disagree. It is not clear how this would work in practice – “*end of waste*” classification is usually obtained by the material going through a treatment process. Hence it is unclear how waste that has yet to be actually recycled could be classified as “*end of waste*” prior to export. It could also potentially be open to abuse.

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?

Agree.

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

Agree. This would help give confidence in the recycling of materials as well as verifying data to be accurate

Compliance and enforcement

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

Agree. The Regulator will need to have sufficient resources and funding to be able to undertake this role effectively. There is a concern that the regulators will not have the resources needed to undertake these new inspection and enforcement duties. Thought needs to be given as to how the right level of resources can be provided to ensure the system is suitably regulated.

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

BCC has nothing further to add in this respect.

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

It seems appropriate that enforcement should be covered by the EPR scheme. However, it is noted that in the experience of local government in Northern Ireland, costs of enforcement are rarely covered by the fees and charges in place – particularly over time. For an effective system with fit for purpose regulation, all enforcement costs should be covered and this issue subject to regular review.

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

The level of penalty should be proportionate to the level of non-compliance set at a level that acts as a deterrent. Regulators should have a suite of sanctions at their disposal within the EPR system.

Implementation timeline

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)?

a. Agree

The activities highlighted appear to all be required in order to make payments to councils from 2023, it is not clear however if this a comprehensive list and whether other activities will be required.

As part of the ITT submission, bidders should be asked to set out all of the activities that are required along with a realistic timeline such that this can be assessed.

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

Unsure. The timeline is tight and relies on the necessary legislation being in place and the Scheme Administrator being appointed. It would be preferable if full net costs could be met in 2023 but realistically, this would be difficult. Hence a prudent approach needs to be taken.

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?

Phased approach starting in 2023. The flow of funding to support the cost of managing packaging in the waste stream by producers should be starting in 2023. This will be challenging BCC would want to see producer payments being made at the earliest opportunity.

Q99. Of the options presented for reporting of packaging data for 2022 which do you prefer?

b. Option 2

Option 2 is the most complete reporting method, there is a concern that by doing this there could be over reporting of self-managed waste in order to reduce producer payment levels. BCC would want assurances that a rigorous compliance and review process was in place that mitigated against this risk and ensured accurate reporting of packaging data.

Q100. Are there other datasets required to be reported by producers in order for the Scheme Administrator to determine the costs to be paid by them in 2023?

c. Unsure

Questions from Annex 1 to Consultation Document

Q101. Which of the definitions listed below most accurately defines reusable packaging that could be applied to possible future reuse/refill targets or obligations in regulations?

Further information to help answer this question (and the 4 that follow) can be found in Annex 1 of the consultation document.

Definition adopted by The UK Plastic Pact/The Ellen MacArthur Foundation

Q102. Do you have any views on any of the listed approaches, or any alternative approaches, for setting reuse and refill targets and obligations? Please provide evidence where possible to support your views.

There are difficulties associated with monitoring and measuring waste prevention and huge disparities in practice from consumer to consumer. It is likely that an element of 'business ownership' will enhance the system and encourage consumers to increase reuse, but it will be extremely important to communicate well, the key messages to the public required to effect substantive change.

Q103. Do you agree or disagree that the Scheme Administrator should proactively fund the development and commercialisation of reuse systems?

a. Agree

With reuse standing above recycling in the waste hierarchy, it is appropriate that reuse systems are explored and expanded. This must be done on the basis that they create environmental benefits and embrace the underlying principles of the circular economy.

Q104. Do you agree or disagree that the Scheme Administrator should look to use modulated fees to incentivise the adoption of reuse and refill packaging systems?

Agree. The Resource & Waste Strategy (2018) for England promotes the movement of waste up the waste hierarchy therefore the modulated fee structure should support this aim and drive producers to use packaging that can be refilled/reused ahead of any single use packaging. In Northern Ireland, "*Delivering Resource Efficiency*" (2013) encourages the same course of action – this should be refreshed to take into consideration the EPR (and DRS) scheme and reinforced in the soon-to-be published Environment Strategy (NI) and expanded upon in any refreshment of the Waste Strategy (NI).

In terms of modulated fees, if designed well these will drive better environmental performance of packaging and the EPR funds should be used actively to communicate the benefits of reusable/refillable packaging to the consumer to drive behaviour change and increase demand.

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