



Consultation response to the UK Government (Defra via Daera) consultation on reforming the UK packaging producer responsibility system

Comments by

Sustainable Northern Ireland

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Sustainable Northern Ireland (SNI) is a networking and forum body for statutory and non-statutory organisations concerned with the pursuit of sustainable development in Northern Ireland. We work closely with councils to promote and deliver sustainable development policy and practice at a local level. Our work programmes encourage organisations to integrate the principles of sustainable development throughout their operations and business planning functions, and deliver bold and innovative projects to promote economic, social and environmental wellbeing. Sustainable NI, its Board of Directors and wider public sector membership brings together a range of knowledge, experience and expertise which can be used to help develop policy, practice and implementation in the field of sustainable development.

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1.0 GENERAL COMMENTS

SNI welcomes this consultation on reform of the Packaging Producer Responsibility Scheme, given SNI's role as sustainability support to local councils and other public sector bodies. SNI are keen to embed the Sustainable Development Goals within all of their work with councils and therefore this new system would contribute particularly towards both Sustainable Cities and Communities (SDG11) and Responsible Consumption and Production (SDG 12).

Councils in Northern Ireland have been at a disadvantage in responding to this consultation as it was launched as part of a substantial package of consultation documents, in the run up to a Northern Ireland local government election (to be held in May 2018). Nevertheless, SNI have responded and would be happy to be involved in any future discussions around the new system.

2.0 SNI POSITION ON REFORM OF THE PACKAGING PRODUCER RESPONSIBILITY SCHEME

The choice and design of a reformed PRS must make a significant improvement towards national recycling targets, a zero waste culture and circular economy ambitions.

Councils in Northern Ireland have invested for decades in improving kerbside recycling, with recycling rates across NI currently between 42% and 54%, with an average of 48.1% (Nov 2018).

Northern Ireland local government needs to have a seat at the table when the responses to this consultation are being assessed and decisions on a system designed to include Northern Ireland are being taken. This is particularly necessary given the ongoing impasse at Stormont. Local government in Northern Ireland is open to adjusting and restructuring its waste services in light of change, but this needs to be a two-way conversation, shaping both existing waste services and an EPRS in light of what is feasible, effective and desirable.

It is imperative that councils in Northern Ireland are afforded their fair share of resources coming out of these changes, and that they don't fall foul of a shift in practice which will extract high value recyclates from the system, before they ever reach councils. Councils will need to be adequately protected against a system which could leave them with the low value, expensive/ impossible to recycle materials at the end of the line. Direct lines of communication and financial mechanisms must be set up with councils in Northern Ireland in the event of these proposals being taken forward, to ensure they don't 'lose out'.

The scheme needs to allow for the geography of Northern Ireland and its social set-up. It needs to address the challenges presented by the border, and by the physical separation from the other nations participating in the scheme. It must also not disadvantage vulnerable social groups. The first presents significant issues particularly with regard to transfers, transport and possible illegal activity, the second

will shape the relationship with citizens, and necessary communications messages, including labelling decisions.

Finally, it is worth noting that there is not enough emphasis on waste reduction and reuse before recycling. Any new system (including any potential DRS) requires high levels of investment both monetary and in terms of resources some of which should initially be directed towards prevention and reduction of packaging. We should be considering bans on certain single use packaging products which would remove any requirement for collection, sorting, reprocessing, exporting, regulating and all of the monitoring and reporting mentioned though out this consultation. This is all in line with the requirements of the Waste Management Hierarchy.

Principles (Q6)

SNI agrees in theory with the principles listed,. Increased recycling and the reduction of virgin material is a must have within any new system and businesses must bear the brunt of this as this is the source of many of our plastics. However SNI would make a note of caution on a couple of points:

- Who and what are the 'minimum service standards' for the collection of household waste. Currently the 10 NI councils all operate different collection systems and therefore an agreed NI wide collection agreement would be required and are councils expected to 'pick up the tab' for potentially increasing their collection services which would require additional resources and therefore costs. It will be a priority for councils in Northern Ireland to ascertain what will be regarded as a minimum standard, who sets this standard, and to whom they will be accountable for meeting such a standard.
- With regards to point 5. there are existing issues to the type of packaging currently collected in NI. Most plastics are labelled recyclable however within NI there are constraints to market availability and therefore many plastics are not recycled. Will there be end market availability here in NI or will NI councils and businesses bear the brunt of higher transport and shipment costs than those in England, Scotland and Wales who would have more options available.
- Finally, the overall regulation of the new system would need to be 'water-tight'. SNIs concerns would be ensuring the system does prevent fraud and waste crime and that materials will be disposed in an environmentally responsible way. NI and its obvious proximity to the Irish border still experience high levels of waste crime through illegal/unregister waste collectors and operators who continue to work beyond the reach of regulatory bodies.

Outcomes (Q7)

SNI agrees in theory with the outcomes but would be cautious of exactly how the first 3 points could be met and that perhaps may be difficult to meet. Specifically, we would need to know how these would be met and in particular if specific plastics cant be removed from the system how can they be reduced and who will regulate that. Other regions putting in place bans of certain single use plastic products but

this varies across the different regions on the UK – this should be more consistent. In line with the waste management hierarchy we should be putting more emphasis on prevention before recycling.

To achieve these outcomes, urgent attention will need to be paid to developing a sufficient and more holistic set of reprocessing facilities in Northern Ireland; for example there are currently no reprocessors of food grade to food grade plastics. Clearly this is an economic development opportunity which needs to be harnessed by councils and InvestNI working with DAERA to deliver locally.

The target in point 4 appear relatively low considering the 2016 figure was 64.7%. – with the appropriate collection service in place, availability of reprocessors and a strong UK wide communications campaign a higher target should be achievable.

Scope

SNI is of the view that the single-use packaging items not currently legally considered as packaging should be included in the scope of the new Packaging EPR system. Foil, clingfilm, jiffy bags, paper cups, sandwich bags etc is still viewed as ‘packaging’ to the general public and should therefore be included as it would otherwise cause confusion within any communication campaign being delivered as part of these new proposals.

In addition these types of packaging have come to the forefront in the past 12 months following the blue planet series and therefore it would be an opportunity missed if they were to be excluded.

Q9 – types of packaging. SNI does not manage packaging waste.

Part A: 1

Full Net Cost Recovery

Q10 The definition of Full Net Cost Recovery seems appropriate

Q11 Producers should be required to fund the costs of collecting and managing household and household-like packaging waste but consideration should be given to smaller businesses that may require some additional support where margins are tighter and bearing the brunt of these costs may result in the closure of small businesses. It is not that they are exempt from the regulations but that an extra level of support is provided to help lessen the financial strain – a different cost applied relative to business size or incentives to use alternatives.

Q12 Commercial/ industrial packaging should be included within the scope for full net cost recovery. This element makes up a large proportion of fly tipped and deposited waste and should bear equal costs to other waste streams.

DRS and EPRS

Q13 SNI would welcome any system that increases recycling and reduces littering and waste to landfill however emphasis still needs to be placed on waste prevention in line with the waste management hierarchy.

More detailed figures and modelling information on a DRS would be strongly welcomed, with information specific to each nation, to allow a more informed discussion on a suitable system for deposit return. Councils in Northern Ireland currently spend more than £43m p.a. on clear up of litter and illegal dumping activity, but have 'built-in' reliance on the revenue streams associated with recyclates that may negate any savings associated with litter reduction as a result of a DRS. A detailed Northern Ireland specific cost-benefit analysis would be vitally important prior to unpicking the current system – particularly in relation to the proposed 'all in' system.

Part A: 2

Driving Better Design of Packaging

Q14 SNI supports the development of an 'approved list' of recyclable packaging to underpin the setting of either modulated fee rates or deposits, but this list must be reviewed regularly to keep up with technological and materials science advances. As per the 'Principles' of this consultation SNI raised the point that it needs to be specific as what types of packaging are to be included/not included.

Q15 From the information given, it would appear – initially at least – that modulated fees present producers with a less complicated and less costly approach to incentivising packaging design choices. This method appears on paper to be the simplest and therefore least onerous for businesses and other organisations to complete.

Q16 SNI would be concerned about either system becoming too onerous for businesses to complete and therefore the risk is that it goes incomplete or completed incorrectly.

Q17 SNI would also support the incentivising of more closed-loop recycling.

Part A: 3

Obligated Producers Q18 - 24

SNI concurs with the proposal to develop a single point of compliance, for purposes of clarity, transparency and cost minimisation. From the information given, it would appear – initially at least – that the brand-owner approach to a single point of compliance would be most appropriate with a de minimis threshold retained, with wholesalers and direct-to-retail sellers taking on the obligation of those below the threshold (Option B).

The compositional analysis of litter could be used to enable a decision to be made on how to change packaging provided by and behaviours associated with small cafes and restaurants. 'On the go' packaging is a sizeable component of litter, which would indicate that some form of 'flat fee' charge should be placed on small cafes and restaurants – as a prompt for behaviour change rather than as a major component of the wider obligation scheme, and to contribute to a communications fund.

SNI is in favour of including online marketplaces within the scope of these proposals. As online purchases are increasing it should be the case that these producers also comply with any legislation UK organisations are expected to adhere to. If they are not the risk is that local UK businesses will see a loss in sales as their prices increase to bear the brunt of additional EPRS fees whilst outside-UK businesses can sell the same product cheaper as they will not need to include an additional packaging fee.

Part A: 4

Supporting Improved Collections and Infrastructure

Q26 SNI are keen that all NI councils are included in any conversations on these proposed schemes in particular where it is their own collection system.

Any payments should be based on the provision of a collection system that meet the minimum standard (as already stated any 'minimum standard' must be agreed with all NI councils as collection agents).

Q27 Whilst considering the costs to local authorities it must also be considered that all councils in Northern Ireland receive a revenue for a large proportion of the dry recyclables collected, many of which will be included on the 'approved list'. It needs to be considered how this 'revenue' will be affected if the collection is on behalf of the producer.

Q28 SNI agrees with in theory on the approach to make payments for collections.

Q30 SNI is keen to ensure that discussions at UK level take into account the particular geography of Northern Ireland, the impact of the border on waste movements and management, and the high levels of illegality in relation to waste management in NI.

More consideration needs to be given to the potential for unintended consequences in determining payments to local authorities, particularly given the complexities of introducing several complementary schemes simultaneously. Further research and calculations needs to be done to estimate the quantities (and quality) of materials expected to be collected through a council collection system and any new DRS.

SNI are cautious of introducing 2 schemes with such similarities at the same time and would suggest that further work is required as to the exact outcomes of each project and the effect they will have on each other. This may not be possible in which case a decision should be made on introducing just one system.

Q31 - 33

Keep Northern Ireland Beautiful maintain detailed records of litter and clean-up costs across Northern Ireland.

It would be appropriate to see some support of innovation and R&D of new trials such as Seabins (used by one council), behaviour change projects and other trial projects to further develop skills and technology to progress waste reduction and recycling further. Education/awareness raising and development of technology and infrastructure is the key to taking the waste industry further in NI.

Q34

SNI agree that the voluntary scheme for cups should continue but that this should not be left as the long term solution and that a decision should be made that this is an obligatory scheme as soon as possible. It should also be noted that again reusable cups should be promoted further therefore removing the pressure of a return scheme and promoting the waste management hierarchy.

Q35 & 36 Including this within the DRS if it is introduced would be a solution but a recycling target for single use cups is not necessary. By doing this more importance is put on single use cups whereby we should be looking at all single use packaging as a whole.

Part A: 5

Communications and Labelling

Q37 - 39

SNI supports the use of producer fees to support local service-related communications delivered by councils, and nationally-led communications in each nation. Councils in NI have historically used Wrap and national campaign communications to produce their own local messages ensuring in certain cases they are relevant. This maintains consistency and understanding across the regions. Local communication campaigns do continue to be delivered locally via council leaflets, newsletters, social media platforms and face to face campaigns. It is worth noting that again due to differences in markets and materials collected here in NI it is often the case that a different message has to be delivered than that of the mainland UK.

Producers fees should be used to contribute to the cost of communications campaigns. A strong communications campaign is as effective as an efficient collection service and therefore the 2 require equal investment.

Q40 SNI notes that while an agreed and mandatory labelling of packaging as 'recyclable' or 'non-recyclable' is necessary, how this is done requires further consideration. These terms are only applicable if the product is recyclable within the region in which it is being used/recycled. The term 'recyclable' has often created issues in NI where the product cannot be collected for recycling as there is no cost effective means to recycling it, ie there is no market available.

Q41 & 41 SNI also believes that the percentage of recycled content should be stated on product packaging, although as packaging is becoming increasingly heavy with 'labelling', particularly nutritional value it may be more useful to state recycled content via another means – manufacturers website via a barcode perhaps. There should be a method for monitoring and reporting this publicly.

Part B: 6

Q45 – 47 SNI is in support that the existing material flow databases are the best available however this system needs to be more robust in terms of reporting & auditing. While weight-based reporting is attractive in its simplicity and coherence, there are significant risks that setting weight as the key criteria for reporting reduction of packaging use will encourage producers to rely on lightweighting and use of hard-to-recycle films and linings to meet their obligations as producers, rather than finding alternative, packaging-free delivery models for their products.

Q48 – 50

SNI believes the targets are not enough and rely heavily on their being no slippage.

In addition we should also be considering the waste management hierarchy on reduction and reusability targets which are also set in the UK as a means to measure the success of the EPR. This would be in line with the recent EU Directive 2018/851 amending Directive 2008/98/EC on waste, which states:

The targets for preparing for re-use and recycling of municipal waste should be increased in order to deliver substantial environmental, economic and social benefits and to accelerate the shift towards a circular economy.

Issues with obtaining and managing nation-specific data

Q51 The proposals for reporting of packaging and packaging waste by nation seems to introduce a great deal of complexity in money flows that may be unnecessary. For Northern Ireland in particular, the issue of cross-border movement of goods needs to be considered more closely. Again as reporting systems may not be as robust from one nation to another the data may not be comparable.

Other Potential Targets

Q52 & 53 SNI has no objection to the setting of targets for closed-loop recycling or composite packaging. Composite packaging that is difficult or impossible to recycle should be discouraged as part of efforts to influence design behaviours, or producers required to pay adequately for disposal.

Q54 & 55. SNI are in favour of targets but what support, guidance, policy will be provided in order to see these targets met.

Part C: 7

Governance Models

Q56 – 66 Model 2 appears to have simpler infrastructure, with a single not-for-profit management organisation proposed, in which case there may be potential for a local presence of this organisation

within each of the devolved administrations. The evidence from elsewhere would seem to suggest that the single management organisation should be set up as/by a not for profit NGO, but a cost benefit analysis should be developed to inform future policy, and in particular to allow comparison of Models 2 and 3. A good terms of reference/specification is required.

A single organisation approach may also lend itself to the possibility of this organisation also acting as a Deposit Management Organisation, should a DRS scheme be instigated. This might save on bureaucracy, costs and complexity with one organisation having overarching responsibility for the wider producer responsibility system, including DRS.

SNI would be cautious of option 4 – as any system needs to be independent of government and be in a position to challenge and work independently whether that be an NGO or a ‘arms length’ organisation.

Regardless of the model chosen, the imperative for local government in Northern Ireland, is to ensure clear lines of communication and financial flows with the 11 district councils. It is vital, particularly given our current political situation, that funding doesn’t become ‘stuck’ at devolved administration level. There is some potential for councils in NI to be ‘forgotten’ or to be at the end of a long line of organisations seeking funding.

Better communications are required between NI councils and Defra (in addition to DAERA) as this policy area develops. Again, clarity is required on ‘minimum service standards’ for Northern Ireland.

Part C: 8

Responsible management of packaging waste domestically and globally

Q67 – 70 SNI agrees that government should seek to ensure export of packaging waste is undertaken in a transparent and environmentally responsible manner (this goes without saying), and that the measures identified in the consultation document are likely to help ensure this.

SNI would raise concerns simply at the level of additional time, resources and therefore money to achieve this and that it needs to be consistent across the UK and its export nations.

Part C: 9

A more transparent system

Q71 – 74 SNI strongly agree that accredited reprocessors report both financial information and non-financial information regarding environmental and social issues in order to ensure accountability. The EU Non-Financial Reporting Directive requires non-financial disclosures concerning the following categories, which the UK could look to replicate:

- Environmental matters (pollution, energy usage, etc).

- Social and employee aspects
- Respect for human rights
- Anti-corruption and bribery issues
- Diversity on board of directors

Best practices have further been elaborated through the Global Reporting Initiative

Q79

We urge the government to collect unit-based as well as tonnage data. Tonnage payments incentivize producers to reduce the weight of packaging, but this could lead to a shift into flexibles which are much harder to mechanically recycle. Examples from Europe show that existing (weight based) fee structures have led to a focus on light-weighting, which risks rewarding lighter but less recyclable materials.

Tonnage data skews data on recyclability. A 2018 survey of the UK's largest supermarkets found that the percentage of own brand single-use plastic packaging widely recyclable by weight ranged from 79% (Co-op) to 58% (M&S), with the mean average 66.2%, suggesting around a third of plastic packaging is not currently widely recyclable, using the On-Pack Recycling Label (OPRL) guideline definition. However, Co-op also measures the recyclability of plastic packaging on a per item basis, much lower at 55%. This difference is due to certain heavier items (such as plastic bottles) being more recyclable than more numerous but lighter weight items such as plastic films.

Q82

We do not believe that compliance schemes should carry out their own audits of producers. We would support the use of third-party independent auditors to carry out this function, paid for through revenues raised by EPR fees.

Q83

We strongly support legally enforceable notices to obtain required information in order to ensure adequate reporting and accountability.

Q84

Producers who fail to meet their obligations under the EPR scheme could face import restrictions on their products. In April 2019, ten electronic giants, including Apple, Samsung, HP and Canon were barred from importing equipment for missing their e-waste collection targets under India's EPR scheme.

A draft practical manual on Extended Producer Responsibility was developed by UNEP for an Open-ended Working Group of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal. It recommends enforcement should ensure:

- A public register of producers is available and maintained in order to identify all producers including internet sellers and free-riders. All producers should be identified and required to take up their responsibility individually or through a PRO;
- There is no collusion between producers and that PROs are open to small and medium sized as well as large scale producers;
- Compliance with targets and other EPR system requirements;
- Transparency in terms of contributions paid by the producers, including the impact on sale prices

- Sound financial management of the EPR system, including calculation of the entire costs per type of product and the use of the funds collected;
- Quality of data and reporting;
- All waste management operators contracted by the EPR systems are compliant with applicable legislation;

Q86

We strongly agree that producers that fail to meet packaging recycling targets should be penalised and that the primary responsibility for meeting these obligations should fall on producers. Any penalties applied to producers should be sufficiently punitive to drive better behaviour.

In principle, we agree that compliance schemes should also be held to account for failure to meet targets, however before applying any penalty there should be analysis of the reasons for the failure, as it may be as a result of issues along the chain of compliance (for example an oversupply of hard-to-recycle material due to producers failing to adequately redesign their packaging in time).

Final comments

While SNI welcome this consultation as a highly encouraging first step we have a number of concerns, namely:

- A lack of substantive policy framework for driving an increase in reusable packaging or entirely packaging-free delivery systems
- A failure to hold producers to account for the environmental impact of material use at all stages of a products' life cycle
- A less-than-clear strategy for ensuring that new policies introduced through these consultations is subject to appropriate oversight and are not managed entirely by industry, who have historically failed to police themselves when engaging in fraudulent or negligent practice
- Failure to include investment in prevention and reduction in line with the waste management hierarchy.

These concerns are heightened in Northern Ireland, where the political impasse creates the potential for policy stagnation and a further divergence of standards between NI and rest of the UK.