

**Consultation of reforms to the Packaging Waste Recycling Note (PRN) and Packaging Waste Export Recycling Note (PERN) and Operator approval:
Response from the Advisory Committee on Packaging (ACP)
May 22nd 2022**

We welcome this consultation and your objective to make markets for PRN and PERN work more effectively without unintended or negative effects.

We suggest you consider the following and our answers to your specific questions:

1. PRN and PERNs are an excellent market innovation and should be appreciated for what they achieve. They have worked reasonably well. Increasing effectiveness, as you are trying, is exactly the right approach.
2. For the various ills periodically alleged against them we suggest you commission either desk-based econometric research with data, say, for a past year or monitoring research for about six months to isolate if specific problem areas can be isolated based on data. It is possible that some issues can be seen for a material or because of a particular target for a short time but we believe PRN and PERNs are more sinned against than sinning.
3. In fact we ask you to keep them in your armoury as instruments that could be used in other stages of the packaging waste and recycling chain in preference to non-market methods to optimise revenue based on demand and supply. Eg, PRNs could apply to certify waste collection or market placement volume.
4. In relation to the common complaint that PRN and PERNs have not generated enough revenue to compensate local authorities for the net cost of waste management, you could consider instruments such as placing a fee or cost on each PRN for remittance to councils. Eg, 5% of the PRN and 10% of PERN value could be for that. Over time this could be based on research to maximise positive incentives.
5. On the interface with Deposit Return Scheme (DRS), when implemented – we believe all policies should be finalised after your responses to consistent collections and Deposit Return Scheme have been published in addition to the Extended Producer Responsibility (EPR) and of course this PRN one – we suggest the following:
 - Devising DRS to have all its volume subject to the PRN/PERN obligation. That would avoid the need for segregating volumes and provide increased incentive to recycle.
 - If you want to take DRS out of the recycling obligation, provide local authorities/waste collectors to claim deposit values back from what they find kerbside or in litter. That too would have the same effect and give local authorities appreciable revenue as the deposit is likely to be much more than realisation from material.
 - Both methods above would reduce the scope for fraud. Alternatively, any method would need some identification mechanism such as a digital mark on DRS material or otherwise.
6. We do not support giving an alternative to PRN/PERN in terms of a compliance fee for shortfall against target. That will reduce the effectiveness of the PRN/PERN markets and introduce distortions such as calculations about which will be cheaper to

fulfil. Such an alternative should only be allowed in exceptional circumstances and the difference in value should be small so that the whole market does not get distorted.

7. We are not sure about your argument about these markets having asymmetric information and thus sellers of PRN/PERNs holding the trump card of when to sell. That has to be a feature of any market since demand and supply has always to be matched and thus the price mechanism exists. Unless there were few sellers or collusion the asymmetric information argument has to be questioned. Once again research is the best answer to such assumptions.
8. On the issue of negative publicity about PERNs, apart from what you are attempting in terms of better certification of recycling abroad, we would accept the argument that recycling costs in markets abroad would probably be lower in net terms than the UK for lighter-mass materials such as plastic and paper/card. We suggest you try imposing values such as PERNs being 90% as valuable as a PRN by material and refining these based on data for each material. Alternatively, you could require recycling of a minimum volume in the UK before PERNs are allowed.
9. We believe most businesses closest to PRN/PERNs are small businesses. In addition to this consultation we suggest conducting a targeted survey of that category of business for their views. We also suggest testing the final policy chosen either in one of the four UK jurisdictions or with one part such as a material before full implementation.
10. Research on the actual workings of the PRN/PERN markets as we have suggested is important because even in our committee there are a few voices which do not agree with the broad sense of satisfaction we have expressed with PRN/PERN markets and would rather that EPR once implemented with policies such as consistent collections be depended on for the right results instead.

5. Do you agree or disagree with the introduction of mandatory monthly reporting for reprocessing/export data?

Agree ✓

Disagree

Neither agree nor disagree

Please provide the reason for your response

In response to this specific question, there is no doubt we would support more regular and accurate data being made available on both PRNs/PERNs issued and packaging waste received for recycling. This would be helpful in monitoring target achievement and enable schemes to determine whether and how to intervene earlier than the current system.

However:

- If monthly, can the data be reported in a simpler format with full reconciliation at the end of the quarter
- the deadline after the end of each month is pushed back to 3 or 4 weeks to allow for holidays etc
- tonnage data should include both PRNs/PERNs issued and tonnage received for reprocessing/export.

In theory, the mandating of monthly reporting would make sense as it should lead to more reliable and accurate monthly snapshots of the packaging waste management sector. This could aid the tracking of progress towards nationally set targets and overall be aligned with

the government's ambition to have a greater real-time view of the waste management industry, seen most recently in the consultation on proposals for digital waste tracking. Concerns regarding additional administrative and reporting burdens placed on those businesses responsible for generating evidence of recycling must strike an appropriate balance between the size of those burdens versus the financial reward available to those businesses should they generate recycling evidence.

Should this proposal be introduced into the PRN system, it would be important to also include a reporting category regarding the tonnages of packaging waste received by a reprocessor/exporter site that had not had or was yet to have a PRN raised on it. This would help identify excess stocks of packaging waste upon which evidence could be generated. The transparency would be useful for those purchasing evidence and could reduce volatility in PRN markets.

6. Do you agree or disagree with the introduction of mandatory monthly reporting of PRN/PERN prices and revenue data?

Agree

Disagree

Neither agree nor disagree ✓ (Members are divided on this)

Please provide the reason for your response

Can we ask if reprocessors and exporters have to provide monthly data? Compliance schemes will have the revenue data, so they report on revenue spend and this could be instead of asking the reprocessors and exporters to do both.

For monthly PRN price reporting more detailed guidance needs to be produced to help reprocessors with what is expected and there must be suitable confidentiality measures in place so that only aggregated data is released. Revenue reporting however is quite different and can only really be done annually and in arrears.

There is support for the proposal to mandate the reporting of packaging waste reprocessor and exporter revenues but have concerns over how this might be introduced. There is uncertainty on the size of any impact the measure will have on price stability and the extra administrative burden this would bring.

Some reprocessors will be both accredited to issue PRNs but also have their own obligation. In this case they will use their own PRNs to offset their MCEP which will result in a 'zero' PRN cost to be reported.

7. Do you agree or disagree with the proposed approach to revenue reporting for reprocessors and exporters?

Agree ✓

Disagree

Neither agree nor disagree

Please provide the reason for your response

The suggestions for the new reporting areas are extensive whilst sitting under 5 headings when rolled up:

- **Infrastructure**; Purchase of new assets, Support and maintenance of reprocessing/exporting infrastructure
- **Reprocessing/Exporting**; Price support for material (buying), Price support for material (selling)
- **Collection and Sorting**; Price support for material (buying), Price support for material (selling), Support for business collections, Support for household collections

- **Communication;** Local campaigns (with Local Authorities), National campaigns (with Scheme Administrator/other), Comms related to specific material, Direct contacts with suppliers
- **Market Development;** UK market development, Overseas market development, Use of the revenue to develop new overseas/export markets and/or new uses for the recycle

There are concerns over the ability of regulators to provide industry with any reassurance over the degree of accuracy within data reported by these new categories. Whilst beneficial the effect on cost of this should be a factor given other rising costs for business, and if it is still worth it.

It would appear the most appropriate method for the reporting of funding usage by these categories is to do so on an annual basis in arrears, as requiring the reporting of this data on a bi-annual or quarterly basis may disproportionately burden operators to the extent they are dissuaded from participation.

National consumer communications regarding packaging waste recycling and littering is proposed to be the responsibility of the EPR scheme administrator.

8. Please suggest any other categories/sub-categories that you think should be included

In comparing the proposed reporting categories to those used currently, it appears 'Retain for Future Investment' has been removed from the existing PRN/PERN revenue categories. Suggestion is this should be reinstated as long as specific conditions are met in terms of providing evidence about how the revenue is being used and making use of that revenue is time limited.

The importance of reporting accurate and comprehensive data on time needs to be promoted and enforced, and to support reprocessors and exporters consideration should be given to using some of the revenue to offset the time and cost of the required administration and reporting. If this is included as use of PRN/PERN revenues there needs to be a structure and guidance as to how much activity and thus funding can be used. This is particularly true for small businesses, which can have a disproportionate amount of time required to complete the required reporting requirements.

9. Do you agree or disagree with the proposal to reduce the timescale over which PRNs/PERNs can be traded?

Agree

Disagree ✓

Neither agree nor disagree

Please provide the reason for your response

Any potential policy interventions in the PRN system to be for the better must apply to the wider market and not restrict flexibility when unforeseen events occur, whilst this should be by exception it is to be a factor.

The proposal to reduce the timescale over which PRNs/PERNs can be traded is the least preferred out of all the Options, could create an excess and backlog of PRNs/PERNs which could not be traded. This may then cause problems with a lack of evidence later in the compliance year, and in turn decrease opportunities to achieve recycling targets or potentially cause further volatility.

To extend the flexibility of the current compliance period (Option 2) would be more effective.

10. Do you agree or disagree that there should be a mechanism for extending the compliance period for the trading of PRNs/PERNs?

Agree

Disagree

Neither agree nor disagree ✓ (Members are divided on this)

Please provide the reason for your response

Small operators disagree with extending the compliance period. If you decide to extend, can we ask that it is in exceptional circumstances. In addition, an extension of the year could lead to speculation by the financial services industry leading to greater volatility in prices. Some agree with this proposal on the grounds that the enabling of recycling evidence purchased in December to be carried forward to meet producer responsibility targets in the following year has been shown to be a useful mechanism in helping to smooth PRN prices, mitigating the likelihood of a run on the market in the final months of the compliance year. As such, there is evidence to support the enhancement of the mechanism and we would support the extension of compliance years by one month extra, enabling packaging recycling evidence purchased in January to be 'carried back' for use to meet producer obligations in the previous calendar year.

We do not believe the extension of the compliance year by further than one month is necessary, as this would lead to too significant a portion of overlap between two compliance years, potentially leading to a scenario where the extended compliance period is the only reason national recycling targets for the previous calendar year are met which would be a significant unintended consequence of this measure.

11. Please provide details of the conditions or criteria you think would be appropriate to trigger an extension of the compliance period

Small operators disagree with any extension being given. If an extension is to be given it needs to be under certain conditions like exceptional shortage of tonnage in the compliance year.

For others there is belief that the potential extension of the compliance period into January should be a permanent feature of the packaging producer responsibility in a manner similar to how December PRNs can be carried forward for use in the following year without the presence of a trigger. This would allow producers or their schemes to use the mechanism should they wish.

Also suggested conditional to market failure, could there be a PRN substitute rather than an extension, or at least clear parameters for any exception.

12. Do you agree or disagree with the proposal to increase the timescale over which PRNs/PERNs can be traded to a multi-year or rolling system?

Agree

Disagree ✓

Neither agree nor disagree

Please provide the reason for your response

We believe this proposal is too complex and costly to administer and it should not be pursued.

13. Which approach do you believe is the most suitable for addressing the issues of price volatility in the PRN/PERN market?

Option 1 - Reducing the timescale over which PRNs/PERNs can be traded from an annual to a monthly or quarterly system

Option 2 - Increase carry forward/back period ✓

Option 3 - Move from an annual to a multi-year or rolling system

All could work

None of the above

I do not know enough to provide a view

Please provide the reason for your response

Option 2 is the most effective of the three options for intervention and helping to address the cyclical changes in supply and demand as well as the price volatility in the PRN/PERN market. The other options presented have the potential to have the opposite effect in some circumstances

There are many other factors which influence price volatility outside the scope of this consultation.

14. Do you think that the issuing of PRNs/PERNs on DRS materials that remain in kerbside collections would have an impact on the PRN/PERN market? If yes, what impact would this have, and if no, why not?

Yes ✓

No

Unsure

Please provide the reason for your response

Issuing of PRNs/PERNs on DRS material that remain in kerbside collections would have an impact on the PRN/PERN market due to packaging in scope of a DRS (plastic, aluminium, and glass drinks containers) being present. These items already have a high recycling rate and will continue to be present in various quantities in kerbside and away from home recycling collection schemes. This could be either through not returning the drinks containers to an RVM at retailers as used in a traditional DRS, or not registering the packaging in a digital DRS, which uses a combination of kerbside and RVMs when recycling away from home. These items would then be present in kerbside or non-RVM recycling bins located in away from home locations, which will vary depending on the RVM infrastructure that is put in place in any DRS.

We estimate that 20% of people would not reclaim deposit and another 10% would use kerbside or recycling. We do believe some entrepreneurs will collect to earn money but if DRS is excluded from PRN/PERN market demand would reduce and reduce PRN/PERN prices and revenue unpredictably as well as make segregation complex. We have given suggestions in the introduction.

15. Do you agree with a sampling and modelling approach?

Yes

No

Unsure ✓

Please provide the reason for your response

Whilst there is some agreement that compositional analysis may need to be more frequent in the early years of EPR to track the success of deposit return schemes which are being implemented at significant cost to obligated producers, it would be too complex and costly to use material compositional analysis at the outset to come to a robust dataset which considers the wide variations of items in scope of a DRS. As such, and in agreement with the consultation, we are unsure of how new approaches would be effective and there are further implications that would need to be considered. We think digital waste tracking might help here.

16. Do you think reprocessors and exporters will be able to differentiate between DRS and EPR packaging materials in issuing evidence?

Yes

No

Unsure ✓ (Members are divided)

Please provide the reason for your response

Small operators cannot answer yes or no to this. Quality of information the DMO will need to differentiate DRS and EPR would be important. There is a lot of development happening at sorting facilities across the UK with Greyparrot and Recycleye trying Auto visual technology to be able to differentiate between the two streams. It will depend on the amount of money available to make it happen.

For others there is some belief most reprocessors or exporters will not be able to effectively separate non-DRS containers from in-scope containers. To provide the example of glass packaging, our understanding is the material is sorted by colour as opposed to container type. Moreover, the costs of implementing automation technology to sort drinks containers from non-drinks containers, such as that expected to be present with Reverse Vending Machines, would come at a disproportionate cost.

Initially this would be a time consuming and costly process to differentiate between DRS and EPR packaging materials. A sorting facility that separates mixed recycling materials could, with the right technology and commercial incentive, in theory separate these materials before going to the reprocessors, but how likely this could be technically or commercially unless a wider digital DRS system was put in place for consumers to place their drinks containers in their kerbside collection bins has to be seen.

We have made suggestions in our introduction.

17. Which of the above options do you prefer?

Option 1 - Find a means to prevent PRNs/PERNs being issued on DRS material collected alongside EPR materials

Option 2 - Place a recycling obligation on DRS producers for packaging waste that is in scope of the DRS, but not collected by the Deposit Management Organisations (DMOs)✓

Option 3 - Increase EPR producer recycling obligations to include DRS packaging not collected through the DRS routes

Please provide the reason for your response

Option 2 makes logical sense because if placed on the market and collection data are accurate the material not collected in the DRS would inevitably go to kerbside or non-DRS recycling bins located in away from home locations. The challenge here would be around understanding what is and is not littered as the current proposals are that Wales and

Scotland would include the cost of littered packaging as part of EPR payments, whilst England and Northern Ireland are not.

If implemented, there may be scope for the DRS DMOs to acquire an appropriate tonnage of recycling evidence, using revenue from unredeemed deposits. Expectation is that the DRS DMOs would have sufficient funding available to them to procure evidence, especially during the initial years of the UK's deposit return schemes where collection rates are expected to have not reached their highest level.

We make some suggestions in our introduction.

18. Do you think there will be any issues in the practical implementation of:

Yes No Unsure

Option 1 Yes

Option 2 Yes

Option 3 Yes

If you answered 'Yes' to any of the above, please provide your reason(s)

All the proposed approaches come with practical issues associated with their implementation as in previous answers. Option 2 would be least complex on legislative, administrative, and practical levels. However, the DRS DMO will need to work with the EPR Scheme Administrator to ensure this does not cause DRS producers to pay twice for same drinks containers materials they place onto the market.

19. Do you agree or disagree with the introduction of an operator competence test for compliance schemes?

Agree ✓

Disagree

Neither agree nor disagree

Please provide the reason for your response

Introduction of an operator competence test for compliance schemes in order to minimise the potential of fraud, promote best practice and ensure high standards makes sense.

20. Do you agree or disagree with the introduction of an operator competence test for accredited reproprocessors and exporters?

Agree ✓

Disagree

Neither agree nor disagree

Please provide the reason for your response

The reputation of the entire system is highly dependent on the assurances of reprocessors and exporters that material is properly processed and accurately reported. Whilst most businesses involved are highly professional and reputable companies there have been examples in the past where operators have either accidentally or deliberately misreported or even defrauded the system.

We believe that the introduction of an operator competence test specifically for reprocessors and exporters would help to minimise this risk and the associated risk of poor operators or individuals being able to set up again under a new operation.

In addition, we suggest that there is a review of the accreditation fees for reprocessors and exporters under the new regulations to ensure that the regulators have sufficient funds in order to properly monitor and investigate any businesses they suspect may not be fully compliant with their obligation. This is particularly important in the case of exporters because more stringent requirements are rightly being proposed for exporter accreditation and these will inevitably require a greater degree of enforcement and monitoring.

Transparency in the use of revenues is paramount, with recommended auditing and enforcement functions in the system in order to provide the evidence to ensure what is reported in the revenue categories is accurate.

We would remind you of our previous recommendations that a specialist packaging waste regulator makes sense and would be economic.

21. Do you agree or disagree with the introduction of a compliance fee for producers who do not obtain sufficient PRNs/PERNs to meet their obligations?

Agree

Disagree

Neither agree nor disagree ✓ (Members are divided)

Please provide the reason for your response

Small operators disagree. There is a Risk Compliance schemes could hold prices down similar to the risk that the Reprocessor / Exporter could do the same. There is a far lower number of compliance schemes in the market in comparison to Processors and exporters. This creates a risk of holding the price down. This could manifest itself by compliance schemes not buying materials at all in the market and the average material value could be artificially low. If a compliance fee system was to be used it would need to be only triggered on a significant amount if not all of materials available are being traded in the market and how much was not bought as factors for a compliance fee being needed. There is also worry that a compliance fee will remove the money from the market and not make it available to create the market dynamics between demand and supply necessary to create the right value.

Out of all those proposals tabled within this consultation, some feel the introduction of legislation that allows for the operation of a packaging compliance fee is the most favoured enhancement to the PRN system. Some have advocated the benefits of introducing the legal means by which a compliance fee could be introduced to the UK's packaging producer responsibility regime for a number of years and would strongly support Defra or the regulators being provided with the powers to introduce this should it be deemed necessary. Whilst there is some agreement for the introduction of a compliance fee for those producers who do not obtain sufficient PRNs/PERNs to meet their obligations, this should be only as a last resort and in specific circumstances. This should apply to the last month or two, eg, only and on a small volume and the value difference should not be appreciable, so that the PRN/PERN market does not get distorted.

In addition, there are some important lessons to be learned from the WEEE experience that could be incorporated into a compliance fee mechanism for packaging. However, we have made considered suggestions based on market operations in our introduction.

22. Do you think the introduction of a compliance fee would still be necessary in addition to the proposals (outlined in Section 2.2) to address the issues around price volatility?

Yes

No

Unsure ✓ (Members are divided)

If you answered 'Yes', please provide the reason for your response

For small operators, no is the answer. Volatility is for a number of reasons, but if Demand is created in one year and fulfilled in the next year that leads to the biggest volatility. This has caused a high Glass Market price since supply and demand is not in the same year. Glass at the member's Recycling plant doubled in price at the first lock down and Prices have been high for last year and currently as a symptom of this. Another is Commodity changes where the PRN rises to deal with the change, and usually is more effective if a market is not satisfied.

Others believe the government should have multiple policy instruments at its disposal to increase transparency of operators involved with the trading of PRNs as well as measures to reduce price volatility, the latter of which could facilitate the growth of a stable financial environment which encourages investment in domestic recycling infrastructure capacities and capabilities as well as greater stability for producers.

The inclusion of a compliance fee mechanism within the regulations underpinning the reformed PRN regime would provide an important backstop that can prevent producers or compliance schemes purchasing evidence notes at exorbitant prices whilst ensuring they comply with the regulations. Moreover, as opposed to the payment of a penalty fee to regulators to demonstrate compliance with the reformed regulations, the compliance fee also enables the accumulation of a fund which can be used to benefit the system, for example by providing financial assistance to projects aimed at increasing the recycling of packaging waste. This has been seen to work effectively in the producer responsibility system for waste electricals, where the funds raised from the operation of a WEEE compliance fee each year results in a substantial fund that is used to deliver national communications on WEEE recycling, as well as fund research projects into the best methods by which to increase the amount of WEEE arising being collected for recycling, and recycled. Such an approach to the use of any funds accrued under a packaging compliance fee should be adopted were a fee to be operated.

However, we have given suggestions based on market operations in our introduction.

23. If you have any other suggestions for improvements to the operation of the PRN/PERN market, please include details here

1. That a 'sub-target' should be introduced, initially for plastic but potentially for some other materials in future, to specify that a set minimum percentage of the overall recycling should be met through UK reprocessing as opposed to export. The percentage needs to be set at a reasonable level but could then be gradually increased over future years to help drive UK recycling. Thus, removing the current commercial advantage of the PERN to export plastic packaging for recycling. We have suggested this in our introduction in reverse terms, putting a different value on PRN and PERN.

2. A key element of the new regulations that is not mentioned in the consultation is ensuring adequate resources for monitoring and enforcement. Some areas of the current system are completely underfunded (eg. export destination checking) and these should be thoroughly reviewed to provide the enforcement agencies with adequate funds to do their job properly. We remind you of our belief that a specialist packaging waste regulator makes sense and would be economic.