

# Manifesto for successful Extended Producer Responsibility for packaging

January 2013

## Executive Summary

- *The concept of Extended Producer Responsibility (EPR) is based on the principle that so-called ‘obliged companies’ take responsibility for the end-of-life management of the products they put on the market. For (household) packaging, EPR ensures that the entire packaging chain is optimized and that packaging is developed in a more sustainable manner.*
- *To achieve the best results - both economically and environmentally - the EPR organisation should be owned by the obliged companies and run on a not-for-profit basis. It should serve the public interest, operate in a transparent and auditable manner, and involve all stakeholders from the government, local authorities, inhabitants, and the waste management industry - each of which has a designated role to play.*
- *When these conditions are met, the EPR organisation will have significant added value across the product life cycle in terms of packaging prevention and waste recycling, while contributing to a more cost-efficient and transparent system of waste management.*
- *The principles of this Manifesto should be endorsed by the obliged companies and embedded in their CSR strategy. These principles should also be endorsed by the authorities and integrated into the forthcoming revision of the Packaging and Packaging Waste Directive (PPWD) as the preferred implementation model.*

### I. The essence of Extended Producer Responsibility (EPR)

According to the Organisation for Economic Co-operation and Development (OECD), EPR is “an environmental policy approach in which a producer’s responsibility for a product is extended to the post-consumer stage of a product’s life cycle”.

It means that companies who put products on the market are obliged to collect and recycle these products and their packaging once they have reached their end-of-life stage. In this sense, it can be seen as a practical way of implementing the ‘producer pays principle’.

In order to ensure that the products and their packaging are appropriately dealt with once they become waste, the obliged companies set up an EPR organisation to finance, organise, and co-ordinate the collection and recycling of the waste, using the services of licensed waste management companies. The obliged companies receive a mandate from the authorities to shift their individual responsibility to the EPR organisation, which then becomes responsible and organizes the practical implementation.

## **II. The EPR organisation should be run and controlled by the obliged companies**

The EPR organisation should be founded, run, financed and controlled by the obliged companies themselves. It is the best guarantee to ensure the lowest cost to society and that the scheme will be both sustainable and compliant with environmental and legal objectives.

When obliged companies financing the EPR organisation are sitting in the boards and committees of this organisation they have the control about the expenses for all operations of the EPR organisation and will keep them in their own interest to the necessary minimum.

Moreover, they can agree to dedicate funding to necessary long term projects like education campaigns to increase the long term performance of the system which would not be run in case of multiple systems competing just on price.

To achieve this, the obliged companies should not only pay a contribution to the EPR organisation, but they should also be actively represented in the EPR organisation.

## **III. Not-for-profit organisation**

The EPR organisation should be a not-for-profit or profit-not-for-distribution body. There are several reasons why this is the preferred structure:

- It ensures non-discrimination among all of the obliged companies. A distribution of profit to the founding members/shareholders would constitute discrimination against non-shareholders.
- It also ensures that small and medium size participants receive full and equal service and that the EPR organisation does not just focus on big clients.
- It ensure that every obliged company has a right to join the system and is not been refused.
- It ensures that the interests of the consumers/inhabitants are served and that general interest objectives such as education, prevention, and communication will be pursued. This is especially important in the case of household packaging. Any for-profit company will make all possible efforts to avoid these costs which are - on a short term scale - not necessary to fulfill the minimum targets of the respective legislation.

## **IV. Waste management companies and/or investors cannot be EPR organisations and vice versa**

The natural inclination of investors and waste management companies in an open market is to maximise profit and grow market share - a method that strives for the highest price per tonne of collected and recycled material. Moreover, investors and waste management companies have an interest in increasing the amount of packaging put on the market. This, of course, is contrary to the legal objectives of the waste hierarchy and thereby creates a conflict with serving the public interest.

The focus of the EPR organisation on the other hand is to fulfil the obliged company's obligations in the most efficient and effective way possible. In other words, at the lowest possible cost for the obliged companies and society in general. The EPR organisation should work in close collaboration with the local authorities and negotiate and tender in an open market for collection, sorting, and recycling services.

The legal framework should be set up in such a way that the role of waste management companies is focused on and restricted to the supply of the highest quality services. On the one hand, waste management companies should not interfere in the execution of the EPR. On the other, the EPR organisation should not enter into the collection, sorting, and recycling process itself. Both parties have a distinct and separate role to play in the fulfilment of the EPR - preferably based on a close partnership.

#### **V. Strong governmental support and monitoring**

Public authorities have a key role to play in the enforcement of the EPR.

The national legislator should not only create an effective and efficient legal framework for the implementation of the EPR, it should also dedicate the necessary resources to fulfill its objectives. In this respect, special and exclusive rights can be granted to a single EPR organisation. In any case the national legislator should set out clear and high criteria for the accreditation of EPR organisations.

In their auditing role, public authorities should enforce this legal framework so that it ensures a qualitative implementation of the EPR, i.e. by using meaningful enforcement procedures to close loopholes and trace free riders. The public authorities should also develop a sound supporting policy. A compulsory Pay-As-You-Throw (PAYT) system on residual household waste can for example work as an incentive for the inhabitants to sort their household packaging waste. They should also refrain from establishing any counter-productive regulations or measures such as packaging taxes and deposit schemes which could impede the execution of the EPR.

#### **VI. Role of municipalities/local authorities**

A close partnership between the local authorities and the EPR organisation, based on mutual trust, is a *condition sine qua non* for the success and the environmental sustainability of the EPR.

Municipalities have several roles to play. Many of these roles depend upon the product/waste flow itself. For example, when the flow concerns household packaging for high-volume, fast moving consumer goods, municipalities play an important role in the set-up and management of door-to-door collections and/or bring or collection point centers.

In this respect, local authorities and the EPR organisation have to agree on the most appropriate collection system, taking into account both local particularities and conformity with national and European requirements.

The local authorities and the EPR organisation should also actively cooperate in local public communication and awareness programmes, data gathering and monitoring, the control of the waste management operators, and the tendering for collection services.

#### **VII. Single or multiple EPR organisations?**

Having a single EPR organisation responsible for a national territory - organising the collection and recycling of a product category for all obliged companies within national boundaries - has many advantages.

A single EPR organisation ensures that:

- The government can execute effective and efficient control.
- Obligated companies are treated in a non-discriminatory manner.
- An efficient functioning of the market is created, enabling the lowest societal cost for collection, sorting and recycling.
- Effective national and local awareness and communication campaigns are run.
- Reliable data on the collection, sorting, and recycling of packaging waste can be obtained.

When multiple EPR organisations are in simultaneous operation, it should be noted that the principle of competition regarding the collection of household packaging seldom functions ideally. This is because those who receive the service (inhabitants) do not choose the EPR organisation (which is selected by the obliged companies).

In countries with multiple EPR organisations - in some cases up to 40 in the same country - it has been observed that the organisations tend to cherry-pick. That is, they concentrate on the easiest material to collect and recycle. Moreover, public authorities have greater difficulty monitoring the EPR organisations and the obliged companies and to avoid and penalize free riding.

Also, for each authorized EPR organisation it becomes more or less impossible to monitor the reports of those obliged companies participating in their system as they might participate with remaining packaging in another EPR organisation. Therefore, usually the number of free riders in countries with multiple EPR organisations is higher than in a country with a single organisation.

Competition must however be assured at the level of the waste management activities, meaning on the level of collection, sorting and recycling, which represent over 80% of a successful EPR organisation's total cost.

In any case, EPR should never be reduced to a shopping list of a large number of so-called EPR organisations owned by waste operators and investors, making profits at the expense of and to the detriment of the obliged companies, the environment, and society in general.

### **VIII. Sustainable financing based on joint financial responsibility**

The EPR organisation must be set up in such a way that all necessary finances are provided for an effective implementation in compliance with the legal framework. The financial contribution of the obliged companies should also be significant enough compared to the total cost. This gives them a strong position in discussions with local authorities regarding the most appropriate collection system to be employed.

The financial contribution of each obliged company must be calculated based upon the amount and type of packaging they put on the market and the real cost of operations - including awareness campaigns and potential revenues from the secondary raw material market. This ensures that all obliged companies receive equal treatment and share a fair allocation of the costs.

## IX. Public service mission and procurement procedures

The EPR organisation should pursue - as part of its statutory purpose - a public service mission regarding the collection, recovery, and recycling of household packaging waste. This means the organisation should serve a higher purpose - realising an environmentally and economically sustainable recycling society, which benefits the inhabitants of the country.

In this respect, the EPR organisation should engage itself in raising awareness about sorting and recycling among the inhabitants and provide support for educational programmes. It should also develop adequate programmes and actions for 'away from home' consumption of household packaging waste.

The EPR organisation should implement transparent and efficient procurement procedures for contracting waste treatment operators such as collectors, sorters, and recyclers. It should observe the principles of equality and neutrality at all times.

## X. Packaging optimisation and prevention

The EPR organisation should help the obliged companies to improve the environmental performance of their products and their packaging by providing advice and information on packaging optimisation. Packaging optimisation efforts include improved design of the combined product/packaging, guaranteeing the greatest functionality and longest life, while using safe materials and a minimum of raw materials and resources.

Through its co-ordination efforts, the EPR organisation functions as a 'bridge' between the obliged companies and the recyclers. This ensures that the obliged companies gain insight into the recyclability of their packaging and enables them to take the end-of-life treatment into account during the design of the packaging.

