

Response ID ANON-3RTD-8UYQ-M

Submitted to **Extended Producer Responsibility for Packaging**
Submitted on **2021-06-04 20:08:52**

About you

1 What is your name?

Name:
Emily Nichols

2 What is your email address?

Email:
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3 Which best describes you? Please provide the name of the organisation/business you represent and an approximate size/number of staff (where applicable).

Business representative organisation/trade body

If you answered 'other', please provide details :

Organisation name:
The Association for Renewable Energy and Clean Technology

Organisation size:
SME

4 Would you like your response to be confidential?

Confidential:
No

If you answered 'yes' please provide your reason.:

5 Government will need to understand the needs of users to build digital services for Extended Producer Responsibility. Would you like your contact details to be added to a user panel for Extended Producer Responsibility so that we can invite you to participate in user research (e.g. surveys, workshops, interviews) or to test digital services as they are designed and built?

Add my contact details:
Yes

What we want to achieve: packaging waste recycling targets

6 Do you agree or disagree with the proposed framework for setting packaging targets?

Agree

If you disagree, please provide the reason for your response.:

7 Do you agree or disagree that the business packaging waste recycling targets set for 2022 should be rolled over to the calendar year 2023?

Agree

If you disagree, please provide the reason for your response.:

8 Do you agree or disagree that the recycling target to be met by 2030 for aluminium could be higher than the rate in Table 3?

Agree

If you disagree, please provide the reason for your response.:

9 Do you agree or disagree with the proposed minimum target to be met by 2030 for glass set out in table 3?

Agree

If you disagree, please provide the reason for your response.:

10 What should the glass re-melt target for 2030 for non-bottle packaging be set at?

Please provide the reason for your response. :

No comment

11 Do you agree or disagree with the proposed minimum target to be met by 2030 for plastic set out in table 3?

Agree

If you disagree, please provide the reason for your response.:

12 Do you think a higher recycling target should be set for wood in 2030 than the minimum rate shown in Table 3?

Unsure

Please provide the reason for your response.:

13 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?

Yes

Please provide the reason for your response.:

In terms of wooden packaging that becomes independently certified industrially compostable (e.g. it would need to be if any inks or pigments were added to it) and fed into composting processes (as is allowed under national EoW rules for waste-derived composts, where wooden packaging has this certification), a sub-target that encourages expansion of long term end markets for recycled wood (e.g. the use of compost derived from wastes that included such packaging waste) would help to drive up the recycling of wooden packaging.

14 Do you agree or disagree with the proposed minimum target to be met by 2030 for steel set out in table 3?

Agree

If you disagree, please provide the reason for your response.:

15 Do you agree or disagree with the proposed minimum target to be met by 2030 for paper/card set out in table 3?

Agree

If you disagree, please provide the reason for your response.:

16 Do you agree or disagree with the proposal to set recycling targets for fibre-based composites?

Agree

If you disagree, please provide the reason for your response.:

17 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?

Agree

Please provide the reason for your response. :

We are unsure in the case of mechanically and chemically recyclable plastics whether there is a need for 'closed loop' recycling targets for non-compostable plastics, in addition to the Plastics Packaging Tax. We have agreed in answer this question because a specific, closed loop target should apply to compostable plastics (and compostable packaging which isn't plastic) where it is managed in a closed loop arrangement. We have commented on this in detail in response to question 18.

18 Please indicate other packaging material that may benefit from 'closed loop' targets?

Please answer here:

A specific closed loop target should apply to any kind of compostable item (plastic, another material or a combination of compostable materials) used in closed loop situations such as public events, office buildings, schools, universities and other catering establishments, restaurants and cafes which have seating, and used in premises where those items are likely to be disposed after food consumption and can be co-collected with food waste for composting or anaerobic digestion.

An additional criterion for establishing such closed loops is provided by the Italian law on single use plastics which says compostable items are beneficial where washable and reusable items are impractical because the location has no washing or storage facilities (e.g. a sports stadium).

19 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?

Definition in The Packaging and Packaging Waste Directive (PPWD)

If you selected 'none of the above', please provide the reason for your response, including any suggestions of alternative definitions for us to consider. :

It is the simplest and most widely understood definition and as the EU still is the destination for many of our exports, and many UK companies also have EU branches, keeping the same definition is simplest for us all.

20 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.

Please answer here.:

We do not have specific views on any of the listed approaches or alternative approaches for setting reuse and refill targets.

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

Agree

Please provide the reason for your response.:

We support the waste hierarchy; waste prevention is the priority so some of the money paid into the EPR system should be used to promote reuse of packaging products. The SA should decide year by year together with industry and NGOs which products are most likely to benefit from such investments.

22 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

Please provide the reason for your response.:

Lower modulated fees for reusable and refillable packaging should help drive development of these products and systems that support this, thus driving waste reduction more than would otherwise be the case.

Producer obligations for full net cost payments and reporting

23 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

24 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)?

Where available, please share evidence to support your view. :

No comment

25 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?

Neither

If you answered 'neither', please provide the reason for your response and describe any suggestions for alternative approaches to small businesses.:

The Plastic Carrier Bags tax now applies to all shops because government has realised that sales of plastic carrier bags in small shops had not fallen, indeed possibly the contrary. For EPR reform, allowing a de minimis risks slower progress in reducing packaging waste. All businesses putting packaging onto the market should be subject to EPR; this would keep the system as simple as possible and SMEs would organise themselves through their trade associations and/or consultancy services to manage EPR requirements. If government is still minded to apply an EPR system de minimis, our second preferred option is that only micro-organisations are exempt and government checks that such organisations are adequately defined.

26 If either Option 2 or 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?

Yes

Please provide the reason for your response. :

Same reasons as given in answer to question 25.

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

Yes

If you answered 'yes', please provide the reason for your response.:

Online sales of goods that get delivered in packaging and of packaging products themselves have proliferated and so such businesses must become obligated under the reformed EPR system, if possible also where they have off-shored as much of their business as possible in order to avoid or reduce their tax liabilities in UK jurisdictions.

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

Yes

If you answered 'yes', please provide the reason for your response.:

The scale of online marketplaces is now so large that some international and foreign-based businesses have organised themselves in ways that avoid the liabilities that UK-based businesses incur. The exclusion of Online Marketplaces from the reformed EPR system would give them a further and unfair competitive advantage over businesses with goods and services sales premises in the UK.

29 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 Online Marketplaces developing a methodology in time for the start of the 2022 reporting year (January 2022)?

Unsure

If you answered 'yes', please provide the reason for your response.:

30 Is there any packaging that would not be reported by the obligation as proposed below (except for packaging that is manufactured and sold by businesses who sit below the de-minimis)?

Unsure

If you answered 'yes', please detail what packaging would not be reported by this approach.:

31 Do you agree or disagree that the Allocation Method should be removed?

Agree

Producer obligations: disposable cups takeback

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

Agree

If you disagree, please provide the reason for your response and/or suggest any alternative proposals for increasing the collection and recycling of disposable cups.:

33 Do you agree or disagree with the proposed phased approach to introducing the 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

If you disagree, please provide the reason for your response and/or how you think the mandatory takeback obligation should be introduced for sellers of filled disposable cups.:

The proposed phased approach would mirror the introduction of the carrier bag charge, which had relative success in terms of retailer compliance with legislation with larger retailers being subject to the levy before smaller retailers in 2021.

Modulated fees, labelling and plastic films recycling

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

No

If you answered 'no' please provide the reason for your response, being specific with your answer where possible.:

Our answer focuses on compostable packaging, which is not comprehensively included in the current EPR system (we cover this in answers to questions 37 and 104), and our concern that it may unnecessarily be designed out of the reformed EPR system.

We could and should be redesigning the EPR system so it does as much as its scope allows to support the co-collection of well-targeted compostable packaging (in applications that would otherwise be unrecyclable, such as films attached to food stuffs, ready-meal trays with baked on food after use, and fruit & veg stickers) with non-packaged and user-unpackaged food wastes arising at household and many commercial, business and public sector organisation sources. (Compostable tea bags are a further example of a notable opportunity to reduce the non-compostable plastics in food wastes and residues of them which may contribute to microplastics content in food-waste derived composts and digestates. Tea bags are not packaging but if they were to be brought within scope of the reformed EPR system this would provide a further example of a beneficial application for compostable plastics, given that a population-wide shift to brewing and drinking loose leaf tea seems unlikely.)

England's, Wales's and Northern Ireland's commercial scale composters and AD operators who treat food wastes and food waste co-collected with plant wastes will soon experience significant drivers for change. Where they do not already do so, in England permits to operate will, by 2022 at the latest, require treatment facilities to take all reasonable steps to reduce concentrations of contaminants to As Low As Reasonably Practicable (ALARP). New Environment Agency Standard Rule Permits, to be issued in 2021, and bespoke permits when updated will also include limits on contaminants in biodegradable wastes delivered for composting or anaerobic digestion. Non-compostable plastics in wastes delivered and wastes prepared for the biological treatment phase(s) will continue to count as contaminant. This, together with imminent revision of the Compost Quality Protocol and AD Quality Protocol and the anticipated outcome that limits on any kinds of plastics > 2 mm in composts and digestates means, that changes are needed to the ways in which food and plant wastes are collected, such that levels of contamination by non-compostable plastics become reduced to ALARP; this means significant reductions in such contamination by non-compostable plastics considering levels that have been visually estimated by operators or researched in R&D projects.

35 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 that might be undertaken by the regulators.

Agree

If you disagree, please provide the reason for your response.:

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

Agree

If you disagree, please provide the reason for your response.:

Please be aware there are already well-established independent organisations that assess and certify the industrial compostable and home compostable packaging and non-packaging items, including our subsidiary Renewable Energy Assurance Ltd who manage a Compostable Materials Certification Scheme. We wrote about relevant standards and certification service providers in detail in our first response to government's 2019 consultation on reform of the EPR system.

These standards, certification service providers and the needs of the industry that recycles biodegradable wastes (including compostable packaging and non-packaging items) *MUST* be taken into account when developing the mandatory labelling system; for the purposes of the EPR system it needs to appropriately cover mechanically/chemically recyclable packaging and, separately, industrially and home compostable packaging.

37 Do you agree or disagree with the proposal that all producers could be required to use the same 'do not recycle' label?

Disagree

If you disagree, please provide the reason for your response.:

Paragraph 7.26 of the consultation document seem written with mechanically and chemically recyclable packaging in mind. Packaging recyclable by means of its biodegradation in composting or AD systems appears not to be catered for in the intended binary packaging labelling system of 'recycle' or 'do not recycle' and intention that producers self-assess the recyclability of their packaging. We have mentioned in answer to question 36 that standards, independent certification service providers and certification marking exists for industrially compostable and home compostable packaging and non-packaging items. In this answer's the 5th para below we have outlined current organics recycling treatment of compostable packaging and non-packaging items and in the 6th para below we have summarised the UK network of current IVC and AD facilities approved for treating Animal By-Products that include food waste. PLEASE develop the EPR system rules so that the whole range of industrially compostable packaging is brought within the reformed system (it currently only covers cellulose-based packaging as a sub-set of the materials which comply with EN 13432).

Although many citizens who are not professionals in the waste management sector will not be aware that composting and AD of biodegradable wastes can qualify as 'recycling' under the EU Waste Framework Directive (as can mechanically recyclable waste), for labelling of any packaging item type it's important the 'call to action' wording on it (and any linked with it via on-line resources) directs it to its appropriate bin.

We do not support a 'do not recycle' label for industrially and home compostable items because this instruction is too 'broad brush', ignores that food waste is recycled by many composting and AD facilities in the UK and if this instruction becomes mandatory for compostable items, it will be unfair if non-compostable packaging is not required to include a 'do not recycle with food waste' instruction (it is contaminant on biodegradable waste management systems).

University College London Plastic Waste Innovation Hub's current R&D project on 'Compostable plastics: unlocking barriers to systems change' is trialling a 'Recycle with food waste' label for compostable plastic and packaging items and we have asked them to also trail 'Biorecycle with food waste' as an alternative so

that evidence becomes available on which 'call to action' would be most effective for ensuring bin users put industrially compostable items in their food waste bins or items which are also home compostable into their home composting unit/heap, if they have one (from 2023 onwards and we have an instruction consistent with a consistent, nationwide, simple 'call to action'). Discussions on trial design included advice from the On-Pack Recycling Labelling Scheme representative not to include instructions on what citizen's shouldn't do; a simple, clear call to action which covers the desired disposal behaviour is what is needed.

This EPR consultation's 'do not recycle' labelling proposal seems to be intended for items unsuitable for putting into bins for mechanically and chemically recyclable packaging and while we understand an instruction of this kind could help keep non-mechanically and non-chemically recyclable packaging out of those bins, it will not help the biowaste management sector to successfully collect used compostable items with food wastes or with co-collected food and garden wastes and subsequently biodegrade them, even on an opt-in voluntary basis agreed business to business and between public sector organisations and their waste management contractors.

A number of UK In-Vessel Composting operators are already biodegrading compostable liners, bags packaging and catering-ware with food waste to achieve product status composts (i.e. recycling them) or waste status composts (i.e. recovering them). Common policies amongst local authorities who send food waste or food plus garden waste to IVC is that they should be in compostable caddy/food bin liners (we appreciate liners are not classified as packaging) and the Co-Operative's independently certified industrially and home compostable lightweight bioplastic carrier bags are last re-used as caddy/food bin liners in numerous areas where food waste or food and garden waste is sent to IVC facilities. One wet-AD facility in England is doing the same, facilitated by use of an autoclave (high pressure, high temperature treatment unit, primarily for Animal By-Products Regulation compliance purposes) treatment step prior to the digestion phase of treatment. Another wet-AD facility in England is front-end removing compostable liners, bags packaging and catering-ware from food waste, feeding them into their adjacent IVC process and feeding the food waste into their AD process.

We notice in paragraph 7.32 of the consultation document that government intends to allow interim labelling solutions for packaging material types whose recycling infrastructure is 'poorly developed and will take several years to roll out', this interim solution is planned for accommodating 'that were there is existing provision for these materials, people continue to recycle them'. So, given that compostable packaging and non-packaging items are already composted in a number of UK IVC facilities, one wet-AD facility and have prospect of becoming accepted at numerous more of these facilities (there are approx. IVC 42 approved for treating Animal By-Products that include food waste and 96 AD with suitable ABPR approvals and who could put in place arrangements with IVC facilities or themselves be modified so they can biodegrade compostable items) these too should at least be eligible for an 'interim solution'.

We have an interim solution in the form of standards (EN 13432 for industrially compostable packaging, EN 14995 for industrially compostable plastics [for items which are not packaging], and AS 5810 and NF T 51800 for home compostable plastics), labs who provide sample testing services as specified in those standards (albeit based in Belgium and other EU countries), international certification service providers (e.g. REAL in the UK, TUV Rheinland in Germany and TUV Austria), and their certification marks, which under REAL's case scheme for industrially compostable items include a 'check locally' instruction, so that bin users are prompted to check locally whether compostable items are currently acceptable in their food waste bins. Indeed, checking 'whether their local authority includes [film and flexible packaging] in their collections' is planned for film and flexible packaging, as one of the interim solutions. Even if compostable items are not designated as 'core packaging materials' the biowaste recycling sector still needs compostable item packaging labelling rules to support their disposal into appropriate bins.

We strongly recommend that compostable item supply chain companies, certification service providers and biowaste management sector stakeholders are allowed sufficient time after this consultation to further research and develop labelling for compostable items which ensures they will be disposed in appropriate bins after use. Dialogue with government on progress and plans for evolving labelling of compostables will, of course, be essential.

In the unfortunate circumstance that government decides compostable items must be labelled 'do not recycle', we agree that items independently certified compliant with BS EN 13432 (i.e. industrially compostable) and which are used in closed loop situations should be exempt from the 'do not recycle' labelling requirement.

We include the following further information from the Bio-based and Biodegradable Industries Association:

'Trade waste collections taking compostable packaging to suitable composting or AD facilities are available in 55 of the UK's largest cities, covering 71% of the population of the UK's 100 largest cities. These trade waste collections cover 45.4% of all UK postcode districts, a figure growing every year, up from 2% in 2010.'

'In catering, compostable packaging represents the only quality recycling option for disposables [single use or non-long-term-reusable items], given that food waste is a target input for organics recycling.'

The compostable packaging sector has made significant investment in developing collection routes to suitable organics recycling facilities, and consultancy work to educate clients to use these schemes successfully. Vegware for example has invested over £1m since 2010 on third-party compostability certification, composting trials, employing a team of Waste Management Consultants and in-house product certification management, composting trade association fees, and co-investment in a WRAP-funded sorting line.'

'Such innovation has created new collection infrastructure for product types otherwise not being reprocessed. This is a small investment in comparison with what a joined-up industry could effect, but has achieved significant results detailed in the trade waste coverage cited above, and we would consider has more than demonstrated the validity and power of compostables as a quality recycling solution in foodservice.'

'Printing compostable packaging with 'do not recycle' would undo years of work, investment and innovation recognised in multiple UK and global awards for Vegware, but more importantly would represent a significant missed opportunity for waste management in the UK.'

'Mechanical recycling is also possible for some compostable packaging. PLA-lined compostable paper cups and sandwich wedges are accepted for mechanical recycling by DS Smith. Some fibre items such as paper bags are marketed as compostable but are also suitable for fibre recovery.'

'Given that 'recyclability' appears to be based on processing via householder routes only, the same issue could affect conventional paper cups. These now have

successful reprocessing routes in source-segregated commercial waste streams, but not via mixed householder waste streams. Printing these with 'do not recycle' would undo years of industry-wide effort and investment.'

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

Unsure

If you answered 'no' please provide the reason for your response.:

For plastic films and flexible packaging end of FY 2026/27 is the proposed deadline for full adoption of binary labelling and for all other packaging the proposed deadline is end of FY 2024/25.

In terms of compostable packaging and any non-packaging that may be brought under the reformed EPR's scope, if we assume that EPR system reform does not demand any short-changes to requirements in standards for industrial or home compostability and absence of that means there is no unmanageable peak in demand for laboratory test services, and if we assume the mandatory labels for compostable items do not conflict with existing certification marks for these items - or that if they do, the mandatory labels are made available sufficiently in advance to the certification bodies (for licenced use) and they replace the certification marks currently in use and that existing stocks of compostable items with the 'old' labelling can be distributed and used before the deadline - then there would be enough time.

We suggest that ALL compostable packaging item types are given until the same deadline as whatever is decided for plastic films and flexible packaging and that the REA and REAL talk to government about labelling of compostables over the months ahead when the labelling requirements are being developed.

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

Agree

If you disagree, please provide the reason for your response.:

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

Yes

If you answered 'yes', please state what enhancements would be useful.:

Yes, adding 'in the UK' would be vital for brands operating anywhere outside the UK, for easier stock management. It would avoid causing confusion in other countries with a different waste set-up. Similarly a QR code would allow for further consumer information, leading to a web page hosted by the brand owner. This could contain the UK scheme-stipulated recycling information as well as any additional information the brand owner wishes to share about regional, trade or opt-in recycling schemes.

41 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 end of financial year 2026/27?

Neither agree nor disagree

If you disagree, please provide the reason for your response and/or what date you consider local authorities could collect films and flexibles from. Please share any evidence to support your views. :

We have written about compostable films and flexibles here because we would like our rationale for their use to be seen, considered and supported.

There are a range of film and flexible plastic applications where making them industrially and home compostable (with independent certification) would enable more efficient management of food waste (e.g. compostable tea bags, coffee pods, fruit & veg stickers, condiment sachets, coffee filter 'paper'), reduce food waste collected where the food and film/flexible item is home composted instead (same examples as previously, if they meet a home compostable standard's criteria and are independently certified), reduces the amount of small-format film that ends up combusted in EfW facilities (e.g. sweet wrappers) or in the case of compostable fruit & veg bags, can be re-used for lining kitchen caddies and food waste bins (e.g. retailers' bags containing bananas and others available for putting loose fruit/veg inside, especially when citizens forget to bring their 'longer life' re-usable fruit & veg bags).

42 Do you agree or disagree that collections of plastic films and flexibles from business premises across the UK could be achieved by end of financial year 2024/5?

Neither agree nor disagree

If you disagree, please provide the reason for your response and/or what date you consider this could be achieved by. Please share any evidence to support your views. :

43 Do you agree or disagree that 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 loop situations where reuse or recycling options are unavailable?

Agree

Please provide the reason for your response.:

We have extensively answered question 37 in terms of the proposed 'do not recycle' labelling requirement that government intends to apply to all compostable packaging, with possible exception of compostable packaging used in closed loop situations where reuse or recycling options are unavailable.

We refer you to our answer to question 37, which also covers why a 'do not recycle' label should not be obligatory for compostable packaging used in closed loop situations where reuse or recycling options are unavailable.

Please do not think that all 'biodegradable' packaging is 'compostable' or use these terms interchangeably where you are specifically considering compostable items. Compostable items are a very specific sub-set of a range of biodegradable products. Other products in the 'biodegradable' range are subject to different standards and/or testing frameworks, and tests. The BBIA has recently written to Defra on this point and probably they or certainly we, the REA, would be pleased to supply the document (and any further information you may need) to Defra's EPR team if it has not already reached you.

Commenting on oxo-degradable plastics in particular, we anticipate their use in countries of the UK will be banned in due course. In the event they are not banned before implementation of the reformed EPR system, we suggest that during any period they remain on the market after the new system's implementation date that they MUST be labelled 'do not recycle'.

Standards relevant to oxo-degradable plastics (including PAS 9017) do not include pass/fail criteria for determining their suitability in any scale of composting system or type of AD system and to the best of our knowledge, such plastics have not complied with the standards the organics recycling sector accepts for compostable packaging and plastics. We also highlight that in PAS 9017:2000 – BSI's fast-tracked Publicly Available Specification for biodegradation of polyolefins in an open-air terrestrial environment – its Scope's note 7 claims 'Compatibility of innovative polyolefin packaging entering the market with current recycling streams is covered by the protocols of Plastics Recyclers Europe (PRE)'. PRE wrote to BSI in January 2021 stating: 'This text infers that polyolefins which have been designed to degrade ("innovative") can or could be "compatible" with current polymer streams covered by PRE protocols. This is simply not true and is misleading. PTE protocols have been developed by RecyClass [<https://recyclclass.eu/platform-members/>] under the value chain initiative aiming at enhancing design-for-recycling for plastics packaging. The position of PRE regarding main stream polymers (polyolefins and others), which have been intentionally modified to degrade, is very clear and unambiguous. Such re-engineered polymers are "incompatible" with the current main stream polymers and will receive the lowest "classification" level F in the protocols. Plastic manufacturers who seek to develop such modified polymers using BSI PAS 9017, need to be made fully aware of the "incompatibility" of such polymers to avoid any misunderstanding. The omission of such essential information by BSI from the Standard PAS 9017 is also misleading. PRE requests that BSI modified the existing text in Note 7 to clarify directly to the reader the "incompatibility" of such modified polymers with main stream unmodified polymers, without having to read the PRE protocols.'

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

Yes

If you answered 'yes', please detail what you think these unintended consequences could be and provide any suggestions for how they may be avoided.:

Modulated fees for compostable packaging need to be set at a rate that recognises the benefits of using and bio-recycling or bio-recovering them. Those benefits of using compostable items in well-targeted applications are:

1. where compostable bioplastic or paper kitchen caddy / food bin liners [not packaging] or compostable fruit and veg or carrier bags [packaging] are re-used (either made of bioplastic or paper) for separate collection of food waste, this waste stream is less contaminated by non-compostable plastics (the consultancy Sancroft International has evaluated and modelled various options including also compostable paper bags/liners, its documents published under the item titled 'Understanding the cost-benefits of compostable caddy liners in food waste collections' at <https://bbia.org.uk/reports/>);
2. option to use In-Vessel Composting or suitably equipped AD systems for biodegrading compostable items and food waste adhered to them, instead of having to front-end remove all packaging / plastic items regardless what type they are, wash and press them (uses water and energy, and more common at AD facilities than IVC facilities) and send them to EfW or landfill (uses transport fuel and incurs receiving facility gate fees);
3. higher percentages of other recyclable materials are collected for mechanical or chemical recycling and these waste streams become cleaner and easier to recycle because a higher percentage of packaging items with food residues on/inside them are compostable and collected with food waste;
4. consumer confusion is reduced with unified messaging possible, e.g. compostable item labelling including 'Biorecycle with food waste' and contamination by non-compostable plastic bags and liners and non-compostable plastic in amongst the food waste is reduced*;
5. higher yields of composts and digestates can be achieved because a) front-end removal of non-compostable plastics and packaging becomes unnecessary if their concentrations become low enough or b) AD facilities without a suitable pre-treatment phase (e.g. autoclave) or other treatment phase (e.g. composting of separated fibre digestate) can choose to front-end remove and send compostable plastics and packaging to In-Vessel Composting facilities, and c) a lower percentage of coarser solids need to be removed when screening compost or fibre digestate because it is less contaminated by plastic residues; and
6. a lower percentage of compost and digestate content is microplastic and so less of it reaches soil via compost and digestate use, per tonne spread on soil.

The BBIA points out that 'in Italy, where both food waste interception and compostables usage is 7x the UK levels, consumers recycle through food waste some 70% of all compostables, among the highest recycling rates for any packaging stream (data from the Italian composting association CIC). Similarly in Korea 95% of all food waste is intercepted because of the widespread use of compostable materials in collections and packaging. These are significant benefits.'

* A SEPA funded study (Plastic in food waste at compost sites, Project report, November 2019,

<https://www.r-e-a.net/resources/sepa-report-on-compost-feedstock-quality/>) on physical contaminants (with emphasis on plastic contaminants) in domestic and

commercial food wastes received at Scottish composting sites found that the results of examining and quantifying the plastics provided ‘..a strong indication that provision of compostable caddy liners by local authorities leads to lower plastic contamination (both in terms of the bag itself and the contents of the bag)’. REA’s analysis of the study’s Table 2 data (available upon request) found that where local authorities provided compostable caddy liners, total non-compostable plastics (bags/liners and plastic inside the bags) was 0.224 %, 1.46 times higher than the 0.327 % w/w they represented where other local authorities did not provide compostable caddy liners (figures on a % w/w fresh matter basis).

Payments for managing packaging waste: necessary costs

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

Agree

If you disagree, please detail why and provide any costs you think should be included under the definition of necessary costs.:

A whole systems approach must be taken so that communications, experimentation, waste prevention measures, anti-littering measures, collection, treatment and disposal are all taken into account. Although we agree with the proposed definition and scope of necessary costs, the proportioning of costs relating to collecting targeted packaging versus non-target material as part of the same activity requires significant scrutiny and modelling to ensure packaging producers do not pay more than the necessary costs. Therefore waste characterisation testing is required on a regular and systematic scale.

Payments for managing packaging waste from households

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

Agree

If you disagree, please detail any issues you think there are with this approach and how you think payments should instead be calculated.:

Without benchmarking and indeed penalties, councils with relatively low packaging recycling rates are unlikely to significantly improve them.

47 Do you agree or disagree that the per tonne payment to local authorities for packaging materials collected and sorted for recycling should be net off an average price per tonne for each material collected?

Agree

If you disagree, please detail how material value should be netted-off a local authority's payment.:

Do not subtract a net average price per tonne in the case of compostable packaging because there isn’t a packaging output, the output is compost or digestate. Such packaging makes a contribution to compost/digestate microbial biomass content (we could provide evidence if Defra requests it).

48 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

If you disagree, please detail why you think the ability to apply an incentive adjustment should not apply.:

49 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?

Disagree

If you disagree, please provide the reason for your response.:

The system should be functional and the incentives clear from the outset.

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

Unsure

Please provide the reason for your response.:

This begs the question: if councils under perform are they being paid to continue to do so?

Therefore this payment should be very low so as not to undermine the potential financial incentives available to councils and result in a lack of organisational motivation.

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

Agree

If you disagree, please detail why you think incentive adjustments should not be applied to encourage local authorities to exceed their recycling performance benchmarks.:

The targets are a minimum councils should be required to achieve, going beyond that is beneficial for driving waste up the waste hierarchy, i.e. driving more recyclable waste into recycling and out of EfW treatment or landfill.

52 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

If you disagree, please detail how you think any unallocated payments to local authorities should be used.:

53 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?

Agree

If you disagree, please detail how you think residual waste payments should instead be calculated.:

54 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?

Agree

Payments for managing packaging waste from businesses

55 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

If you disagree, please provide the reason for your response.:

56 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

If you disagree, please provide the reason for your response.:

57 Which approach do you believe is most suited to deliver the outcomes being sought below?

All could work

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

No

If you answered 'yes', please explain which and provide your reason.:

59 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?

Yes

If you answered 'yes', please detail what issues you think there will be.:

We need a clear cut off date where one system ends and its replacement begins. January 1st 2024 or April 1st 2024 appears sensible.

Payments for managing packaging waste: data and reporting requirements

60 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 and incorporation into new or existing regulations in Northern Ireland?

Agree

If you disagree, please detail why you think the proposed sampling regime for packaging waste should not be incorporated as an amendment to MF Regulations in England, Wales and Scotland and incorporated into new or existing regulations in Northern Ireland.:

61 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?

Disagree

If you disagree, please detail who you think should be required to meet the packaging sampling and reporting regime for Extended Producer Responsibility purposes.:

The FPC definition appears suitable in terms of mechanically and chemically recyclable packaging but it may not be suitable for organically recyclable packaging, i.e. compostable packaging. There is some experience with bag-level sorting of compostable plus food waste at waste transfer stations (for London Olympics 2012), possibility for depackaging of compostable waste from food waste for sending the former to IVC and the latter to AD at a facility prior to and separate from the IVC/AD facility (as is currently done at some locations for some food waste streams packaged in non-compostable packaging), or instead doing weighing and any necessary sorting or pre-treatment at the IVC/AD facility.

FPC is defined as 'a material facility or transfer station that receives packaging waste directly from a waste collector, that undertakes the first weighing, consolidation, sorting and/or bulking of the packaging waste before sending onto another material facility, reprocessor or to export'.

We suggest instead a First Point of Management term specifically for compostable packaging, which could perhaps be defined as: 'a material treatment facility or transfer station that receives compostable packaging waste – with or without food waste, plant waste or a combination of these wastes - directly from a waste collector, that undertakes the first sampling, weighing, consolidation, sorting and/or bulking of the compostable packaging waste before sending it any any biodegradable waste with which it has been collected onto another material facility, reprocessor or to export'.

62 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

If you disagree, please detail why you think a de-minimis threshold is required.:

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

No

If you answered 'no', what other materials, format categories or level of separation should be included as part of the manual sampling protocol?:

The list seems okay with regard to mechanically and chemically recyclable packaging materials and formats but it is not comprehensive enough for the biorecycling of compostable packaging and the associated waste types (food and plant) the commercial scale composting and AD facilities manage. Packaging items which are certified home compostable but not also industrially compostable are likely to be a lower percentage of total compostable items on the UK market these days; those which are only certified home compostable should perhaps be covered in the materials list; this is something we think better discussed with government than written about in detail in this response.

'Compostable packaging' should be added to the list and we suggest 'Non-recyclable' packaging is changed to 'Packaging not mechanically, chemically or biologically recyclable', with a definition of biologically recyclable that covers industrially compostable packaging, i.e. that which is suitable for biodegrading in commercial scale AD (where a suitable pre-treatment step is used and/or separated fibre digestate is aerobically matured), composting or combined AD and composting systems.

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

Yes

If you answered 'no', please provide the reason for your response and detail what should be considered in determining an appropriate implementation period. :

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

Yes

If you answered 'no', please detail why you think it should not be considered as a medium to long-term method of sampling.:

66 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?

Unsure

If you answered 'no', please detail why you think these would not be suitable to use to determine the packaging content in source segregated material.:

Protocols for determining the proportions of a) compostable packaging and b) non-compostable packaging in food, plant and food and plant waste streams would need to be reviewed and potentially revised; certification marks for industrially compostable packaging and certification codes would be the criteria that sampler evaluators would use for determining a). Amounts per sample, number of samples and acceptable sampling points may need further attention.

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

Agree

If you disagree, please provide the reason for your response.:

Quality standards need to be raised to ensure that recycling has a meaning beyond inputs, to ensure the outputs are actually of value to market places.

Quality standards (national End of Waste rules) already apply to waste-derived composts and digestates that achieve product status; these include limits on man-made physical contaminants and plastics > 2 mm in the compost / digestate and are set to be tightened during the imminent revisions of the Compost and Digestate Quality Protocols. The Environment Agency will require the same, through permit revisions, for waste-derived composts and digestates that remain waste status material. Thus, the biodegradable waste recycling sector is already subject to controls on the minimum quality of waste-derived composts and digestates. Compostable packaging is covered by these rule sets and we hope improvements in our national EoW rule details will be achieved during revision of the CQP and ADQP.

68 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

If you disagree, please provide the reason for your response.:

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

Unsure

If you answered 'yes' please provide evidence of standards you think would be suitable for use as minimal output material standards.:

Relevant to composts and digestates produced from inputs that include compostable packaging are: the Compost Quality Protocol and PAS 100, the AD Quality Protocol and PAS 110, and SEPA's national End of Waste positions for waste-derived composts and digestates.

Payments for managing packaging waste: reporting and payment cycles

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

Disagree

If you disagree, please provide the reason for your response and/or suggest any alternative proposals.:

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

Agree

If you disagree, please provide any concerns you have with the proposed approach and/or any alternative proposals.:

Litter payments

72 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

If you disagree, please provide the reason for your response and/or provide an alternative approach to litter management costs being based on a commonly littered basis.:

Option 2 is pragmatic but the composition testing and analysis must be undertaken by independent third parties to ensure reliable data.

73 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

If you selected 'Any other(s)' - please specify here.:

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

Agree

If you disagree, please provide the reason for your response.:

Producers put materials onto the market and should, under the Polluter Pays Principle, contribute to the costs of collecting and treating or disposing of packaging wastes that are littered or fly-tipped.

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

Agree

If you disagree, please detail why you think litter payments should not be linked to improved data reporting.:

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

Agree

If you disagree, please provide the reason for your response.:

Scheme administration and governance

77 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

78 Overall which governance and administrative option do you prefer?

Option 1

Please provide the reason for your response.:

A holistic approach has to be taken and this requires a unified governing body.

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

In-year adjustment to fees

80 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

If you answered 'no', please detail what you think would be an appropriate contract length.:

81 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

If you answered 'no', please detail what you think would be an appropriate contract length.:

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

Agree

If you disagree, please provide the reason for your response.:

83 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?

No

If you answered 'no' please provide the reason for your response.:

The time to get a system running and payments into it to be able to disburse, plus the time needed for hiring and training competent staff, setting up offices and IT systems is likely to be longer than 9 months.

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

Neither agree nor disagree

If you disagree, please provide the reason for your response.:

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

Both

Please provide the reason for your response.:

The management of significant amounts of funding requires the highest level of independence, avoidance of conflict of interests and knowledge of the markets and materials subject to these schemes.

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

Agree

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

Agree

Reprocessors and exporters

88 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

If you disagree, please provide the reason for your response and detail any exemptions to the registration requirement that should apply.:

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

Agree

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

Please also provide specific detail on any processes, measures and/or costs that would be necessary to address these challenges.:

In the case of compostable packaging we have commented in answer to question 67 on actions we think necessary in support of reporting on the 'quality' (bona fide industrial compostability) of compostable packaging.

In terms of compostable packaging, reporting on quality and quantity should focus on the average % of compostable packaging in samples from the waste stream in which they are present, on a w/w fresh matter basis, and for quantity purposes then multiply this percentage by the tonnage of the waste stream in which they are present. Compostable packaging items can and should continue to be identified by an independent certifier's certification mark for industrial compostability plus the item's certification code.

We think it likely some Health and Safety checks need to be done to identify and define suitable sampling points at composting and AD facilities and any prior waste treatment/sorting locations that may be relevant under EPR rules. Such H&S checks for composting and AD facilities are necessary anyway due to the Environment Agency's introduction in permits, for treating biodegradable wastes, of limits on the % w/w (on a fresh matter basis) of non-compostable packaging and plastics in a) wastes delivered and b) biodegradable wastes prepared for biological treatment (such contamination at this stage is required to be As Low as Reasonably Practicable').

91 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

If you answered 'no', please provide the reason for your response and suggest any alternative proposals for using the quantity and quality data reported to support payments, incentives and targets.:

92 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

If you disagree, please detail why you think exporters should not have to provide this evidence.:

93 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?

Agree

If you disagree, please detail why you think it would not be necessary for waste to meet end of waste status prior to export.:

In the case of compostable packaging waste, we suggest the criteria for claiming they are tonnage that has been biologically recycled are that the compost, digestate or further treated digestate (e.g. by composting with or without addition of further biodegradable wastes) complies with national End of Waste criteria or Great Britain's Fertilising Products Regulation (Defra will consult this summer on overhaul of the existing and fragmented fertilisers regulations currently applicable in the UK, and the scope of the consultation will include products that partially or wholly consist of waste and non-waste derived composts and digestates).

94 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

If you disagree, please detail why you think these additional registration requirements on exporters are not required.:

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

Agree

If you disagree, please detail why you think it would not be necessary to undertake additional inspections and provide any alternative arrangements which could be implemented.:

Compliance and enforcement

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

Agree

If you disagree, please detail any perceived problem or issues with the proposed regulation of the system and provide comments on how the system could be regulated more effectively.:

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

Please answer here:

Environmental regulators should include in their monitoring and inspection plans information about any non-compostable packaging material types and formats that continue to frequently arrive at composting and AD facilities with non-packaged and user-unpackaged food wastes or with plant wastes from municipal, commercial and industrial sources. Such information could help improve guidance and education resources available to bin users and on-label instructions that help improve disposal of the relevant item types into appropriate bins.

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

Please answer here:

We are supportive of government's proposed details for use of regulator fees and charges for enforcement.

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

Please answer here:

We believe it's important that regulators can choose from any of the response options available to them for each breach, so they can match the extremity of the penalty to the extremity of the non-compliance. In the case of a first minor non-conformity by the obligated party, advice and guidance from the regulator would be reasonable.

Implementation timeline

100 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)?

Agree

If you disagree, please provide the reason for your response.:

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

Unsure

If you answered 'no', please provide the reason for your response and detail any practical issues with the proposed approach.:

102 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?

Later implementation

Please provide the reason for your response.:

Implementation of the reformed EPR system needs to work in conjunction with implementation of the DRS and England's coming wholesale changes to the ways in which wastes are collected for recycling.

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

Option 2

If you answered 'neither' please suggest an alternative approach.:

104 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?

Yes

If you answered 'yes', please detail which datasets will be needed.:

Compostable packaging that conforms to EN 13432 and which is 'cellulose-based' is within the scope of the current EPR system; cellulose-based materials these days are one amongst a range of types of compostable packaging materials made from non-fossilised carbon sources or from a mixture of non-fossilised and fossilised carbon sources.

The whole range of compostable packaging material types needs to be included in the reformed EPR system, even if waste collection consistency reforms do not define compostable packaging as a core material for co-collection with biodegradable wastes.

With those points in mind, the examples of data requirements listed in paragraph 14.17 of the consultation document must include in the 'Packaging Handled Data' list the following as a distinct material type: 'independently certified compostable packaging' and for this term to be clearly and appropriately defined in the reformed EPR system's rules.