

Advisory Committee on Packaging - Future Regulations paper

December 2017

1. Summary table

- a. It is considered that the fundamentals of the current system – shared responsibility, a market-based fee system, compliance schemes – are a valid part of any future packaging producer responsibility system. However a number of improvements and enhancements are necessary to enable the system to deliver against likely future requirements.
- b. The table below summarises the key elements of the ACPs recommendations. These require a fundamental shift away from a purely market driven system to some centralised funding and delivery for long term sustainability objectives.

	Recommendation	Overview
1.	Target optimisation	Smarter targets: LCA derived including carbon benefit. Material granularity. Compatible with other potential legislative drivers. Coordinated with other targets.
2.	Communication	Well-funded and ongoing - >£20m/year from fixed charge separate to PRN. Coordinated with other communications such as consistency. Requires national management body. Disbursement should be as required not material specific.
3.	Compliance revenue use	Modulated targets to take account of environmental impact. Impact should include LCA, litterability, recyclability, carbon etc. Clearer revenue reporting. Fixed fee required for strategic infrastructure development. Requires national management body.
4.	UK vs Export	UK vulnerable to dependence on exports. Requires government intervention to encourage UK reprocessing growth. Requires demand led incentives .
5.	Additional issues	Enforcement needs to be more effective on exports, qualifying packaging and free riders. De-minimis thresholds need review to apply a fairer cost distribution. Accreditation should be a mandatory requirement for all reproprocessors and exporters to ensure all recycling is captured.

2. Introduction

- a. The Producer Responsibility (Packaging Waste) Regulations have operated under broadly the same requirements since their inception in 1997 with amendments from time to time to implement steadily rising business recycling targets. Revised Regulations in 2008 simply applied technical changes, but the fundamentals of shared responsibility and the market based PRN system have remained unchanged over that period along with the basic purpose of the regulations – to meet packaging recycling and recovery targets at least cost.

- b. Recent EU Circular Economy Packaging (CEP) proposals indicate that the current regulations will not satisfy key conditions within the revised Waste Framework Directive that a minimum proportion of the full net cost of collection, sorting and recovery be met by producers. The market-based PRN system provides no certainty on the proportion of cost met by producers as cost varies according to market supply and demand.
- c. The evolving EU proposals have also included significantly higher packaging recycling targets and concerns have been expressed as to the potential ability for the current system to achieve this.
- d. The Advisory Committee on Packaging has been asked by Defra to consider whether amended or alternative regulations are necessary to take the UK beyond the current targets which have been announced to 2020. A Future Regulations Work Group was established to consider the key priorities taking into account the EU proposals but also considering industry priorities beyond those.
- e. Following an initial full ACP member meeting in February, four work streams were established to look at the agreed priority areas of:
 - i. Target optimisation
 - ii. Consumer communication and behaviour
 - iii. Compliance Revenue use
 - iv. UK reprocessing versus export
- f. This paper summarises the debate and conclusions from these work streams.
- g. The ACP considered a 'wish list' of outcomes for the future regulations:
 - i. Smarter targets
 - ii. Litter reduction
 - iii. Tackling 'on the go' packaging
 - iv. Reduce marine litter
 - v. Improve the national recycling infrastructure
 - vi. Improved communication to both householders and businesses
 - vii. Data capture to ensure all recycling is measured
 - viii. Lowering the thresholds to involve a greater number of small to medium sized businesses
 - ix. Compatibility with the Local Authority Greater Consistency of Recycling Collections initiative
 - x. Compatibility with wider recycling expectations such as the national household recycling targets and any future taxes or levies such as a deposit return scheme (DRS).
 - xi. A level playing field requiring effective enforcement eg free rider minimisation, export quality controls
 - xii. Modulated fees to take account of recyclability
- h. These were taken into account in the final conclusions and recommendations.

3. Targets

- a. When introduced in 1997, the Regulations set business targets on a trajectory to meet the EU Packaging Directive targets of 2001 and 2008. Since 2008, targets have been further increased to meet UK policy objectives.
- b. The recycling targets proposed under the CEP do not appear to be based on comprehensive scientific analysis or to achieve any broader environmental benefits.
- c. The ACP believes that wider considerations should be taken into account when setting the UK targets.
- d. The targets should be 'smarter' in taking into account wider eco-design environmental benefits for example:
 - Resource use and scarcity
 - Recyclability eg black trays
 - Carbon life-cycle impacts
- e. The Group concluded that these criteria should be set at national level and would lead to more granular targets in certain areas eg plastics. This would require broad stakeholder engagement in the setting of targets rather than the current system of Defra determination.
- f. The targets should be relevant to other areas of legislation eg household waste recycling.
- g. The targets should be compatible with other potential drivers which might be introduced, such as DRS.

4. Communication

- a. Learning from other countries and from various UK initiatives indicates that a key driver of higher consumer participation in recycling systems is a coordinated and high profile national communications programme. This is considered a key shortfall of the current system and a National recycling communication programme is required for both consumers and businesses.
- b. To be effective, it will need to be fixed, well-funded and ongoing. Based on evidence, an annual budget of £20-30m was considered necessary.
- c. It should be coordinated with other recycling issues such as collection consistency, and include both national and local elements in its delivery.
- d. It would require a management body and expert support to determine the most effective communications strategy.
- e. Disbursement should be where needed and not related to how raised eg not material specific.
- f. The funding mechanism would need to sit outside the PRN market mechanism with possible options being:
 - i. Fixed 'placed on the market' or obligated levy for producers.
 - ii. Fixed charge on smaller producers currently below the de-minimis level.

5. Compliance revenue use and strategic infrastructure investment

- a. Compliance revenue should be modulated to relate more to potential environmental impact of packaging type rather than simple material split eg rigid/composites/film and difficult plastics.

This would require target sub-categories which would need careful consideration to avoid over-complication of obligated tonnage and recycling reporting.

- b. Modulation of compliance levies should also take into account related issues such as litterability.
- c. Compliance revenue use reporting needs clearer definition and more effective enforcement.
- d. The current system provides important flexibility for appropriate market reaction to over/under-supply, but dis-incentivises strategic investment. Over-dependence on uncertain export markets will need strategic infrastructure development support.
- e. It is therefore considered that a fixed funding mechanism is required either as part of or in parallel with the PRN system eg a placed on the market fee. This would be material and/or sub-material specific and could, if required, be developed to meet the partial or full cost recovery requirement that may be part of the final CEP package.
- f. This would require a separate management body for fee disbursement though a bidding mechanism related to strategic infrastructure development support including collection of household waste packaging.

6. UK versus export

- a. For most materials, UK reprocessing capacity is determined by factors that go well beyond the influence of the packaging waste regulations linked to manufacturing costs and global economic factors.
- b. Recent import controls applied by China have demonstrated the UK's vulnerability through its dependence on exports for plastic and paper in particular.
- c. However the nature of the plastics recycling industry means that it is more feasible to influence investment in UK capacity and waste exports and justifies measures to repatriate reprocessing.
- d. Recent market failures of UK reprocessing capacity for post-consumer plastics indicates a need for intervention to de-risk the process to encourage investment.
- e. This requires demand drivers that can only be implemented through central Government policy such as buy-recycled and recycled content encouragement within the constraints of other regulatory requirements such as food standards.
- f. It will also require support for UK based reprocessing activities that may need pump priming through the strategic investment fund mentioned earlier.

7. Additional issues

- a. Whilst not a specific work stream, effective regulatory enforcement was a common theme throughout the discussion. Areas of improvement that were considered important included:
 - i. Export controls to ensure that UK reprocessors were not disadvantaged.
 - ii. Obligated packaging enforcement to ensure that only qualifying packaging was being used for evidence.
 - iii. Producer free-riders were appropriately identified and brought into the system
- b. De-minimis was considered without a specific recommendation. In particular, the growth in online sales has seen significant increases in the proportion of packaging supplied through sub-de-minimis companies since the reduction of producer de-minimis to £2m turnover. The de-minimis

threshold therefore needs to be reviewed along with consideration for a fairer sharing of the funding burden.

- c. The accreditation process requires review as the current system allows recycling that would contribute – often significantly – to the UK’s recycling performance to be outside the data capture system. Integration with the permitting system as part of an overall reform of waste reporting is considered essential to ensure that all reprocessing is captured.

8. Conclusions and recommendations

- a. The ACP concludes that the current market-driven PRN system is unsuitable in its current form for compliance with the likely Circular Economy requirements of:
 - i. Full or partial net cost recovery of collection, sorting and reprocessing.
 - ii. Significantly higher packaging recycling targets
- b. Wide ranging debate with producers indicates an acceptance that without reform the current system is unlikely to continue to be effective, that costs will rise and that the system will become more onerous.
- c. The current system therefore requires reform to address a number of key issues.
- d. It is considered that the fundamentals of the current system – shared responsibility, a market-based fee system, compliance schemes – are a valid part of any future packaging producer responsibility system.
- e. However, it does not provide a number of key additional ingredients which are considered necessary for future sustainable growth, and therefore reforms are necessary to address the following:
 - i. high profile national communications programmes
 - ii. predictable strategic funding
 - iii. incentives for eco-design and dis-incentives for high-impact materials that will adversely affect the UK’s resource efficiency performance.
 - iv. involvement of a wider range of businesses in the system
- f. Future targets must take into account the eco-impact of packaging materials to deliver scientifically based targets with long term sustainability at its core rather than politically driven recycling targets.
- g. The need for reform of the PRN system along the lines described in this paper is increasingly widely recognised by producers in order to deliver a future system that is fair, proportionate, has limited administrative cost and above all, will deliver an environmentally beneficial outcome.

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