

FACTSHEET**EXTENDED PRODUCER RESPONSIBILITY (EPR)
FOR USED PACKAGING**

The EU Packaging and Packaging Waste Directive (PPWD) provides a longstanding and successful legislative framework, enabling continuous innovation and environmental improvements, sustainable growth and jobs. With 'reduction of the environmental impact of packaging' as one of its two objectives¹, the PPWD has been a key driver of the steady increase in packaging recycling and recovery rates since its adoption in 1994 and contributes to a continuous decoupling of the amount of packaging placed on the EU market from economic growth.

In July 2014, the European Commission published a proposal to review recycling and other waste-related targets in the EU, to encourage the transition towards a Circular Economy through the use of waste as a resource. It also aims to improve the transparency and cost effectiveness of Extended Producer Responsibility (EPR) schemes by defining minimum requirements in the Waste

NUMBERS AT A GLANCE

25 EU Member States have implemented EPR in national packaging waste policies

€3.1 BILLION of estimated annual fees² paid by producers to industry and non-industry owned packaging EPR schemes in Europe

47% Packaging recycling rate in the EU-15 in 1998³

65% Packaging recycling rate in the EU-27 in 2012⁴

Framework Directive (WFD). The following are some frequently asked questions in the context of this policy discussion in relation to EPR for used packaging.

1. The second objective, and also the sole legal base of the PPWD, is to harmonise national measures concerning the management of packaging and packaging waste in order to remove obstacles to trade and distortions of competition. It safeguards the free movement of packaging and packaged goods within the EU Internal market.
2. This estimate excludes additional payments by producers to tax regimes (e.g. Denmark and Hungary) and to deposit systems (approx. €1 to €1,5 billion)
3. Eurostat 2014
4. Idem

1. WHAT ARE THE WASTE FRAMEWORK AND PACKAGING AND PACKAGING WASTE DIRECTIVES?

The EU Directive on waste (or 'Waste Framework Directive') is an environmental protection measure which establishes how waste should be managed within the EU. It aims to reduce the environmental impact of waste and to encourage efficient use of resources through reuse, recycling and other forms of recovery. The Waste Framework Directive was last revised in 2008.

The Packaging and Packaging Waste Directive (PPWD) is an EU harmonisation measure, meaning that it establishes common (i.e. harmonised) rules that enable packaging and packaged goods to trade freely throughout the EU. It has twin objectives: to help prevent obstacles to trade and to reduce the environmental impact of packaging. It defines 'Essential Requirements' on packaging design that packaging must meet in order to benefit from the

free movement guarantee and it sets targets for the amount of used packaging that must be recycled or otherwise recovered in all EU Member States. The European Commission proposed the PPWD in the early nineties because different national environmental measures were causing competitive distortions and obstacles to the free movement of packaging and packaged goods.

The PPWD has been a key driver of the steady increase in packaging recycling and recovery rates since its adoption in 1994. According to the latest 2012 official EU data, 64.6% of used packaging has been recycled and 78.5% recovered. However, national differences in transposition have led to different ways of implementing the PPWD and there is a wide variation in packaging waste management performance in the EU-28.

2. WHAT IS 'EXTENDED PRODUCER RESPONSIBILITY' (EPR)?

In the context of the WFD and PPWD, Extended Producer Responsibility (EPR) is a policy tool that extends the producer's full or partial financial and/or operational responsibility for a product to the post-consumer state of a product's life cycle in order to help meet national or EU recycling and recovery targets. The PPWD requires Member States to set up "systems" for the return and/or collection and reuse or recovery, including recycling, of used packaging from the consumer or other final user in order to meet the PPWD's targets). Thus, the PPWD imposes the legal obligation of meeting the legal recovery and recycling targets on Member States.

However national legislation arising from transposition of the PPWD may, and often does, delegate this legal obligation to

producers/importers. EPR schemes that are set up at national level have been established to enable public authorities and producers/importers to meet obligations relating to the recycling and recovery of packaging waste. Almost all Member States have assigned responsibility for meeting recycling targets to producers, who have set up EPR schemes for used packaging to secure compliance. Since the PPWD does not specify how EPR should be implemented by Member States, practices differ in terms of how responsibilities and costs for packaging waste collection and sorting are divided between the involved actors (e.g. producers, local authorities, private or public waste management companies or consumers) and the requirements that EPR schemes have to meet to obtain a licence to operate.

3. HOW DOES EPR FOR USED PACKAGING WORK?

The role of EPR schemes is to take over the producer's legal obligation (imposed by Member States) to meet national packaging recycling and recovery targets, in particular for consumer packaging waste⁵. EPR schemes do this by ensuring

5. These FAQs mainly relate to consumer packaging waste as Commercial & Industrial packaging waste is often handled through other arrangements. Producers' obligations can also apply to packaging that becomes waste on commercial and industrial sites and this requirement varies from country to country. However because this material is typically more homogeneous and is cleaner than household packaging waste and arises in larger volumes at fewer sites, it is cheaper to collect it and get it recycled. So, although it may be handled through EPR schemes in some countries, producers and end-users often make their own arrangements to ensure that it is collected and recycled.



that packaging waste is collected, sorted and recycled according to legal targets. This activity is funded by the material-specific fees paid by producers/importers to EPR schemes for the packaging that they place on the national market. These fees are charged based on the tonnage (weight) of packaging the producer puts on the market and consequently incentivise material optimisation. Today, annual fees paid by producers to packaging EPR schemes⁶ in Europe are estimated at €3.1 billion⁷. Fees per tonne of packaging material placed on the market vary from country to country partly because the obligations and responsibilities differ per Member State and partly for other reasons as explained in FAQ 6 below. The fees paid by producers to EPR schemes typically cover all or a significant share of the costs of separate collection/sorting of used packaging and consumer awareness activities.

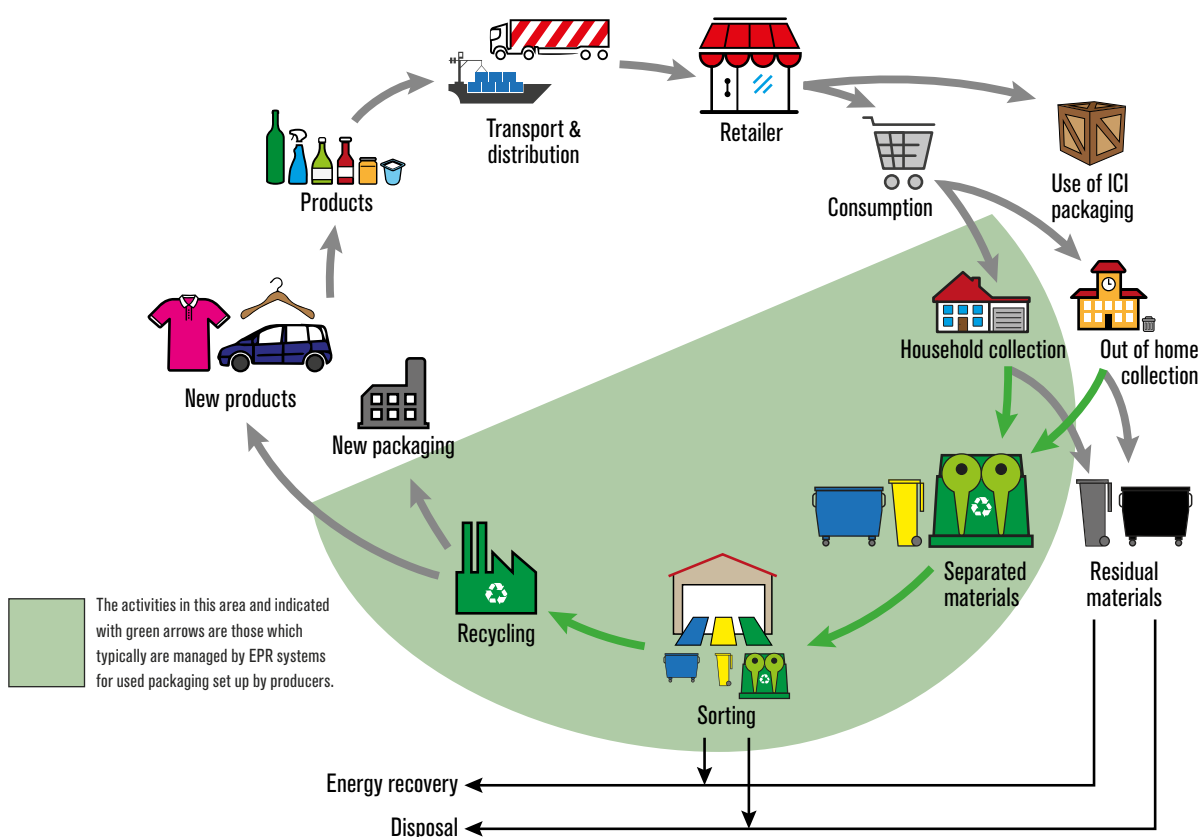
In some Member States, the fees paid to EPR schemes are used to pay private or public waste management companies

who collect and sort post-consumer packaging waste (e.g.⁸ Spain, Czech Republic), and in other countries these fees are paid to local authorities who collect packaging waste separately or appoint contractors to do so on their behalf (e.g., Austria, Belgium, Sweden). Collected and sorted used packaging is then sold to recyclers or, sometimes, to energy recovery operators. Typically, the revenues from sold secondary material are used to help offset the financial contributions of producers and importers to the EPR schemes. However, some Member States' EPR schemes have a different operational design from the model described above (e.g., UK, Poland). See also FAQ 5 below on the different operational schemes which refer to the additional cost elements such as education and consumer awareness.

In the following diagram, the activities in the shaded green area are those which typically are managed by EPR systems for used packaging set up by producers.

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- 6. Aggregate of obliged industry-owned compliance schemes (not-for-profit) and competing schemes (for profit)
 - 7. Excluding payments by producers to tax regimes (e.g. Denmark and Hungary) and to beverage container deposit systems in Denmark, Estonia, Finland, Germany and Sweden (also Norway, if we are counting EEA) (approx. €1 to 1,5 billion)
 - 8. Country examples may differ in each category as arrangement may be different for each packaging material

THE PACKAGING CYCLE



4. WHERE DOES A PRODUCER'S EXTENDED RESPONSIBILITY END?

EPR means that producers' responsibility is limited to meeting the packaging recycling and recovery targets specified in national legislation, based on the quantities of packaging they place on the market. The extent to which producers are responsible for financing and managing the collection and sorting of used packaging varies from one Member State to the next, but it is unacceptable that activities that are beyond producers' control should fall within EPR. For example, in most Member States littering will constitute an unlawful act on the part of individual citizens who can consequently be considered as the "polluter". Litter clean-up is therefore outside the scope of EPR. This obviously does not preclude a role for industry, such as supporting consumer

education campaigns on littering prevention or guidelines on how to correctly sort used packaging.

Packaging-specific EU guidance on the roles and responsibilities of all actors involved in the implementation of EPR for used packaging (i.e. municipalities, citizens, public or private waste management companies, the obliged industry, EPR schemes and local/national authorities) will be necessary in order to meet the EU Commission's objectives of improving the performance and cost-effectiveness of EPR systems across the EU. Defined roles and responsibilities would help clarify who is responsible for what, based on what each actor can control, thus helping to prevent inefficiencies and gaps in systems.

5. WHO PAYS FOR WHAT IN THE CONTEXT OF AN EPR SCHEME?

The actual division of costs depends upon how individual EPR schemes are constituted within the various Member States. This is currently determined at Member State level consistent with the principle of subsidiarity.

Shared cost can be considered at two levels: a) Costs for collection are split between the obliged industry, local authorities and municipalities, b) The obliged industry costs can be further divided along the value chain and fees are paid by players at each stage of the chain (e.g. packaging manufacturers, producers/ importers and retailers).

Full cost at the level of an EPR system means that all costs needed to meet legal obligations are covered by the obliged industry. These costs cover: a) Collection of

used packaging for recycling and recovery separately from residual waste, b) Sorting separately collected used packaging into material streams for recycling, c) Consumer awareness campaigns (e.g. how to sort used packaging, littering prevention).

In material fractions where packaging is collected with non-packaging material, non-packaging related collection and sorting costs are deducted. "Net cost" means that the final operating costs attributed to the obliged industry are reduced by the contribution arising from the revenues received from the sales of secondary raw materials originating from used recovered packaging.

6. WHAT FACTORS INFLUENCE THE COSTS OF EPR FOR USED PACKAGING?

The Commission has concluded⁹ that there is no link between the level of the EPR fees and the level of performance of an EPR scheme in terms of meeting national packaging recycling targets. However, there are many factors that impact the costs of separate collection and sorting of used packaging for recycling or recovery, such as the:

- ✿ Range and types of used packaging separately collected (e.g. all, some or no post-consumer packaging, industrial/commercial packaging),
- ✿ EPR fees paid by producers/importers are weight-based (fees are charged based on the tonnage – weight - of packaging the producer puts on the market and consequently incentivise packaging material optimisation) and material based (e.g. different



9. Commission Staff Working Document (2014) 209, Ex-post evaluation of Five Waste Stream Directives, 2 July 2014

material collection and sorting costs, sale value of the recycled/recovered material, different material fees also allow for competition among the packaging materials to drive further sustainable solutions for packaged products),

- ✿ Range and types of collection points (e.g. kerbside from households, bring banks, industrial/commercial/institutional outlets),
- ✿ Level of operational efficiency of the collection and sorting system,
- ✿ Geographic coverage of collection schemes (e.g. nationwide or densely populated areas only, percentage of population covered),
- ✿ Transport distances and frequency of collection (population density, distances between collection points and from collection to sorting/recycling facilities),
- ✿ Negotiating power of EPR schemes and municipalities,
- ✿ Single or multiple schemes providing compliance

leading to the presence or absence of competition on fees in a Member State,

- ✿ Cost structure of different operational EPR schemes (see FAQ 5),
- ✿ Level of enforcement by national authorities to prevent free-riders,
- ✿ Extent of competitive tendering along the collection and recycling value chain and competition among the collection and recycling providers in a country,
- ✿ Level of efficiency/maturity of municipalities' infrastructure (and whether or not collection of used packaging subject to EPR obligations can use the municipalities' infrastructure),
- ✿ Cost of collecting municipal solid waste,
- ✿ Cost of landfilling,
- ✿ General operating costs, such as labour, fuel, rent on buildings etc.

7. WHAT WOULD PAYING THE 'ENTIRE COST OF WASTE MANAGEMENT' MEAN FOR PRODUCERS?

The Commission proposes to place the “*entire cost of waste management on producers or importers of products put on the EU market*”. This means two things: (1) the role of producers is clearly defined, while the roles and responsibilities of the other actors in the chain are not defined and (2) producers would be required to cover the costs of “waste management”, as defined in the Waste Framework Directive. This measure, including imposing the cost of litter clean-up on producers and wrongly disposed packages by consumers

would impose an unjustified burden on producers because it includes elements which producers cannot influence or control. This would run counter to the growth and job creation objectives of the circular economy package, and could potentially entail higher prices for consumers. Nonetheless, producers can and do play a positive role in influencing consumer behaviour through anti-littering campaigns led by EPR schemes.

8. WHAT HAS HAPPENED SINCE THE ADOPTION OF THE PACKAGING AND PACKAGING WASTE DIRECTIVE?

The landscape has evolved significantly since the adoption of the PPWD in 1994, particularly with regard to the following trends:

- ✿ **There continues to be uneven progress among Member States towards meeting EU recycling/recovery targets** (e.g. one of the highest-performing Member States has an 80,3% packaging recycling rate while a lower-performing Member State has a 41,4% packaging recycling rate¹⁰). This is partly due to the fact that since the PPWD was adopted in 1994, 16 Member States with very different levels of economic development and waste infrastructure have joined the EU. In EUROPEAN'S view, EU harmonised minimum requirements for packaging

EPR schemes would make an important contribution to helping raise recycling rates across the EU (see FAQ 9);

- ✿ **Member States pursue different packaging collection strategies to meet the packaging targets.** For instance, some Member States meet the target by collecting both post-consumer and industrial/commercial packaging, while other Member States mainly collect

10. Eurostat, Packaging waste recycling rates, 2012



packaging from the commercial and industrial sector. Separate collection of post-consumer packaging (the largest packaging waste stream) in all Member States is essential to increase recycling rates, secure compliance with higher recycling targets and achieve a Circular Economy;

✿ **Most Member States introduced EPR to implement the PPWD but EPR works differently in each country.**

In some Member States, responsibility for organising and/or financing the collection and sorting of used packaging from households has shifted partially or fully from municipalities to industry. As the value of secondary materials derived from packaging waste has risen, municipalities and/or waste management

companies have been seeking ownership of the collected material while demanding that producers take increasingly more financial responsibility, with less operational control on cost and performance;

✿ **New and competing EPR schemes have emerged.**

In the 1990s, most packaging EPR schemes were operated by the obliged industry as 'not-for-profit' organisations. Today, EPR has been identified as a business opportunity for private waste management operators, investors and entrepreneurs. Thus, in many countries there are competing commercial EPR schemes offering services to producers but no clear legal framework, as the national legislation in most Member States did not foresee competing EPR schemes.

9. WHY ARE MINIMUM PERFORMANCE REQUIREMENTS ON EXTENDED PRODUCER RESPONSIBILITY SCHEMES FOR USED PACKAGING NECESSARY IN EU LEGISLATION?

The Commission's proposal aims to drive the transition towards a Circular Economy and views Extended Producer Responsibility (EPR) as a critical concept to achieve higher recycling rates in order to secure a sufficient supply of high quality materials for the economy in Europe. With the aim to improve the transparency, cost effectiveness and recycling performance of EPR schemes the Commission defines minimum requirements in the Waste Framework Directive (WFD). While

these general requirements would improve the EPR concept, they are not sufficient to address the specific challenges faced by EPR schemes for used packaging. Legal minimum requirements in the PPWD are needed because national legislation does not provide a clear regulatory framework for EPR schemes for used packaging. This is particularly important where competing

schemes operate at national level, to ensure that they operate to the same minimum standards. In many cases, national legislation does not assign a clear responsibility to national authorities to control and enforce requirements to ensure good governance of EPR schemes for used packaging and to prevent free-riders. This leads to a lack of transparency and allows some EPR schemes to 'cherry pick' the most valuable materials or to focus only on used packaging that is easy to collect (e.g. from commercial and industrial sources, or densely populated areas), which creates an uneven playing field for other EPR schemes and a lower recycling performance overall. An uneven playing field will prevent the EU from reaching the recycling objectives, as it undermines the economic and/or environmental viability of the EPR model and would ultimately lead to suboptimal packaging waste management, with an adverse effect on national packaging recycling rates.

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