



Consultation on Reforming the UK Packaging Producer Responsibility System

Introduction

arc21 is a Local Government sector entity embracing six Councils located along the Eastern Region of Northern Ireland which covers approximately 33% of the land base, populated by approximately 59% of the national population and accounts for approximately 60% of the national Local Government controlled municipal waste arisings.

The establishment of arc21 together with its functionality has been enshrined in various pieces of legislation with the most recent provision being The Local Government (Constituting a Joint Committee a Body Corporate) Order (Northern Ireland) 2015.

In essence, it is primarily responsible for activities associated with the production, ongoing development and implementation of a Waste Management Plan for the arc21 area.

The six Constituent Councils of arc21 are Antrim and Newtownabbey Borough Council, Ards and North Down Borough Council, Belfast City Council, Lisburn & Castlereagh City Council, Mid and East Antrim Borough Council and Newry Mourne and Down District Council

Report

arc21 welcomes the opportunity to respond to this consultation and prior to answering the specific questions contained in the consultation document we would offer the following comments.

In general and as a matter of principle arc21 have consistently advocated a reform of the Packaging Producer Responsibility Scheme and accordingly would comment the government for setting out proposals in this regard.

The Government have taken a conscious decision to launch this consultation in conjunction with three other consultations of which two are applicable to Northern Ireland i.e. Consultation on Plastic Packaging Tax and Consultation on introducing a Deposit Return Scheme in England, Wales and Northern Ireland. The third consultation on Consistency in Household and Business recycling collections in England is not applicable to Northern Ireland. arc21 understand this was a conscious decision in view of the strategic linkage between the consultations. This was reinforced at various events attended during the consultation period including the multi sector event held in Belfast on 12 March 2019.

In view of the applicability of the collection consistency consultation, it would not be appropriate for arc21 to respond to the aforementioned consultation document. Nevertheless there is a clear linkage to its contents and arc21 would wish to point out the position in Northern Ireland is different in a number of aspects e.g. market conditions, base costs, land border with the Republic of Ireland, council functions etc.

arc21 welcomes the scope in the consultation document for refinement of detail with the strategic framework to reflect Northern Ireland specific circumstances. This is particularly relevant, but not exclusively, to service standards and collection related payments. We would strongly advocate direct and material engagement with Northern Ireland Council representatives on the future development of proposals

Finally, given devolved administration's role and responsibility in this matter it would be helpful if any subsequent economic assessment contains costs pertinent to each devolved administration area.

Questions

1. What is your name?

arc21

2. What is your email address?

info@arc21.gov.uk

3. Please provide information about the organisation/business you represent.

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4. Please provide any further information about your organisation or business activities that you think might help us put your answers in context. (Optional)

In essence, it is primarily responsible for activities associated with the production, ongoing development and implementation of a Waste Management Plan for the arc21 area.

5. Would you like your response to be confidential?

No.

6. Do you agree with the principles proposed for packaging EPR?

Yes.

Although implementing the changes requires us to have confidence in the long term commitment for increased financial support to councils. We recognise that the details of the changes and therefore the details of any specific commitments (including distribution of any funding between authorities) would be decided following future consultations if the policies proceed as currently indicated but it is essential that this information is provided as soon as practicable. We are also concerned to ensure that the particular challenges of increasing recycling in dense urban environments is properly calculated and fully recognised in both payment calculations and standards.

Please briefly state the reasons for your response.

- *Because businesses will bear the full costs of managing the packaging they handle or place on the market under the proposed new scheme. The principle of an extended producer responsibility (EPR) regime is that producers are responsible for the impact of the products that they place on the market from ‘cradle to grave’. Whilst the current packaging EPR makes everyone in the packaging chain, above a de minimis, responsible, it does not make producers responsible for the full costs of managing packaging waste, which undermines the principle of EPR. The consultation document notes that “At most around 10% of costs are covered¹; but our analysis indicates that less than 7% of the costs of managing household packaging waste are covered by producers.” Therefore, in particular we support principle 3 – that businesses will bear the full costs of managing the packaging they handle or place on the market.*
- *Because the proposed packaging EPR will better implement the waste hierarchy and more clearly support the principles of the circular economy than the present scheme. The reformed EPR will not incentivise reuse specifically. However, the second proposed principle of the new scheme is that businesses will be incentivised to reduce unnecessary and difficult-to-recycle packaging and to design and use packaging that is recyclable. As a result, the proposed new scheme should more clearly support the waste hierarchy and the principles of the circular economy than the present arrangement.*

¹ House of Commons Environmental Audit Committee Report, December 2017
<https://publications.parliament.uk/pa/cm201719/cmselect/cmenvaud/339/339.pdf>

- *Because it will provide for improved consumer information on packaging which should result in reduced contamination and more effective recycling. For any EPR scheme to work effectively the product users must understand their role and act accordingly. At present, the consumer information obligations for packaging waste are unclear, which coupled with weak enforcement, has led to uncoordinated implementation of the consumer information obligations for packaging waste. This has resulted in different obligated businesses within the current scheme providing different information about how consumers should recycle the packaging on the products that they buy. As a result consumers are often confused about what to do when they come to dispose of a product and its packaging which leads to less effective recycling and higher levels of recycling contamination than we want.*

6. Do you agree with the outcomes that a packaging EPR should contribute to?

Yes.

- *The accompanying Impact Assessment to this consultation states that the money raised through the system should fund better recycling collections, domestic recycling infrastructure and services under clear conditions that deliver overall system savings. The consultation document does not mention the aim to deliver overall system savings and in fact states that there is sufficient high quality reprocessing capacity in the UK to handle the increasing quantities of packaging waste for recycling.*

7. Do you think these types of items not currently legally considered as packaging should be in scope of the new packaging EPR system?

Yes.

Please briefly state the reasons for your response and provide any information to support your view.

- *Out of the list of possible additional items (foil, cling film, jiffy bags, paper cups and [rolls of] sandwich bags not currently legally considered as packaging the only one we consider should be included in the new EPR is jiffy bags. We expect, although have no data to verify this, that jiffy bags are used as much by producers and packer fillers as well as in the home e.g. for online sales of products, so for this reason would like to see them included in the EPR. They are also difficult to recycle.*
- *We would like to see paper cups considered for some type of EPR in due course, but a separate scheme for single-use cups of any type is likely to be more relevant (rather than just focussing on paper ones).*

9. Which of these two classifications best fits with how your business categorises packaging?

- (a) Primary, secondary, tertiary**
- (b) Consumer-facing and distribution/transit**
- (c) Neither – please say why, and provide a description of how your business categorises packaging**

Not applicable.

10. Do you agree with our definition of full net cost recovery?

Yes.

Please briefly state the reasons for your response and provide any information to support your view.

- *Whilst arc21 generally supports the definition of full net cost recovery, we feel that there are some gaps which need to be covered. It is important that the coverage of costs properly addresses all the areas associated with the sustainable management of packaging. This needs to include the costs of making household waste and recycling centres available to the public for receiving packaging waste as well the costs of clean-up of littered and fly-tipped packaging. It also needs include the costs of collecting packaging that is within the residual waste stream as well as the packaging within the dry recycling stream. To work out the quantities of packaging materials within the residual stream, composition analyses (or other forms of analysis) will be required, and the costs of these will also need to be covered. We do welcome the inclusion of the costs of providing information to consumers on recycling packaging waste and anti-littering.*
- *arc21 is unclear how income from the sale of recyclable packaging will be netted off. We are concerned that if the income netted off is an average annualised amount per tonne for example, that it may be insufficient incentive for materials recycling facilities (MRFs) to get the best possible price for the sale of the packaging material for recycling. The way the system is structured will need to ensure that the commercial/market incentives for the trading of recyclate are maintained.*
- *The consultation document notes that there is an expectation that recycling costs per tonne of packaging will decrease over time. There is no detail in the consultation document or impact assessment about how this has been modelled. It will be important for all parties to understand better how the costs have been and will continue to be calculated in order to understand how 'full cost' recovery has been determined.*

11. Do you agree that producers should be required to fund the costs of collecting and managing household and household-like packaging waste, i.e. all consumer facing packaging?

Yes.

12. **Do you agree that packaging for commercial/industrial applications should be out of scope for full net cost recovery?**

Yes.

13. **We would welcome your views on whether or not producers subject to any DRS should also be obligated under a packaging EPR system for the same packaging items.**

Yes they should.

Please briefly state the reasons for your response.

Whilst arc21 believes that a DRS is likely to reduce the quantity of drinks containers within residual waste, it will not eliminate it. Therefore there will still be costs associated with collecting and managing the drinks containers within the residual waste stream, so EPR is needed to ensure that these costs are covered and encourage producers to do everything in their power to make sure that drinks containers are captured.

14. **Do you agree with the development of an ‘approved list’ of recyclable packaging to underpin the setting of either modulated fee rates or deposits?**

Yes.

Please briefly state the reasons for your response and provide any information to support your view.

- *Clarity of labelling for consumers can only be brought about if there is an approved list of what can and cannot be recycled, and recycling will be more effective if the labelling is clear. Please see our response to question 6 for evidence of the importance of clear labelling. However, the practicalities are that different MRFs accept different ranges of materials so it will be important to find a way in which the national variability of what can and cannot be recycled is incorporated during any transitional period.*

15. **Do you think the payment of modulated fees or the payment of deposits with the prospect of losing some or all of the deposit would be more effective in changing producers’ choices towards the use of easy to recycle packaging?**

(a) Modulated fee

Please briefly state the reasons for your response and provide any information to support your view.

Modulated fee:

- *We support a modulated, placed on the market (POM), fee for producers - whereby they pay fees based upon the quantity and types/formats of packaging they handle - as the best approach for changing producers’ choices towards the use of easy-to-recycle packaging.*

A modulated fee would send a clear signal to producers and designers to consider end-of-life at the design stage. Fees could be flexible allowing for the fees to be adapted as new packaging types come onto the market such as compostable, or biodegradable packaging or packaging with electronic sensors for example in-built, and could be set to take account of composite materials.

Deposit and fee:

- *This approach is similar to how the energy market operated for a period of time with companies paying upfront based upon an estimate of their annual energy use and then a repayment at the year-end based upon their ranking in the market. It may be useful to look at why this system was changed.*
- *In our view a deposit (for recyclable packaging) and fee (for non-recyclable packaging) is likely to be too difficult to operate and potentially make it more difficult for businesses to budget for their annual costs of compliance.*
- *Although the deposit and fee approach would potentially be more responsive to market pricing – with deposits returned based upon the real cost of recycling, the risk with this approach is that producers could contribute more than the full net cost overall of packaging placed on the market – which the consultation document recognises.*
- *Although the deposit and fee is attractive, because it is more likely than a modulated fee to stimulate a circular economy approach; on balance we support the modulated fee.*

16. Do you think there could be any unintended consequences in terms of packaging design and use arising from:

(a) Modulated fees

(b) Deposit (for recyclable packaging) and fee (for non-recyclable packaging)
Please briefly state the reasons for your response and provide any information to support your view.

- *Both modulated fees and a deposit/fee approach are expected to encourage producers to substitute less easily recycled material for more easily recycled material in their product packaging. However, the provision of materials and recycling facilities varies across the country. So, one unintended consequence as the result of the substitution of one material for another could be that the average transport distances could increase for both transporting materials for packaging manufacture and at the end of life to packaging recycling facilities.*

17. Do you agree that the deposit approach should be designed to incentivise more closed loop recycling?

Yes.

Please briefly state the reasons for your response and provide any information to support your view.

- *A fiscal signal to include easily recyclable material, whether that be a deposit/fee or modulated fee, raises awareness of the need to design in recyclability from the outset and the deposit approach also provides the opportunity to incentivise closed loop recycling.*

18. What do you consider to be the most appropriate approach to a single point of compliance, the Brand-owner or the Seller approach?

(a) Brand-owner

Yes.

(b) Seller

(c) Other

(d) I don't support moving to a single point of compliance

Please briefly state the reasons for your response and provide any information to support your view.

- *The current system of shared responsibility across the packaging chain has worked well since its introduction, but we note that this creates the potential for four separate organisations to be obligated for one unit of packaging – the material manufacturer, the converter, packer-filler and seller. We also recognise the risk of the price signal being diluted by having a shared responsibility approach. As a result, we support reform to a single point of compliance.*
- *We support compliance at the brand-owner level on the basis that the brand owners are the ones putting the product forward to the market but have no further evidence to support this view. Brand owners and sellers are best placed to answer this question.*

19. If a single point of compliance approach was adopted, do you think the de-minimis should be:

(a) Replaced with a lower turnover threshold?

Yes.

(b) Retained and wholesalers and direct-to-retail sellers take on the obligation of those below the threshold?

(c) Other, please state

(d) Don't know

Please briefly state the reasons for your response and provide any information to support your view.

- *Replacing the de-minimis with a lower turnover threshold still retains the principle of producers being obligated under producer responsibility legislation, albeit that very small and micro-businesses would be exempt such as an independent café that fills takeaway boxes at the point of purchase.*
- *A move to retain the de-minimis threshold and obligate wholesalers and direct-to-retail sellers of unfilled packaging seems to undermine the principle of producer responsibility – because the wholesalers and direct-to-retail sellers would have to pay the fees on the unfilled packaging products that they sell to producers (albeit that the prices they would charge would be inclusive of EPR obligations).*
- *Whilst we note the littering impact of packaging placed on the market by takeaway businesses our view is that it is better to introduce the new system first as proposed with a lower threshold and then review it at a later date if it becomes clear that the exemption of very small businesses is causing a problem.*

20. Should small cafés and restaurants selling takeaway food and drinks whose packaging is disposed ‘on the go’ be exempt from being obligated?

No.

Please briefly state the reasons for your response and provide any information to support your view.

Small cafés, restaurants, fish and chip shops and other takeaway outlets produce packaging waste which is commonly littered. Whilst drinks containers are likely to be covered by a DRS, other items e.g. food takeaway boxes, will not be. Making these businesses obligated under EPR would encourage them to produce less, and/or more reusable, packaging.

21. If shared responsibility is retained, is Option A or Option B preferable for including smaller businesses or the packaging they handle in the system?

- (a) **Option A (Lower or remove the de-minimis)**
- (b) **Option B (De-minimis threshold remains as is and obligations extended to distributors of packaging or packaged products)**
- (c) **Other, please state**
- (d) **I don’t know**

Please briefly state the reasons for your response and provide any information to support your view.

We do not think shared responsibility should be retained so have not answered this question.

22. If you have stated a preference for A, do you think the de-minimis threshold should:

- (a) Be reduced (please state your suggested threshold)**
- (b) Be removed entirely**

Please briefly state the reasons for your response and provide any information to support your view.

We have no meaningful information that would enable us to provide a response.

23. Overall, do you have a preference for maintaining a shared responsibility compliance approach, or moving to a single point of compliance?

- (a) Single point of compliance.*

Please briefly state the reasons for your response and provide any information to support your view.

Please see our response to Q.18.

24. Do you have a preference for how small businesses could comply?

- (a) Pay a flat fee to include a contribution to a communications fund**
- (b) Apply an allocation formula**
- (c) Other, please describe**

Please briefly state the reasons for your response and provide any information to support your view.

We have no meaningful information that would enable us to provide a response.

25. Do you think that requiring operators of online marketplaces to take the legal responsibility for the packaging on products for which they facilitate the import would be effective in capturing more of the packaging that is brought into the UK through e-commerce sales?

Yes.

Please briefly state the reasons for your response and provide any information to support your view.

- Operators of online marketplaces should, as a matter of principle be sharing some of the producer responsibility burden associated with the packaging for which they facilitate the import and then pass into UK consumers' homes and waste.*
- These are digital businesses so the ease of compliance should be high and the costs of ensuring accurate reporting relatively low. However, incorporating these businesses into the EPR framework is inevitably likely to result in some self-reporting.*

- *Given that more and more people now buy on-line it seem perverse to exempt these businesses from the overall regime.*

26. Do you agree payments to councils for collecting and managing household packaging waste should be based on:

- (a) provision of collection services that meet any minimum standard requirements (by nation);**
- (b) quantity and quality of target packaging materials collected for recycling;**
- (c) cost of managing household packaging waste in residual waste**

Please briefly state the reasons for your response and provide any information to support your view.

- *Yes, we agree that the payments to councils for collecting and managing household packaging waste should be based on all of the above measures.*
- *A long-standing complaint of producers and retailers has been the varying collection systems provided by councils across the country and that as a result communication about recycling on a national scale is more difficult. Collection services which meet minimum standard requirements set by each nation would help to address this and ensure that the efficacy of communications is maximised.*
- *We note that the consultation states that if additional packaging items, such as film plastic waste produced by households (which is mostly LDPE) and compostable plastic packaging, were to be required to be collected from households in the future then producers would be expected to cover these costs. However, in some cases these items are collected and recycled already. We would recommend that the system is sufficiently flexible to allow for the costs of other materials than those which are mandated should be able to be recovered too if they contribute to the producers' targets.*
- *Payments which are sensitive to the cost of managing household packaging waste in the residual stream is sensible.*
- *However, we are concerned that the reference costs which will be used for making payments will properly reflect the situation throughout Northern Ireland.*

27. Do you think we have considered all of the costs to councils of managing packaging waste?

No.

Please briefly state the reasons for your response and provide any information to support your view.

- *The consultation document notes that producers should not be expected to cover the costs of inefficient service delivery and their financial contribution should not exceed the costs necessary to provide those services (Section 1). However, we are concerned that the detail is not provided to understand how the efficiency of a collection service will be assessed and whether, if some costs have been excluded, a service may be erroneously judged as being inefficient.*
- *The need to provide consistent collections, including the additional separation of materials, is likely to require additional bulking bays for separate materials at transfer facilities. It is unclear if the full costs of additional bulking bays at transfer facilities have been incorporated.*
- *Thirdly we are unsure if collection depot running costs have been included.*
- *A key piece of work is to understand how much the costs of managing packaging waste vary between councils. We are also concerned that the payments for packaging waste in residual waste which will be based on the average disposal gate fee for household waste for landfill or incineration, using either national average rates or regional average rates have sufficient granularity. If residual waste is transported to a region with very different disposal costs it is important that this is reflected in the payments so that the producing local authority is properly recompensed.*

There is also a lack of clarity about items recycled from residual waste such as in an MBT plant.

Also, as mentioned in the response to Q.10a, we are concerned that the following costs might be missed:

- *the costs of making household waste and recycling centres available to the public for receiving packaging waste*
- *well the costs of clean-up of littered and fly-tipped packaging*
- *the costs of collecting packaging that is within the residual waste stream as well as the packaging within the dry recycling stream*
- *the costs of analyses to determine the quantities of packaging materials within the residual waste streams*

28. Do you agree with our approach to making payments for the collection of household-like packaging waste for recycling?

Yes.

Please briefly state the reasons for your response and provide any information to support your view.

- *We support the principle of payments for the collection of household-like packaging waste for recycling being similar to those for household waste, namely a formula which takes into account the cost of collection, proportion of target recyclable packaging materials in the waste stream and weight of target materials recovered for recycling. However, our comments regarding omissions as set out in response to question 27 also apply to household-like packaging waste collected from businesses.*

29. Should businesses producing household-like packaging receive a payment for the costs of household-like packaging waste in residual waste?

No.

Please briefly state the reasons for your response and provide any information to support your view.

- *There should already be an incentive for businesses to recycle because they pay for the costs of their waste service, so a payment should not be needed. However, if it would help to capture more of the material then it perhaps could be considered at a later date.*

30. Are there other factors, including unintended consequences that should be considered in determining payments to:

(a) Councils?

Please explain the reasons for your response and provide any information to support your view.

There will be a period of transition as the new EPR system is implemented. Two options are provided for in the consultation document regarding the ownership of packaging waste recovered for recycling which need to be factored into considerations regarding payments to councils. If ownership of material is retained by producers then councils could be paid their gross costs and hence would no longer bear the risk of fluctuating material prices. Or, as now, councils could continue to receive income for the sale of their recyclable packaging materials and this income would need to be taken account in payments made to councils as producers are required to pay net costs. During the transition period between the current and new regime and depending on which option above is considered there may be a need to consider operating both systems side by side. Transitional arrangements should be taken into consideration.

(b) For the collection and recycling of household-like packaging waste?

Please explain the reasons for your response and provide any information to support your view.

None to note.

31. Do you have any information that would help us to establish the costs incurred by councils and other organisations of cleaning up littered and fly-tipped packaging items?

No.

32. How do you think producer fees could be used to improve the management of packaging waste generated on-the-go?

- *One option may be for councils to receive an additional payment if their on-the-go recycling system is identical to the minimum standard (dry materials) for kerbside services. This could be introduced at a later date but it would be necessary not to disadvantage smaller rural authorities with limited on-the-go provision.*
- *Another option would be to ensure that communications provision included on-the-go so that there would be an incentive for councils to make their on-the-go provision consistent with their kerbside service.*

33. Do you have any information that would help us to establish the costs of collection and disposal of increased on-the-go provision?

- *No – because on-the-go material is mixed with household kerbside collected waste for disposal so we do not have separate costs available.*

34. Do you agree that provision for the take back of single-use disposable cups for recycling should continue to be developed a voluntary basis by business prior to a government decision on whether disposable cups are included under an EPR scheme or DRS?

Yes.

Please briefly state the reasons for your response and provide any information to support your view.

- *Given the volume of single use disposable cups being used and thrown away and the voluntary measures already in place the Government should take a short amount of time to review the evidence on the effectiveness of these schemes and then implement a mandatory regime.*

35. Do you think the recycling of single-use disposable cups would be better managed through a DRS or EPR scheme?

- (a) **DRS**
- (b) **EPR**
- (c) **Both**
- (d) **None of these options**

Please briefly state the reasons for your response and provide any information to support your view.

(c) *Both.*

- *EPR would encourage producers to shift away from single-use and/or a move to more easily recyclable single use cups.*
- *DRS would encourage consumers to return their disposable cups for recycling or reuse*
- *DRS could be a good way to incentivise reuse, rather than just return for recycling.*

36. Do you think a recycling target should be set for single-use disposable cups?

- (a) **Yes**
- (b) **No**
- (c) **I neither agree nor disagree**

Please briefly state the reasons for your response and provide any information to support your view.

- *No – because it would be preferable to incentivise reuse rather than recycling.*

37. Should producer fees be used to support local service-related communications delivered by councils?

Yes.

Please briefly state the reasons for your response. Where available, please share evidence to support your view.

- *We support the use of producer fees for local service-related communications, but this support could be on the proviso that suitably flexible national branding is used and that the money is ring-fenced for communications.*
- *Local communications can be targeted and customised and are a vital part of the communications mix, reducing the ‘bystander bias’ of national activity. Examples from other sectors to support the need for local communications including the National Blood Transfusion Service which became far more effective at gaining blood donors when it changed its communications from national messaging about giving blood, to a more localised approach saying that the local hospital was running low on supplies. Spotify has also localised its communications to attract more users.*
- *Local communications will also be particularly important in the transition period before consistency of collections is in place across each nation.*

38. Should producer fees be used to support nationally-led communications campaigns in each nation?

Yes.

Please briefly state the reasons for your response. Where available, please share evidence to support your view.

- *We suggest that it is appropriate for funding to be used for national branding, research and communications materials but not for communications campaign delivery until consistent collections are in place.*

39. Are there any circumstances where producers should be exempt from contributing to the cost of communications campaigns?

No.

Please briefly state the reasons for your response. Where available, please share evidence to support your view.

- *We cannot think of any reasons for exemption.*

40. Do you agree it should be mandatory for producers to label their packaging as Recyclable/Not Recyclable?

Yes.

Please briefly state the reasons for your response and provide any information to support your view.

- *Because as noted in our response to question 6 consumers are often confused about what to do when they come to dispose of a product and its packaging which leads to less effective recycling and higher levels of recycling contamination than we want.*

41. Do you think that the percentage of recycled content should be stated on product packaging?

Yes.

Please briefly state the reasons for your response and provide any information to support your view.

- *Because labelling about the recycled content of the packaging would reinforce consumer messaging about the outcome of recycling, i.e. that the material consumers recycle gets made into new products.*

**42. If you responded yes to the previous question, how could recycled content information be provided to consumers?
Please describe briefly.**

- *The labelling could be colour coded like energy efficiency ratings.*

**43. Do you have any other proposals for a labelling system?
Please describe briefly.**

- *No.*

- 44. Do you have experience to suggest an appropriate lead-in time for businesses to incorporate any mandatory labelling requirements?**

We have no meaningful information that would enable us to provide a response.

- 45. In your view, are the estimates made in the Material Flow reports for packaging waste arising the best available data?**

I do not know / I do not have enough information.

- 46. Are you aware of any other factors which may affect the estimates of packaging waste entering the waste stream?**

No.

- 47. In your view, are there other factors which may affect the amounts of obligated tonnage reported?**

I do not know / I do not have enough information.

- 48. Do you agree with the packaging waste recycling targets proposed for 2025?**

Yes.

- 49. Do you agree with the packaging waste recycling targets proposed for 2030?**

Yes.

- 50. Please provide your views on the policies and actions that could help us achieve an even higher overall packaging recycling rate, for example 75%, as well as your views on the costs associated with doing so.**

We have no meaningful information that would enable us to provide a response.

- 51. Do you foresee any issues with obtaining and managing nation specific data?**

This is not a question that we are in a position to answer.

- 52. Should a proportion of each material target be met by “closed loop” recycling, e.g. as is the case for glass recycling targets?**

Yes – ideally.

Please briefly state the reasons for your responses and provide any information to support your view.

As we seek to transition to a more circular economy it would be helpful if the producer responsibility packaging waste regulations could assist us to do so.

However, the practicalities of closed loop recycling may prevent the immediate implementation of such a requirement.

53. Should government set specific targets for individual formats of composite packaging?

Yes – ideally.

If yes, what key categories of composite packaging should be considered? Please briefly state the reasons for your responses and provide any information to support your view.

We do not have sufficient knowledge and detailed information of the packaging sector that would enable us to provide a response. However, we do support the principle of setting targets for composite packaging recycling.

54. Do you agree with the proposed interim targets for 2021 and 2022 set out in Table 6?

Yes.

Please briefly state the reasons for your responses and provide any information to support your view.

The targets proposed take account of current performance and the required trajectory, so seem reasonable, although it is unclear if any implications of Brexit have been incorporated.

55. Do you agree with the proposal to increase the allocation method percentage to 35% for 2021 and 2022?

We are not aware of any conclusive evidence that would enable us to provide a response.

56. Overall, which governance model for packaging EPR do you prefer?

(a) Model 2 – Single not-for-profit scheme.

Please briefly explain your preference.

- *Many other countries operate a single governance model – so it is a well-established approach for packaging compliance and the costs and operating model are known.*
- *A single governance model simplifies the current regime of competing compliance schemes which has delivered compliance and at a low cost but which has led to a fragmented approach where the whole scheme costs and investment back into recycling collection services is not as transparent as we would wish.*
- *Model 2 is underpinned by modulated fees which we believe will be the best approach for changing producers' choices towards the use of easy-to-recycle packaging.*

57. If you had to modify any of the models in any way to make them better suited to achieve the principles and outcomes government has set for packaging EPR what changes would you suggest?

- *Model 1: Enhanced near-to-business as usual - compliance schemes.*
- *Due to the competitive nature of the market under this model, schemes would compete for local authority services as with the WEEE compliance approach now. In order to provide a comprehensive service, it would be necessary to include a mechanism to prevent the most costly-to-collect-from councils from being without a compliance scheme provider into which all schemes would have to contribute.*
- *This model requires the transfer of a proportion of funds to an independent board which would run communications campaigns on behalf of the schemes. In order to ensure that this worked well it would probably be necessary to establish a governance structure whereby one of the compliance schemes took the legal lead. Prior to the establishment of WRAP the National Waste Awareness Initiative as it was then known, (now Recycle Now) was run by a board. However, because there was a need to let contracts to communications agencies, research agencies etc. that board then had to become a legal entity in order effectively deliver the campaign. A quicker approach is to let one of the member organisations take the lead.*
- *The complexity of each compliance scheme working alongside the DRS would possibly also require a combined management body to ensure a coherent system was created.*
- *Model 2: Single not-for-profit producer management organisation.*
- *Model 3: Separate schemes for household/household-like packaging and commercial/industrial packaging.*
- *Data collection management would be one of the most difficult aspects of this model, because with different schemes responsible for household/household-like packaging and commercial/industrial packaging no-one organisation would have a complete picture of the progress towards recycling target achievement. A data sharing arrangement would be required with one of the schemes taking the lead for providing information to government.*
- *Communications funding for reducing littering would also need to be co-ordinated between the schemes because communications to reduce littering does not necessarily need to distinguish between the sources of the litter or if it does communications require co-ordination.*
- *Model 4: Deposit-based government managed system.*
- *The consultation document notes that the Government has not found a similar scheme operating elsewhere so it could include a number of unknown costs and risks.*

58. Do you have any concerns about the feasibility of implementing any of the proposed governance models?

- a) Yes
- b) No

If yes, please provide specific reasons and supporting information for each governance models that you have concerns about.

All of the models are feasible, but some as indicated above would require more time and complex structural arrangements to put be put in place in order to make them effective.

59. Do you think that any of the governance models better enable a UK-wide approach to packaging producer responsibility to be maintained whilst respecting devolved responsibilities?

Yes – Model 2, because there could be single not-for-profit management organisations within each nation.

60. Stakeholders have suggested that a compliance fee mechanism similar to the arrangements currently in place under the WEEE producer responsibility scheme should be introduced if a competitive evidence market continues to operate such as in Model 1. Do you agree?

Yes.

Please briefly state the reasons for your response and provide any information to support your view.

- *Firstly because of the requirement to provide support for authorities who have not been able to award a contract to a compliance scheme for whatever reason. The compliance fee can be set to ensure that each scheme pays into a fund which can support the provision of services to such councils.*
- *Secondly because it would potentially be able to fund comprehensive communications.*

61. Should a Packaging Advisory Board be established to oversee the functioning of the EPR system and the compliance schemes in the competitive compliance scheme model 1 or do you think other arrangements should be put in place?

- (a) Packaging Advisory Board
- (b) Other – please provide details

Please briefly state the reasons for your response and provide any information to support your view.

We are unsure about the alternatives so cannot comment upon this question.

- 62. Please let us know your thoughts as to whether the proposed single management organisation should be established on a not-for-profit basis or as a government Arm's Length Organisation.**

There are pros and cons of each approach but on balance we recommend a non-for-profit basis.

- 63. If such a management organisation is established as not-for-profit, one option is for government to invite proposals from potential operators and then issue a licence to operate for a defined period of time. Do you agree with this approach?**

Yes.

- 64. Should a single scheme be established for household/household-like packaging and C&I packaging as described for model 2?**

Yes.

Please briefly state the reasons for your response and provide any information to support your view.

Because a single scheme can ensure a co-ordinate approach to data collection and reporting of the same.

- 65. Or, should there be a separate system for managing compliance for household/household-like packaging and C&I packaging as described for model 3?**

No.

If no, do you have suggestions on an alternative approach?

This may be better addressed by others who are closer to the detail of how compliance can operate.

- Q66. Under model 4 are producers more likely to:**

- (a) Manage their own compliance?**
- (b) Join a compliance scheme?**

Please briefly state the reasons for your response and provide any information to support your view.

We have no meaningful information that would enable us to respond.

- 67. Do you agree that government should seek to ensure export of packaging waste is undertaken in a transparent and environmentally responsible manner?**

Yes.

Please briefly state the reasons for your response and provide any information to support your view.

arc21 are hopeful the introduction of these measures will help to improve the economic climate and proportionately more of the packaging waste will be recycled locally. However even with local developments in infrastructure the option to export will continue to exist. Ensuring appropriate standards and transparency will be important to ensure competitive fairness and assist with public perceptions.

- 68. Do you agree that measures identified here would help ensure the export of packaging waste is undertaken in a transparent and environmentally responsible manner?**

Yes.

Please briefly state the reasons for your response and provide any information to support your view.

arc21 broadly agrees that the measure identified could assist in improving the system regarding the export of packaging waste. However, the system will only ever be as good as the regulation of it and if changes are to be made, they must be backed up with appropriate resources for the regulators to undertake the actions they need to maintain the system in the desired manner. The measures proposed need to include this in their design and ensure that adequate funds are generated to undertake appropriate regulatory activities in relation to the export of packaging waste.

- 69. Have we missed potential measures that you believe need to be considered alongside those measures we have proposed?**

No.

- 70. Do you have any concerns about the feasibility and / or costs of implementing any of the proposed measures?**

Yes.

If yes, please provide specific reasons and supporting information for each measure that you have concerns about.

The transition period will be complex as producers and councils move to the new system, consistent collections come into force and a DRS is implemented, assuming that all three new measures are implemented. Coupled with any complexities introduced as a result of Brexit, this could lead to unforeseen delays and costs.

- 71. Do you agree that accredited reprocessors and exporters should be required to report their financial information?**

Yes.

Please briefly state the reasons for your response and provide any information to support your view. If you answered no, how would you suggest

transparency is provided on how income from the sale of evidence has been used to support capacity building?

A requirement to report financial information will provide confirmation to show how the income from the sale of evidence has been used to support capacity building, thereby supporting the transparency principle number 8 of the governance principles behind the reform to the packaging regime.

72. Should accredited reprocessors and exporters be required to generate evidence for every tonne of packaging waste that they process?

Yes.

Please briefly state the reasons for your response and provide any information to support your view.

arc21 believes that evidence for every tonne of packaging waste should be generated where this is of relevance to the governance model that has been chosen. We believes there is merit in keeping market trading to a minimum within the new system to then mitigate against some of the issues that have caused problems with the PRN system.

73. Should accredited reprocessors and exporters be required to report on the packaging waste they handle monthly?

Yes.

74. Do you think that any additional measures to those already described would be required to ensure transparent operating of the evidence market in model 4?

Yes.

If yes, please provide details.

The risk with this model is that schemes pay more than they need at the start of the year. Accurate estimates would be required, particularly for small businesses where paying the fee up-front could cause unnecessary cash-flow difficulties.

75. Are there any additional requirements that should be placed on compliance schemes to ensure greater transparency of their operations and reporting?

No.

If Yes, please briefly state the reasons for your response and provide any information to support your view.

76. Under a reformed system do you think compliance schemes should continue to be approved by the existing regulators or do you think a different approach is required?

Yes, approved as now.

- 77. Are there any additional requirements of a single producer organisation to ensure transparency of its operation and reporting?**

Yes.

If yes, please briefly state the reasons for your response and provide any information to support your view.

- 78. Do you think there is a need to make more information on packaging available to consumers?**

Yes.

Please briefly state the reasons for your response and provide any information to support your view.

We understand there is a perception of confusion about the recyclability of packaging and whether recycling information on packaging refers to the product or the packaging. In particular, we also find that residents want information about why if you take two different products made of the same material, one may be recyclable and the other not. A single link to a helpline and a website containing comprehensive packaging recycling information may suffice.

- 79. Are there other datasets that will be required in order to monitor producers in any of the proposed models?**

Don't know.

If yes please explain which datasets will be needed.

- 80. Is there a specific material, packaging type or industry sector whereby producing accurate data is an issue?**

Don't know – this is a question for others to answer.

If yes, please provide further information on where producing accurate data may be an issue.

- 81. Do you think a single database, as opposed to the current range of methodologies available, would be an effective alternative?**

Yes – if it is possible.

Please briefly state the reasons for your response and provide any information to support your view.

- 82. Do you agree that compliance schemes (models 1 and 3), the producer management organisation (model 2) or the scheme administrator (model 4) should be responsible for carrying out audits of producers, which should be reportable to the regulators?**

Yes.

Please briefly state the reasons for your response and provide any information to support your view.

- 83. Do you support the broadening of legally enforceable notices to obtain required information?**

Yes.

Please briefly state the reasons for your response and provide any information to support your view.

- 84. Are there other enforcement mechanisms that should be considered which would be timely and effective to bring producers into compliance, for example in relation to free riders?**

Unsure.

If yes, please explain which other enforcement mechanisms should be considered.

- 85. Are there any further data that should be required to be collated / collected via compliance schemes or a single management organisation?
Please provide brief details**

It would be helpful to link the data sets in a reformed EPR with the number and type of complaints received through the packaging essential requirements regulations. In theory with a better EPR scheme and improved design for recyclability there should be fewer complaints about packaging design, but it would be interesting and useful to capture this information.

- 86. Do you think a penalty charge, as described, is the correct lever to ensure packaging recycling targets are met?**

I do not know.

Please briefly state the reasons for your response and provide any information to support your view.

- 87. Should stakeholders other than reprocessors or exporters be able to issue evidence of recycling?**

No.

Please briefly state the reasons for your response and provide any information to support your view.

- 88. Are there any additional enforcement powers that should be applied to waste sorters, MRFs and transfer stations handling packaging waste?**

No.

If yes, please explain which other enforcement powers should be available.

89. Do you agree with the proposed amendments to enforcement powers relating to reprocessors and exporters?

Yes.

Please briefly state the reasons for your response and provide any information to support your view.

90. Do you have any evidence to indicate that under any of the proposed governance models the likelihood of waste packaging being imported and claimed as UK packaging waste might increase?

No.

If yes, please provide information on any evidence you have.

91. Is the current requirement for a sampling and inspection plan and subsequent auditing by the regulator sufficient to address any misclassification of imported packaging waste?

Unsure.

Please briefly state the reasons for your response and provide any information to support your view.

92. Are there other mechanisms that could be considered that would prevent imported UK packaging waste being claimed as UK packaging waste under the proposed governance models?

Unsure.

If yes, please explain which other mechanisms could prevent imported packaging waste being claimed as UK packaging waste.

93. Do you have any additional data or information that will help us to further assess the costs and benefits (monetised or non-monetised) that these reforms will have?

No.

94. Do you have further comments on the associated Impact Assessment, including the evidence, data and assumptions used? Please be specific.

No.

95. If you have any other views or evidence that you think we should be considering when reforming the packaging waste regulations, which you have not yet shared, please add them here.

Nil



Consultation on Introducing a Deposit Return Scheme in England, Wales and Northern Ireland

Introduction

arc21 is a Local Government sector entity embracing six Councils located along the Eastern Region of Northern Ireland which covers approximately 33% of the land base, populated by approximately 59% of the national population and accounts for approximately 60% of the national Local Government controlled municipal waste arisings.

The establishment of arc21 together with its functionality has been enshrined in various pieces of legislation with the most recent provision being The Local Government (Constituting a Joint Committee a Body Corporate) Order (Northern Ireland) 2015.

In essence, it is primarily responsible for activities associated with the production, ongoing development and implementation of a Waste Management Plan for the arc21 area.

The six Constituent Councils of arc21 are Antrim and Newtownabbey Borough Council, Ards and North Down Borough Council, Belfast City Council, Lisburn & Castlereagh City Council, Mid and East Antrim Borough Council and Newry Mourne and Down District Council.

Report

arc21 welcomes the opportunity to respond to this consultation and, prior to answering the specific questions contained in the consultation document, we would offer the following comments.

The Government have taken a conscious decision to launch this consultation in conjunction with three other consultations of which two are applicable to Northern Ireland i.e. Consultation on Plastic Packaging Tax, and Consultation on Reforming the UK Packaging Producer Responsibility System. The third Consultation on Consistency in Household and Business Recycling Collections in England is not applicable to Northern Ireland. arc21 understands this was a conscious decision in view of the strategic linkage between the consultations. This was reinforced at various events attended during the consultation period including the multi sector event held in Belfast on 12 March 2019.

In view of the applicability of the collection consistency consultation, it would not be appropriate for arc21 to respond to the aforementioned consultation document. Nevertheless, there is a clear linkage between all the consultation documents, and arc21 would wish to point out the position in Northern Ireland is different from the rest of the UK in a number of aspects e.g. market conditions, base costs, land border with the Republic of Ireland, council functions etc.

In general, arc21 would have some concerns around the implementation of any DRS, particularly the timing if it is prior to the introduction of Packaging Responsibility Reform. Our preference would be to await the introduction of the Packaging Responsibility Reform before looking to introduce DRS.

Given the differences in Northern Ireland, arc21 would strongly advocate direct and material engagement with Northern Ireland Council representatives on the future development of proposals.

Finally, given devolved administration's role and responsibility in this matter it would be helpful if any subsequent economic assessment contains costs pertinent to each devolved administration area.

Questions

1. Would you like your response to be confidential?

No.

2. What is your name?

arc21

3. What is your email address?

info@arc21.gov.uk

4. Please provide information about the organisation/business you represent

arc21 is a Local Government sector entity embracing six Councils located along the Eastern Region of Northern Ireland which covers approximately 33% of the land base, populated by approximately 59% of the national population and accounts for approximately 60% of the national Local Government controlled municipal waste arisings.

The establishment of arc21, together with its functionality, has been enshrined in various pieces of legislation with the most recent provision being The Local Government (Constituting a Joint Committee a Body Corporate) Order (Northern Ireland) 2015.

The six Constituent Councils of arc21 are Antrim and Newtownabbey Borough Council, Ards and North Down Borough Council, Belfast City Council, Lisburn & Castlereagh City Council, Mid and East Antrim Borough Council and Newry Mourne and Down District Council.

5. Please provide any further information about your organisation or business activities that you think might help us put your answers in context. (Optional)

In essence, it is primarily responsible for activities associated with the production, ongoing development and implementation of a Waste Management Plan for the arc21 area.

6. **Does your organisation have any recent experience of a DRS or related policy schemes? If so, can you please briefly explain your experiences?**

No.

7. **Are you content for the UK government, or in Wales, the Welsh Government, or in Northern Ireland, DAERA to contact you again in relation to this consultation?**

Yes, and would actively encourage such engagement.

8. **Do you agree with the basic principles for a DRS?**

Yes, but the principle of 'full net cost recovery' (FNCR) should also be a key principle so that producers always have the full financial incentive to minimise the impacts of their products post-use. A DRS established as part of a wider EPR regime ensures clear responsibility for end-of-use management of resources and should have a positive impact on wider public and consumer behaviour. We would also reiterate concern around the timing of its introduction and the reference to await the introduction of the Packaging Responsibility Reform before looking to introduce DRS.

9. **Should the following materials be-in scope of a DRS:**

a. PET bottles

Yes - Already widely recyclable.

b. HDPE bottles

Yes - Already widely recyclable.

c. Aluminium cans

Yes - Already widely recyclable.

d. Steel cans

Yes - Already widely recyclable.

e. Glass bottles

Yes - Already widely recyclable.

f. Other (please specify)

All reasonably foreseeable substitutes for the above, as Q.10 below. Also refer to the answer to Q13 which merits some priority given research into litter in Northern Ireland.

10. **Should the following materials be-in scope of a DRS:**

a. Cartons e.g. Tetrapack

Yes - Already widely recyclable and a foreseeable substitute for the materials at Q.9 to which producers might switch if it were not in scope.

b. Pouches and sachets, e.g. for energy gels

Yes - A foreseeable substitute for the materials at Q.9 to which producers might switch if it were not in scope.

- 11. If a DRS were to be introduced, should provisions be made so that glass bottles can be re-used for refills, rather than crushed and re-melted into new glass bottles?**

Yes - Incentives to refill should not be limited to glass. Waste prevention should be clearly treated as superior to recycling in the architecture of the DRS. In particular for water, schemes to promote water fountains and/or shops willing to top-up people's water bottles with tap water should be supported above recycling.

- 12. Should the following drinks be in-scope of a DRS:**

a. Water

Yes - But with incentives and/or encouragement to reuse too, as all such bottles could be re-filled a number of times by the original consumer for his/her own use.

b. Soft drinks (excluding juices)

Yes.

c. Juices (fruit and vegetable)

Yes.

d. Alcoholic drinks

Yes (all) - We can see no rationale for exempting any types of alcoholic drinks.

e. Milk containing drinks

Yes.

f. Plant-based drinks (such as soya, rich almond and oat drinks)

We believe these should be treated the same as milk bottles. From the resources and waste management perspective, plant-based drink bottles should be in-scope, but this may require other mitigating measures from a public health perspective, particularly when considering those who cannot consume dairy products. If such mitigating measures are considered by Government not to be appropriate, arc21 notes that milk bottles and non-dairy equivalents are sometimes excluded from DRSs in other countries and would consider this acceptable for the UK. If these are not included in the DRS scheme, they should be covered within the EPR to ensure Full Net Cost Recovery (FNCR) of packaging of this material placed on the market.

g. Milk

From the resources and waste management perspective, milk bottles should be in-scope, but this may require other mitigating measures from a public health perspective. If such mitigating measures are considered by Government not to be appropriate, arc21 notes that milk bottles are sometimes excluded from DRSs in other countries and would consider this acceptable for the UK. If these are not included in the DRS scheme, they should be covered within the EPR to ensure FNCR of packaging of this material placed on the market.

h. Other (please state which)

Yes - The principle should be that all drinks containers are in-scope unless explicitly designated as being not in-scope but should be covered within the EPR to ensure FNCR of packaging of this material placed on the market.

13. Do you think disposable cups should be in the scope of a DRS?

a. Disposable cups made from paper with a plastic lining (such as those used for coffee)

Yes – arc21 understands the Government’s main objectives to be improved resource management and reduced litter, so it would appear contrary to both of these to exclude such cups.

b. Disposable cups made of plastic (such as those used in vending machines)

Yes – arc21 understands the Government’s main objectives to be improved resource management and reduced litter, so it would appear contrary to both of these to exclude such cups.

14. Do you agree with the proposed material flows as described above?

No.

1) The role of councils and our waste handling routes is missing, yet we will be collecting these drinks containers in litter, recycling and residual waste. It is essential that the EPR consultation’s commitment to ‘full net cost recovery’ is implemented fully if councils are not to receive the deposits, unless they act as ‘vendor’ or as a return point.

2) We suggest potential confusion may be avoided between DRS terminology and EPR/PRN terminology if the term “packer-filler” is used here rather than “producer”.

15. Do you agree with the proposed financial flows as described above?

No. - Unredeemed deposits should not be retained by the DMO or their value returned to producers in a way that creates a perverse incentive not to maximise deposit returns, which may well be the most expensive form of producers’ compliance. In essence, the flows as set out could be viewed as seen as an obstacle to the aims of DRS and could affect public acceptance because the ‘producers’ will get their money back to fund the DRS and potentially make a profit.

Additionally, we would like to flag that the council role is missing from Figure 1 (p.25), but that it is not possible to determine how our role should be shown given that we do not know if/how the same drinks containers will be provided for in new EPR policies and structures. The key guiding principle however must be that of ‘producer responsibility’ such that through ‘full net cost recovery’ Councils are no longer paying for these wastes.

16. Should producers obligated under a DRS be:

a. Exempt from obligations under the reformed packaging producer responsibility system for the same packaging items?

No.

b. Also obligated under the reformed packaging producer responsibility system for the same packaging items?

No.

c. Other (please explain)

Yes - We believe any DRS should be fully integrated into a wider EPR scheme.

d. I don't know/I don't have enough information

N/A.

The possibility of creating loopholes and/or double-obligations appears too great in such a multi-faceted new regime, and the best way to avoid this risk would appear to have all such schemes run by a single body.

17. If producers were obligated under both a DRS and a reformed packaging producer responsibility system for the same packaging items, how could we effectively ensure that they would not be unfairly disadvantaged by a 'double charge'?

arc21 believes that all such schemes should be run by a single body to minimise both the double-charging risk and the possibility of creating compliance loopholes.

If the two schemes are not run by a single body the DMO will need to be fully linked to the EPR scheme, this could be done through shared representation across both schemes.

18. Do you agree that the DMO should be responsible for meeting high collection targets set by government?

Yes - But there needs to be sufficient feedback loops (targets or financial instruments/measures) to ensure individual producers have every incentive to improve their own environmental performance. The targets should be published on a regular basis and set out responsibilities & accountabilities for meeting such targets.

19. Should the DMO also be responsible for meeting high recycling targets set by government?

Yes - But there needs to be sufficient feedback loops (targets or financial instruments/measures) to ensure individual producers have every incentive to improve their own environmental performance.

However the ongoing statutory role for councils, both collection & disposal functions needs to be taken into account to prevent unintended consequences of different bodies "chasing target materials" such that the costs to society are not minimised.

20. Should unredeemed deposits be used to part-fund the costs of the DRS system?

No - Unredeemed deposits should not go back to the DMO in a way that then subsidises the cost of compliance to the DMO and producers. Rather they should be used as a contribution to ensuring Councils' costs of managing these items, including collection, treatment and disposal, are fully covered under FNCR principles.

- 21. If unredeemed deposits are not used to part-fund the costs of the DRS system, do you agree they should be passed to government?**

No - Unredeemed deposits should not go back to Government. They should be used as a contribution to ensuring Councils' costs of managing these items, including collection, treatment and disposal, are fully covered under FNCR principles.

- 22. Do you have alternative suggestions for where unredeemed deposits could be allocated?**

Yes - Unredeemed deposits should be used as a contribution to ensuring Councils' costs of managing these items, including collection, treatment and disposal, are fully covered under FNCR principles.

- 23. If the scheme is managed by the DMO, which of the following bodies should be represented on the management board:**

- a. Industry (drinks producers)?**

Yes.

- b. Government?**

Yes.

- c. Trade associations representing those hosting return points (e.g. retailers, small shops, transport hubs)?**

Yes.

- d. Companies representing those hosting return points (e.g. retailers, small shops, transport hubs)?**

Yes.

- e. Other (please specify)**

Yes - Councils, as we manage a large proportion of these items, and although we expect to manage a declining proportion, we will continue to have an interest from the litter and wider public health points of view.

Northern Ireland's public perception is that it is the councils have a major and significant role to protect and be accountable for the local environment and amenity, and as such Northern Ireland council representation is key.

- 24. Should there be government involvement in the set-up/running of the DMO body?**

Yes – The Government must remain the primary body to ensure the EPR targets are met. The Government may discharge its delivery responsibilities through a DMO and its regulatory responsibilities through the Environment Agencies, but arc21 cannot see how the Government will not be involved in the set-up/running of any DMO.

25. Do you agree with the government's proposals that a DMO would:
- a. Advise government on the setting of the deposit level/s
Yes.
 - b. Set producer/importer fees
Yes.
 - c. Be responsible for tracking deposits and financial flow in the DRS – and ensuring those running return points are paid the deposits they refund to consumers
Yes, and be accountable for the funds.
 - d. Set and distribute the handling fees for return points
Yes.
 - e. Be responsible for ensuring that there are appropriate return provisions for drinks containers in place, and that these are accessible?
Yes.
 - f. Be responsible for maintenance of reverse vending machines (RVMs) and provision of bags/containers to those running manual return points
Yes.
 - g. Own the material returned by consumers
Yes.
 - h. Reimburse those transporting returned drinks containers to recyclers/counting/sorting centres – and manage these contracts
Yes.
 - i. Fund counting sorting/centres – and manage the contracts for counting/sorting centres
Yes.
 - j. Be legally responsible for meeting the high collection targets set by government for drinks containers within scope of the DRS.
Yes.
 - k. Measure and report recycling rates to government
Yes.
 - l. Run communications campaigns to aid consumer understanding of the DRS
Yes.
26. Do you agree with our proposed definition of a producer?
Yes. – See response to Q.14

- 27. Should there be a de minimis which must be crossed for producers and importers of drinks in-scope of a DRS to be obligated to join the scheme?**

We do not have enough information – especially regarding ‘importers’; the financial material flow model does not reflect importers nor align with the requirements placed on the producer, both roles would need further definition.

- 28. Should a de minimis be based on:**

- a. Number of employees**
 - i. If yes, how many employees?**
- b. Sales figures**
 - ii. If yes, what figure? – The ‘craft’ industry e.g. beer would benefit from this, say, with a low unit sales pa, especially as the business model for most of these businesses is based on ground breaking sustainable container & waste models. arc21 do not have figures.**
- c. Volume/weight of drinks put on the market**
 - iii. If yes, what volume/weight?**
- d. None of these**
- e. Other**

- 29. If there is a buy back scheme for recycled materials, do you have evidence for how this could be effectively run?**

No.

- 30. In line with the principle of full net cost recovery, the government proposes that producers would cover the set up costs of the DMO? Do you agree with this proposal?**

Yes. – This is the only way for the DRS to be accepted and embraced by consumers.

- 31. Should the DMO be responsible for co-ordinating the set-up of the DRS, including buying RVMs and an IT system?**

Yes. – In relation to IT systems for drinks containers in Local Authority Controlled Waste, we would hope that the DMO would supply Councils with timely tonnage data such that we can include it in our submissions to WasteDataFlow in order to fully report on the overall recycling rate in our areas. If this was not to happen, there will need to be a requirement to report data so that this information is captured in order to measure if targets are being met.

- 32. Should producers of drinks within a DRS be responsible for DRS operational costs?**

Yes – This is an essential part of ‘extended producer responsibility’ and, as such, the costs cannot fall anywhere else without undermining EPR principles.

33. Which of the following should be obligated to host a return point:

a. Retailers who sell drinks containers in scope

Yes. This should include online orders and delivery services (i.e. delivery vehicles should be required to find ways to take used drinks containers back).

b. Transport hubs

Yes.

c. Leisure centres

Yes.

d. Event venues

Yes.

e. None of these

No.

f. Other (please specify)

No.

For a DRS to be successful, it has to be as convenient as possible for consumers to return their used drinks containers and receive their deposit back.

*To this end the Government may also wish to think about a class of places which might be permitted (but **not** obliged) to host a return point. This could include educational establishments, places of worship, parks, museums, galleries, sports clubs, conference centres, car parks, etc.*

34. What might the impacts be on those hosting:

(a) Reverse vending machines? Where available, please share evidence to support your view.

(b) Manual return points? Where available, please share evidence to support your view.

Parties directly affected would better address this but we would presume that space constraints and regulatory permissions may feature in responses.

35. Are there any Health and Safety-specific implications that may be associated with hosting return points?

Parties directly affected would better address this.

36. Is there a de minimis level under which businesses who sell drinks in scope should be exempt?

Yes. See response to Q.28.

- 37. Should a de minimis be based on:**
- a. Floor size**
 - i. If yes, what floor size?**
 - b. Sales figures for drinks in scope**

Possibly. See response to Q.28.

 - ii. If yes, what figure?**
 - c. Number of employees**

Possibly. See response to Q.28. Or possibly to ensure there are enough staff who can deal with the return and storing of returned items, i.e. one staff member may not be enough, but it is for the retail sector to provide evidence.

 - iii. If yes, how many employees?**
 - d. None of these**
 - e. Other (please specify)**

- 38. Please briefly state the reasons for your response. Where available, please share evidence to support your view.**

Parties directly affected would better address this.

- 39. Do you have alternative suggestions for return provisions that could be used to accept the return of drinks containers? Please provide details.**

arc21 would not have sufficient information to enable a meaningful response.

- 40. For consumers who would have difficulty returning empty drinks containers, what provisions could be put in place so that these consumers are able to return drinks containers and receive their deposit refund?**

The DMO should take steps to ensure that the “rural broadband” situation is not repeated, enabling/funding Councils to provide the service could be an option, but full cost recovery would have to be formalised.

- 41. What provisions could be put in place for rural areas where there may be few small retail outlets spread over a wider area, in order to ensure that there are adequate return and collection facilities?**

See response to Q.40.

- 42. Do you have evidence that would help inform us about whether there is potential for siting RVMs outdoors e.g. in parks, at existing outdoor recycling centres, on highstreets?**

arc21 would not have sufficient information to enable a meaningful response.

43. Should online retailers selling drinks in in-scope containers be obligated to pick up and refund DRS material?

Yes. – Otherwise the DRS would be a failure in the public views and cause more confusion, effectively setting up a two-tier system from the start. It would also support accessibility to the DRS for those who may struggle to get to normal shops, and will likely improve the customer-service offering of these online retailers.

However, this should probably only apply to those using the distribution format most commonly associated with the “home delivery” model of online grocery shopping, i.e. staff make a delivery at a pre-allocated time when the resident is at home, using a trolley and crates that they then return empty to their bespoke truck. For drinks that are sold online but distributed through postal services, the provision of a take-back scheme would not be practicable. The containers would therefore have to be able to be returned via RVMs and other return centres.

44. Should there be a de minimis under which online retailers would not be obligated to pick up and refund DRS material?

No.

If yes, should a de minimis for online retailers be based on:

- a. Sales figures for drinks in scope**
- b. Number of employees**
- c. None of these**
- d. Other (please specify)**

arc21 does not have sufficient information to advise on this.

45. Should certain businesses which sell drinks in in-scope drinks containers host return points, e.g. pubs, hotels, cafes? Please provide details.

Yes. – It appears to arc21 that such businesses can either manage them on-site (as they probably already do for glass), or they should be helping reduce the OTG problems arising from the products they sell.

46. Should there be an opportunity for retailers that don’t stock drinks / those who may not be obligated to provide a return point to ‘opt-in’?

Yes. – This will maximise the capture and recycling of drinks containers. As at the response to Q.33 above, this could include educational establishments, places of worship, parks, museums, galleries, sports clubs, conference centres, car parks, etc.

47. Do you have any further views, comments or evidence in relation to retailers not already covered above?

No.

48. How should a DRS account for ‘on-trade’ sites such as bars and restaurants?

The “on-trade” is effectively a closed loop so should be an effective model for any DRS

49. What do you consider to be the optimum deposit level to incentivise return of drinks containers?

Please briefly state the reasons for your response. Where available, please share evidence to support your view.

The level of the deposit should be set by the DMO, so that it can be varied in the light of experience. However, it is essential that any additional costs falling to Councils from bin-raiding by people seeking to claim the deposits from other people’s discarded drinks containers (from litter bins or recycling bins left out for collection) should be included in the calculation of FNCR so that producers do indeed pay the full cost of managing their wastes. Consideration may also be given to include costs of damage to bins, litter from scavenging, street cleaning.

Some charities may have useful data on the extent to which their collections of textiles and/or bric-a-brac have been targeted by other people for personal profit.

Similarly, the Government may wish to test if there is accurate historic data on the relationship between scrap metal prices and the number of abandoned vehicles removed by Councils, as anecdotally such vehicles once stickered for removal would often be removed by third parties very quickly when scrap metal prices were high.

50. Should the deposit level be a flat rate across all drinks containers covered by the DRS?

Please see response to Q.49.

51. Should there be an alternative deposit level for drinks containers in a multipack, rather than each container carrying the same deposit?

No. – Multi-packs are understood by arc21 to be often used by families etc. for packed lunches, and as such should be included in all types of DRS and at the same deposit level.

52. How do you think deposits should be redeemed? Please tick all that apply.

a. Voucher (for deposit value, printed by the reverse vending machine or by the retail assistant at manual drop-off points)

Yes.

b. Digitally (for example a digital transfer to a smartphone application)

Yes.

c. Cash

Possibly, so long as appropriate vouchers are very widely available, so that those who do not have reliable access to a bank account are still able to redeem their deposits rather than just face an additional cost that they may struggle to bear.

d. Return to debit card

Yes.

e. Option to donate deposit to charity

Yes.

f. Other (please state)

Councils should be able to redeem drinks containers found in its street cleansing wastes and its recycling and residual waste collections. arc21 would be happy to engage in dialogue about appropriate mechanisms.

Also, arc21 is aware that in the past charities collected items such as foil milk bottle tops and newspapers as a way of fund-raising. We therefore suggest that the redemption regime should not prevent registered charities or other organised groups (e.g. schools) from collecting drinks containers and redeeming the deposits.

g. None of the above

No.

53. Should the DMO be responsible for ensuring that there is evidence that drinks containers have been recycled?

Yes.

54. In addition to reporting on collection rates, should the DMO also be obliged to report on recycling rates of in-scope drinks containers?

Yes.

55. How do you think transparent financial flows in a DRS could be achieved most effectively?

Regular publication of data /evidence setting out internal costs and payments to listed parties in line with public bodies.

56. Would Environment Agencies in England, Wales and Northern Ireland be best placed to monitor/enforce a DRS covering England, Wales and Northern Ireland?

If no, why and is there another body that would be better suited to perform this function?

Yes.

**57. How frequently should the DMO be monitored?
(This monitoring would look at, i.e., financial accounts, material flows, proof of recycling rates, setting of deposit level (if done by the DMO))
Other (please specify)**

Yes. – Assuming the Government will want Councils to include DRS data from their areas in WasteDataFlow (WDF) returns, arc21 believes the DMO should be monitored quarterly (at least for tonnages), with data published in good time for Councils to be able to include the performance in WDF.

- 58. How often should producers be checked for compliance with the DRS (if compliance is obligated)?**

Bi-annually, but clearly the regulator must be able to check for compliance at any time it wishes to outside of such routine checks.

- 59. Should enforcement focus on:**

All producers.

- 60. Should any penalties (fines) on the DMO or producers/importers be set by the regulator appointed to monitor the DMO?**

Yes.

- 61. Are there any points in the system which you think would be particularly susceptible to fraud? Please state.**

All points have the potential, however the pinch points are in effect those where the “expenses” are paid, and the DMO needs to take this into account.

- 62. Which labelling/markings on drinks containers in scope would best protect against fraud?**

Please select all that apply:

- a. Deposit value amount**

Yes.

- b. Marking indicating inclusion in DRS**

Yes.

- c. Existing product barcode (containing DRS information when scanned)**

Yes.

- d. Other (please specify)**

arc21 cannot specify, but provision must be made for Councils and their contractors in relation to drinks containers in street cleansing waste, recycling collections and/or residual waste streams.

- e. None of the above**

No.

- 63. How could return via reverse vending machines (RVMs) best be protected against fraud? We are particularly interested in any evidence you may have to support suggestions.**

arc21 would not have sufficient information to enable a meaningful response.

- 64. How could the process of manual returns best be protected against fraud? We are particularly interested in any evidence you may have to support suggestions.**

arc21 would not have sufficient information to enable a meaningful response.

65. **How could a DRS best protect against fraud across Devolved Administrations in the event of similar schemes with common underlying principles (but not one uniform scheme)?**

arc21 would not have sufficient information to enable a meaningful response.

DRS Options – ‘all-in’ and ‘on-the-go’

‘All-in’ option

66. **Should drinks containers over a certain size, for example beer kegs and containers used for water coolers, be excluded from an all-in DRS?**

We do not have enough information, but excluding such containers from the DRS would appear reasonable so long as these containers are captured under other EPR provisions, particularly producers’ FNCR obligations. arc21 suggests that any such exclusions should be set in a statutory instrument so that they can be amended in the light of experience.

67. **If drinks containers over a certain size were excluded from an all-in DRS, what should the maximum cut-off size be?**

- > **3 Litres**
- > **4 Litres**
- > **5 Litres Other**

Over 4 litres – Please see excluded items as at our response to Q.66.

Please state the reasons for your response. Where available, please share evidence to support your view.

‘On-the-go’ option.

68. **Do you agree with our definition of ‘on-the-go’ as less than 750mls in size?**

Yes.

69. **Do you agree with our definition of ‘on-the-go’ as excluding multipack containers?**

No. – Multi-packs are understood by arc21 to be used by families etc. for packed lunches, and as such should be included in all types of DRS.

70. **Based on the information above, and where relevant with reference to the associated costs and benefits outlined in our impact assessment (summarised below), which is your preferred DRS option?**

arc21 has no definitive preference in terms of either option. However, on balance we feel there is merit in considering an incremental model of implementation. This may be in terms of pilot schemes and/or introducing ‘on the go’ initially followed by a period of evaluation to which unless it is unfavourable moving to an ‘all-in’ scheme.

71. Do you agree with our impact assessment?

No. – The funding model is a key piece of data and the current assumptions are vague and where they are stated to “un-monetised” they have never the less been given large social value in the model. In addition there may be differences in the supply chain arrangements and cost base in Northern Ireland which may impact on the assessment.

72. Do you think more data is needed? If yes, please state where.

Yes – For example on household-like waste tonnages arising and on the extent and range of local authority costs to be recovered under FNCR. It is not clear how Councils can make strategic decisions with the current degree of uncertainty. In addition, further work may be required in terms of the supply chain arrangements for Northern Ireland as well as the relevant cost base.

73. Are there other costs and benefits which we have not covered in our impact assessment?

The whole area of unintended consequences is absent from the model & IA, especially those for Councils.

74. Do you have further comments on our impact assessment? Please be specific.

No further comment.

75. The dual objectives of a DRS are to reduce litter and increase recycling. Do you wish to suggest an alternative model that would be more effective at achieving these objectives? If so please briefly describe it, making reference to any available evidence

arc21 believes that because of the high modelled cost of a DRS it may be appropriate to defer its introduction in order to assess if other, more economical EPR measures are sufficient to achieve the Directive’s targets.

76. A potential option for introducing a DRS could be to start with the ‘on-the-go’ model, and then expand/phase roll-out to ‘all-in’. Do you think this would be an effective way to introduce a DRS?

Yes.

77. Do you think a DRS would help us to achieve these outcomes? Please briefly state the reasons for your response. Where possible, please share evidence to support your view:

a. Reduction in litter and litter disamenity (include expected % decrease where possible)

We don’t know, but it is essential that any additional costs/impacts falling to Councils from the disamenity of bin-raiding by people seeking to claim the deposits from other people’s discarded drinks containers (from litter bins or recycling bins left out for collection) should be included in the calculation of ‘full net cost recovery’ (FNCR) so that producers do indeed pay the full cost of managing their wastes.

In calculating FNCR for Councils, producers should be required to make a reasonable contribution to street cleansing costs, perhaps by reference to the volume of their wastes in litter bins. Also see comments in answer to Q49.

b. More recycling of drinks containers in scope of a DRS, especially those disposed of ‘on-the-go’

Yes in the absence of tangible evidence to the contrary

c. Higher quality recycling

Yes in the absence of tangible evidence to the contrary.

d. Greater domestic reprocessing capacity through providing a stable and high- quality supply of recyclable waste materials

It is not clear what “domestic reprocessing capacity” covers. i.e. UK, devolved administrations or includes the Island of Ireland but in principle, yes in the absence of tangible evidence to the contrary.

78. Do you think a DRS, as set out in this consultation, is necessary in helping us achieve the outcomes outlined above?

Yes in the absence of tangible evidence to the contrary.

Please briefly state the reasons for your response. Where available, please share evidence to support your view.

The incremental approach suggested in answer to Q70 would help to provide direct tangible evidence.

79. Do you think the outcomes of what we are hoping to achieve could be reached through an alternative approach?

At this stage, arc21 do not have sufficient information to provide a meaningful response.

80. Do you think an alternative approach would be a better way of achieving the outcomes?

Please explain your answer, providing evidence where available.

At this stage, arc21 do not have sufficient information to provide a meaningful response.

Statutory local authority recycling targets in Wales

81. Are there particular local authority considerations that should be taken into account when considering whether to implement either an “all-in” or “on-the- go” model?

Not Applicable

- 82. Are there specific considerations associated with your local authority that DRS policy makers should consider? (Specific examples and any cost estimates, where applicable, would add value to this response).**

Not Applicable.

- 83. What benefits and/or disadvantages can a DRS provide to your local authority? (Specific examples and any cost estimates, where applicable, would add value to this response).**

Not Applicable.

- 84. Are there any specific considerations associated with Councils that collect waste from designated DRS return points that we should consider? (Specific examples and any cost estimates, where applicable, would add value to this response.)**

Not Applicable.

- 85. How should a DRS drive better design of packaging? Please select all that apply:**

- a. Varying producer fees that reflect the environmental cost of the products that producers are placing on the market**

Yes.

- b. An additional producer fee for producers using unnecessary and/or difficult to recycle packaging**

Yes.

- c. Other (please specify)**

Yes. – In addition to the above, other fee structures should be possible, as seen fit by the DMO or other over-arching EPR body, in order to achieve Directive targets, subject to the regulator’s consent where appropriate.

- 86. Who should be involved in informing and advising on the environmental cost of products? Select all that apply:**

- a. Government**

Yes.

- b. Reprocessors**

Yes.

- c. Producers**

Yes.

- d. Councils**

Yes.

e. Waste management companies

Yes.

f. Other (please specify)

Yes. – Environmental consultants and/or academics, in order that rigorous and independent life-cycle assessments and cost-benefit analyses can be undertaken on the information provided by the above.

87. Do you agree or disagree with our assessment of other waste legislation that may need to be reviewed and amended?

We are unable to offer a definitive answer per se, but it may be necessary to review legislation as it would apply to retail outlets in order to ensure that they do not need to be permitted as waste transfer stations, and to understand what hygiene implications there may be, particularly in smaller shops where it may be difficult to keep returned used containers fully separate from new stock.

Clearly the Government will be looking at how it ensures imported products are managed and subjected to the same obligations as drinks containers filled in the UK. arc21 is not aware of what specific measures will be needed in this regard.

Given the Government's stated objective to reduce litter, arc21 suggests that the Government may also want to look into targeted EPR schemes for smoking-related litter and used chewing gum, as both are significant sources of litter/disamenity.

88. Do you have evidence to suggest that we might need to revise any other waste-related regulations as part of introducing a DRS? Please specify.

Please see response at Q.87.

Further comments

No further comment.

89. Is there anything else we should be considering related to drinks container recycling and litter reduction which has not been covered by other questions?

Government should satisfy itself that proper consideration is given to the situation in Northern Ireland with particular reference to the relationship with the Republic Of Ireland, given the locality, supply chain arrangements and other influencing aspects



Consultation on Plastic Packaging Tax

Introduction

arc21 is a Local Government sector entity embracing six Councils located along the Eastern Region of Northern Ireland which covers approximately 33% of the land base, populated by approximately 59% of the national population and accounts for approximately 60% of the national Local Government controlled municipal waste arisings.

The establishment of arc21 together with its functionality has been enshrined in various pieces of legislation with the most recent provision being The Local Government (Constituting a Joint Committee a Body Corporate) Order (Northern Ireland) 2015.

In essence, it is primarily responsible for activities associated with the production, ongoing development and implementation of a Waste Management Plan for the arc21 area.

The six Constituent Councils of arc21 are Antrim and Newtownabbey Borough Council, Ards and North Down Borough Council, Belfast City Council, Lisburn & Castlereagh City Council, Mid and East Antrim Borough Council and Newry Mourne and Down District Council.

Report

arc21 welcomes the opportunity to respond to this consultation and prior to answering the specific questions contained in the consultation document we would offer the following comments.

The Government has taken a conscious decision to launch this consultation in conjunction with three other consultations of which two are applicable to Northern Ireland i.e. Consultation on Reforming the UK Packaging Producer Responsibility System and Consultation on introducing a Deposit Return Scheme in England, Wales and Northern Ireland. arc21 understand this was a conscious decision in view of the strategic linkage between the consultations. This was reinforced at various events attended during the consultation period including the multi sector event held in Belfast on 12 March 2019.

The tax has been described as the “pull mechanism” with the Reform of the Packaging Producer Responsibility being the “push” mechanism to address the issue of plastic packaging. If the proposed measures are introduced it will be important to ensure the balance between the “pull” and “push” mechanisms are appropriate and can be easily rebalanced if required. Government may wish to consider if the proposed arrangements are appropriate and future proofed to enable it be easily rebalanced or if this could be better achieved by alternative arrangements such as combining measures into one discrete arrangement such as the Packaging Producer Responsibility Reform package to achieve the overarching environmental benefits.

If Government proceeds with a tax, arc21 would advocate that all the funds received are clearly and transparently utilised consistent with the measures associated with the Packaging Producer Responsibility Reform in each of the devolved administrations and with particular reference to the role of Councils.

Finally, given the linkage with the other measures and the devolved administration's role and responsibility in such it would be helpful if any subsequent economic assessment contains costs pertinent to each devolved administration area.

In the context of the tax being introduced, arc21 would respond to the specific questions as follows.

Questions

1 What is your name?

arc21

2 What is your email address?

info@arc21.org.uk

3 Which best describes you?

(Please tick only one option. If multiple categories apply to you please choose the one which best describes you and which you are representing in your response.)

- Business representative organisation/trade body
- Packaging designer
- Packaging manufacturer / converter
- Product manufacturer / pack filler
- Distributor
- Retailer
- Waste Management Company
- Reprocessor
- ✓ Local government
- Community group
- Non-governmental organisation
- Charity or social enterprise
- Consultancy
- Academic or research
- Individual
- Other

If you answered 'Other' above, please provide details.

4 Please provide any further information about your organisation or business activities that you think might help us put your answers in context.

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The six Constituent Councils of arc21 are Antrim and Newtownabbey Borough Council, Ards and North Down Borough Council, Belfast City Council, Lisburn & Castlereagh City Council, Mid and East Antrim Borough Council and Newry Mourne and Down District Council.

5 Would you like your response to be confidential? If yes, why?

No.

6 Do you agree with the government's suggested approach to defining plastic in scope of the tax?

Yes, using the definition in the draft Directive on Single-Use Plastics which references Article 3(5) of Regulation (EC) No 1907/2006, is justifiable. Clearly, this definition will need to be used carefully alongside the proposed packaging definition to ensure appropriate materials are being targeted.

Any subsequent change to the definition in the draft Directive should be considered for acceptance in the definition of plastic in the scope of the tax, so as to help ensure consistency and to reduce the prospect of confusion, dispute or subsequent legal challenge.

7 Do you agree with the government's suggested approach to defining packaging and packaging materials in scope of the tax?

Yes, basing the definitions of packaging and packaging materials on definitions in the Producer Responsibility Obligations (Packaging Waste) Regulations 2007, and underlying Packaging Waste Directive (94/62/EC) is justifiable as it provides clarity and consistency. This definition has also been subject to due diligence and has also been held valid for over a decade, which reduces the prospect of confusion, dispute or subsequent legal challenge.

Government should test the definition for its use in this new circumstance to ensure that it supports the overall intention of the tax which is to drive markets for secondary plastic material and, in particular, increased demand for post-consumer plastic.

8 Is the government's approach to components of plastic packaging consistent with the way businesses operate and packaging is created?

This question requires close consideration to the views and responses of those businesses and organisations involved directly and therefore most familiar with creating packaging with different components. From a local government perspective, we agree with the government's approach that the tax would address each component as an individual item. This should stimulate integration (horizontal and vertical) within the supply chain to rationalise this process and take account of resource use considerations. This underlines the need for the tax to be targeted at the point where it can influence initial design considerations and maximise resource efficiency benefits.

9 Which of the above options for defining plastic packaging for composite material items do you think works better for the purposes of the tax?

Option 2 would appear to be the best option for bringing the most 'plastic packaging' within scope. Focussing on weight would also be expected to have the benefit of evidencing and auditing mass flow analysis of mixed packing manufacturing more easily. Option 1 would generate a loophole for manufacturers to avoid the tax by lowering the plastic element by the relevant amount and, as such, is unlikely to create significant stimulus when it comes to initial design considerations.

Again, close consideration should be given to the views and responses of those businesses and organisations involved directly as converters to help ensure that the option selected is optimal and capable of sector wide adherence, scrutiny and challenge.

10 Do you think alignment with the reformed Packaging Producer Responsibility regulations is important for the purposes of the tax?

Yes, in the context that the measures contained in the tax cannot be incorporated in a new EPR regime negating a need for the tax. Accordingly, considering that with the plastics tax, DRS and a fundamentally new EPR regime, the Government is introducing a whole new range of legislative and fiscal drivers aimed at creating, developing and supporting circular economic models. Alignment is preferable for consistency and to reduce the prospect of confusion, dispute or subsequent legal challenge.

For these changes to work each of the drivers needs to be 'pushing and pulling' in the same direction such that not only do we create markets for secondary markets, but through targeting the tax at the design stage we can influence initial decision making which ultimately should also look at additional packaging modes including reusable and refillables, i.e. moving beyond a recycling / reprocessing mind-set.

Ideally, alignment should be achieved by refining or expanding the definition in the Packaging Producer Responsibility regulations (PPRR) rather than weakening any definition in the tax regime. However, if that is not achievable then the tax regime should use the most precise and definitive terms required to ensure its effectiveness and ensure appropriate balance is given to burdens on business with the potential for non-compliant behaviour. Within the wider context this means the Government should not be afraid to move away from absolute alignment with the PPR regulations if the advantages of doing so still result in drivers that also work with the wider changes noted above.

11 Do you agree with the government's suggested approach to defining recycled content for the purposes of the tax?

Yes, subject to the relevant regulatory apparatus being in place we should be looking to support chemical recycling as one of a number of recycling options. Including chemically recycled plastic and other innovative recycling processes in the same category as mechanically recycled plastic will prevent fraud and abuse and will incentivise innovation. It will also make it easier for consumers to make choices across products with claims about origins of recycled content – as there would be no differentiation. Furthermore due to foreseeable increased demand for recycled content it may be a necessary requirement (possibly in the medium to longer term and particularly if the threshold is increased at a later date) to allow exemption to the tax by helping ensure there is enough recyclable content.

Using the ISO standard 14021:2016 appears an attractive solution, as it is international standard with clear definitions this means product claims would be consistent across borders and across requirements and could help more easily address issues on the import of products.

The Government's preferred position is to include pre and post-consumer plastics as part of the recycled content measure. The risk in this approach is that in order to meet the 30% threshold manufacturers prioritise the use of pre consumer 'waste plastics' generated in the manufacturing process which by their nature will be cleaner and more readily useable compared to post consumer sources. The consequence of this will be a failure to drive demand for post-consumer plastics. Critical to this point will be the need to understand how much pre consumer plastic is already utilised, as well as how much could be utilised in order to properly understand what, if any, changes in manufacturing behaviour would be stimulated by the tax.

In terms of concerns about encouraging wasteful manufacturing processes, by the inclusion of pre-consumer material as well as post-consumer material in the definition of recycled content, it is worth bearing in mind that unless the tax rate per tonne is higher than the cost of raw product per tonne then this approach would foreseeably drive up the cost of products, as raw material is a cost and evidence already secured shows a clear preference for new, rather than recycled plastic as the vast majority of plastic packaging is currently made from new plastics.

12 Are there any environmental or technical reasons to consider excluding any particular ways of recycling plastic?

No. If there is an environmental concern about any alternatives ways of recycling plastic that would be controlled or prohibited through other mechanisms, e.g. permitting or planning regulations. To exclude ways of recycling plastic creates an uneven playing field and may hamper innovation and deprive business of opportunities.

However, as the tax is also liable on products imported to the UK which may contain recycled content derived in lower regulatory environments careful consideration should be given to any processes where there is genuine grounds for concern, however to adopt a differentiation approach that would apply to material derived from other countries may open up the opportunity for waste crime and fraud in a way that would be hard to identify or prevent.

It is worth considering that such a regime could lead to plastics recycling sourced from mining old closed landfills that contain waste with a high content of heavier plastics, this may or may not be considered a desirable consequence but it is one that would be controlled by other regulatory processes and plastic content recycling from this route should not be discounted as a matter of course.

13 Is there any way that the proposed approach to defining recycled content could encourage unintended consequences, such as wasteful manufacturing processes?

We find it hard to believe that modern manufacturing businesses would be wasteful to the point suggested in the question as this would result in increased costs and therefore lost profit. However, under the context of definitions to be included in the final legislative instrument(s) it is important for the Government to ascertain what extent manufacturing businesses already recycle pre consumer plastics that arise as waste from manufacturing.

A worst case scenario would be a business producing plastic packaging with manufacturing processes that 'waste' 31% of their initial raw material input which is then recycled into the next manufacturing run. By simply changing how they document their processes such a business could claim to be meeting the threshold and pay no tax which in turn makes no contribution to stimulating markets for post-consumer plastics. One possible approach to address such concerns could be to specify a minimum post-consumer plastic content in similar fashion to how glass PRNs are split between remelt and aggregate.

Not directly linked to this part of the consultation but it is worth considering that where the regime applies to complex packaging, to minimise or avoid the effect of the taxation regime some producers could seek to reduce plastic content in a way that reduces the effectiveness or lifespan of packaging, thereby creating a risk that it would lead to increases in waste. A similar unintended consequence could arise from joint and several liability where alternatives to plastic usage are adopted in parts of a supply chain to reduce exposure to the risk of having to pick up costs. These possibilities are worthy of consideration but as consumers would influence producers decisions through their choices it is likely that these types of outcome would be limited in time and extent.

As stated in response to question 12 it is worth considering that such a regime could lead to plastics recycling sourced from mining old closed landfills that contain waste with a high content of heavier plastics, this may or may not be considered a desirable consequence.

14 Do you agree with the government's preferred approach of a single threshold, and why? If not, what alternative would be better, and what are the risks associated with this? Please explain your answer and provide any supporting information and evidence.

Yes, a single threshold for all plastic packaging helps ensure a level playing field between manufacturers of different types of plastic and packaging would make the tax simpler for businesses to administer and minimise compliance risks and furthermore would make it easier for consumers to make choices across products making claims about content. This approach will help introduction of the tax and post implementation reviews can always make refinements as necessary based on evidence and experience.

However, detailed consideration should be given to the merit of setting higher thresholds and a mechanism for establishing them (e.g. existing average evidenced content plus 30%) on packaging products where it is demonstrably the case that higher levels than the single threshold being considered are already being reached to ensure that the regime provides a stretch incentive across the sector. This would be a more targeted variation of Option 2 'Setting different thresholds for different types of products' as the principles of its application would be driven by clear association with the recycled content rather than for different types of products.

As an alternative to either a single threshold or multiple bands, serious consideration should be given to the use of and a mechanism for the application of an appropriate tax on all and any virgin material content. One benefit of this approach is that it would incentivize and drive all manufacturers towards continued increases in recycled content in a way which a single threshold does not, as a single threshold is only effective up to the level it is set. Another benefit is that it incentivizes increased recycled content whether the starting position for the recycled content of a packaging product is high, medium or low in a way that is more refined than use of multiple tax bands and without the complications and burdens on business that multiple bands would bring or the additional complexity and administration that setting different thresholds for different types of products would bring; it would also remove the need to revisit thresholds or band rates in the future.

15 Assuming a single threshold, do you agree with a 30% threshold for recycled content and why?

Yes, we agree and the 30% figures reflect the current target set by the UK Plastics Pact. Based on evidence received that the vast majority of plastic packaging is currently made from new, rather than recycled plastic, 30% is a clearly defined and memorable stretch target that can be understood by consumers, converters and those through the supply chain and if it is readily achieved it can be increased further to incentivise change.

The purpose of the tax is to change behaviour as part of an upwards evolution in our manufacturing, resource use and waste management processes which result in a much better overall stewardship of plastics in general. To achieve this the burden that the tax representatives has to result in genuine consideration at the design of stage of how to design plastic packaging to minimise exposure to the tax as well as look at reusable and refillable alternatives.

The risk of different thresholds is that design / manufacturing efforts become focused on moving to lower tax rate alternatives as opposed to meeting and exceeding the 30% threshold. However, within this we also think there needs to be 'pull driver' in the form of rewards for recycled contents that go significantly beyond the 30% thresholds. For example to encourage ongoing development and innovation in this area for business that can deliver 40% and 50% recycled content levels there should be some form of motivational reward, i.e. reductions in VAT rates for example which will become available to the UK once we have left the European Union.

- 16 Are there any products for which it would be very challenging to increase the level of recycled content, and why? If so, please outline the effect of a tax on production decisions and consumption of these items.**

Because it may be a challenge, or in some instances prohibited to include recycled content, should not mean that relevant products should be exempt of tax or attract a lower rate. Applying tax to these items will help justify the development of alternatives where possible, guide consumers to more sustainable alternatives and generate income which can be deployed in ways to offset the effect of raw material consumption in those products or further incentivize the recycling of those products or other items and thereby more generally increase recycled plastic content, e.g. innovation and research funding.

- 17 Are there any products for which the use of recycled plastic is directly prohibited in packaging? If yes, please provide details on these products stating the relevant legislation and industry standards as well as the effect of a tax on production decisions and consumption of these items.**

We have no information that would enable us to provide a meaningful response. We would suggest that should not mean that relevant products should be exempt of tax or attract a lower rate in line with our reasoning to Q.16.

- 18 What evidence is currently held by liable manufacturers and importers on the levels of recycled content in their plastic packaging and how it might be able to meet the requirements of identifying recycled content levels?**

We have no information that would enable us to provide a meaningful response.

- 19 If you are an importer of unfilled plastic packaging or plastic packaging material, what information do you hold on the recycled content? What controls or assurance do you have over the accuracy of this information? How might you influence the level of recycled plastic content?**

We have no information that would enable us to provide a meaningful response.

20 Do you agree with the government's suggested approach of setting a flat rate per tonne of a plastic packaging product? Why?

Yes, we agree.

Charging a flat rate per tonne appears preferable, is easier to measure, evidence and audit and is more likely to drive innovative design away from new plastic content. To keep the regime easy to enforce and administer and for easier understanding by consumers the flat rate should apply across all polymer types and all products whether they can include recycling content easily or not or where recycled content may be prohibited.

Aligning with the general approach used in the PPR Regulation will also make administration of the tax easier. It will make analysis of how well drivers from the plastics tax, DRS and EPR are aligned easier as well. A simple and transparent approach will aid introduction of the tax and will leave scope for evolving the tax as evidence accumulates with experience of its implementation.

21 Do you agree with the proposed points at which domestic or imported products would be liable for the tax? If not, at what point in the supply chain do you think the tax point should be and why?

Yes, we agree although issues around imported packaging should be monitored closely at implementation as interpretations may vary. Clarity in communicating how the tax works will be important.

The proposed points seem logical and in the case in plastic packaging manufacture with multiple stages, we support option 2 which is consistent with the tax point for imported packaging. Consideration should be given to the views and responses of those businesses and organisations involved directly and therefore most familiar the logistics required for the regime to work effectively without creating an excessive burden or system that could be open to abuse and fraud.

22 Are there any situations where the proposed tax points would be administratively, practically or legally difficult? Please explain any adaptations that might be necessary.

We have no information that would enable us to provide a meaningful response.

23 If you are a business that produces or imports plastic packaging, how much of your yearly production, in tonnes, would you expect to be liable for the tax?

We have no information that would enable us to provide a meaningful response.

24 Do you provide (manufacture or import) plastic material which could be used as packaging without knowing the final use of the product? Is this a common occurrence?

We have no information that would enable us to provide a meaningful response.

25 Would you support extending joint and several liability for UK production, and for imports?

Yes, this level of accountability strengthens the taxation regime, reduces opportunity for fraud and evasion and would elevate the degree of due diligence and quality of data reporting through a supply chain although this would be at an additional cost. Through the supply chain joint and several liability may have the added benefit of encouraging joint working and the development of alternatives to plastic usage to reduce exposure to the risk of having to pick up costs or of reducing the liability where a part of a supply chain collapses.

However, there is a risk that where supply chain processes collapse the burden could then fall on companies that are not financially strong enough to meet the cost at a point where it becomes due, particularly if a liability is accrued and then passed on in full. Therefore to protect small businesses an appeal fund could be used that was ring fence funded from the tax income generated and principles for its application established.

26 Please outline any issues in relation to routine wastage or spillage that may have an impact on the tax liability.

Neither routine wastage nor spillage should affect tax liability. Such exemptions would create loopholes and may allow abuse and or tax evasion. Applying tax in these situations would incentivize waste reduction and spillage prevention.

As noted above it is important in design of the tax to understand to what extent plastics that become waste in the manufacturing cycle are themselves recycled. Minimal levels are to be expected and should not impact on the objectives of the tax. However, if such recycling levels are already in the region of the 30% content threshold then the tax in such circumstances will do little to drive demand for post-consumer plastics. As such the Government may need to specify minimum percentages for the use of post-consumer plastics that contribute to the overall 30% threshold.

27 Do you agree with the government's initial proposal that the tax at import should only apply to unfilled packaging? If not, what would the effects be? What alternative would you prefer and how would it work?

No, we remain to be convinced that the tax at import should only apply to unfilled packaging as this would seem to leave UK manufacturers at an unfair disadvantage. There is a risk to UK based businesses of a shift towards importing products that would previously have been produced in the UK, so that they could be imported pre-packaged and thereby gain a competitive advantage by avoiding a tax. To address this we would urge the Government to include within the enabling legislation that after a certain date, i.e. a sufficient lead time to allow commercial conversations to take place, UK importers of such goods will not be allowed to import finished goods in packaging that doesn't contain 30% recycled content.

28 Do you agree with the government's suggested approach for crediting exports?

Yes, the approach presented in the consultation appears to be justifiable. However, greater merit should be given to the views and responses of those businesses and organisations involved directly with exports and therefore most familiar with the practical and cost considerations.

29 Do you foresee any difficulties in providing appropriate records to demonstrate that packaging has been exported?

Yes, a change of this scale across a sector in relation to a new burden is foreseeably going to generate difficulties and those are best articulated by businesses and organisations involved directly with exports and therefore most familiar with the practical and cost considerations.

30 Do you agree that the government should seek to exclude small operators? If yes, what would the risks be if the government did not do this?

Yes, this seems reasonable but at a level much lower than the current producer responsibility packaging regulations de minimis.

If Government did not exclude small operators this would, amongst other things, increase the likelihood of small and specialist and niche businesses failing, of agglomeration of small companies and buy outs leading to the prospect of regional biases for processes developing, mean that issues of joint and several liability may put too large a potential burden on small businesses that would have to secure bonds or allocate resources to address a risk, stifle the innovation that many small companies bring by eroding at their margins to a disproportionate effect thereby restricting funds for product development and growth.

Safeguards should be put in place to prevent deliberate fragmentation of the supply chain as a means to fall within the de minimis threshold. An alternative would be to set a lower rate of tax to such organisations so they are at least exposed to the same drivers for behavioural change. However, we do recognise that risks around fragmentation in pursuit of lower tax liabilities would still be an issue for the Government to address.

31 Would Option 1a, Option 1b or Option 2 best meet the government's objective of excluding small operators from the tax whilst ensuring the tax has a strong environmental rationale?

It appear that Options 1b is preferable from the perspective of protecting small businesses as it takes in to account not just the volume of material but also the turnover, this is the approach used in the Packaging Producer Responsibility system which means it is tried and tested in principle, so any lessons learned from that process should be factored in to decisions made on the approach to relief from this tax.

However, this does require another type of information to be provided, i.e. financial, which introduces an additional burden to those participating and administering the regime and introduces the possibility of accounting methods being used to gain tax relief.

- 32 What factors should the government consider when setting a threshold (either on volume or turnover) or a relief? Do you have any suggestions for appropriate levels? If so, please provide an explanation for why you believe this is appropriate.**

Full alignment with any changes made to the Packaging Producer Responsibility system in relation to businesses annual turnover and handled tonnes of packaging a year should be considered. This consistency across a sector makes it easier to ensure that any future changes across government are also made in a joined up way as is being achieved through the concurrent consultations in 2019.

- 33 Would having a de minimis create any significant risks to the effectiveness of the tax at import (including, but not limited to, treatment of multiple imports from the same exporter/manufacturer/brand owner)? If yes, please provide evidence and suggest any additional legislative or operational countermeasures.**

It does create a risk which could be significant if it is not regulated and audited, however it may be the case that the lower the de minimis the lower the chance of this happening becomes, because the additional burden of significant disaggregation / fracturing of an operating entity or supply chain would in itself introduce additional burdens that would probably not outweigh any perceived gain of tax avoidance.

- 34 Do you anticipate any risks or issues that would arise from introducing a de minimis that aren't explored above? Please provide details.**

We have no information that would enable us to provide a meaningful response.

- 35 Do you agree that the registration and reporting requirements outlined are appropriate? If not, please specify why.**

Yes, the way the approach is presented in the consultation appears to be justifiable.

- 36 Please provide details of the estimated one-off costs for registering with HMRC.**

We have no information that would enable us to provide a meaningful response.

- 37 Please provide details of the expected one-off and on-going costs of completing, filing, and paying the return.**

We have no information that would enable us to provide a meaningful response.

38 Is the government’s suggested approach to compliance proportionate and appropriate? If not, please outline any scenarios that you anticipate may require bespoke compliance powers or penalties?

The description provided appears proportionate and appropriate at strategic level but as there is no detail it is not possible to say how effective the system would be in delivering on those principles at this stage.

Powers of inspection, sampling and auditing of suppliers of raw materials and suppliers of recycled plastic should be provided for, so that where there are concerns and / or issues in dispute analyses can be performed at a chemical level to justify or disprove claims.

Consideration should also be given for a frequency of inspection and/ or audit proportionate to the scale of the operation to prevent fraud at scale, albeit that this detail may well feature in the forthcoming technical consultation. These are themes that should probably feature in the technical consultation that will follow.

Finally and in common with the arc21 responses on DRS and EPR, the Government needs to ensure that any additional regulatory burden arising from these proposals is adequately resourced in terms of both skills set and capacity.

39 Are our anti-abuse proposals sufficient to tackle the risk of fragmentation (abuse of the de minimis or universal relief) from UK based plastic producers?

Yes, from the way the case is presented it appears so, unless there are concerns within HMRC on the effectiveness of the ‘connected persons’ principle as applied in other parts of the taxation regime. The lower the de minimis the lower the chance of fragmentation becomes, because the additional burden of significant disaggregation / fracturing of an operating entity or supply chain would in itself introduce additional burdens that would probably not outweigh any perceived gain of tax avoidance.

40 Is our approach regarding assuring the accuracy of declared recycled content appropriate? If not, please share any other suggestions you may have.

It is stated that ‘It may be less straightforward to evidence the level of recycled content in imported plastic packaging’ and that will be exactly the case and HMRC needs to further consider ways of ensuring the compliance of importers, including the option of using UK based agents for non-established taxable persons. It may be that those operators and organisations closest to this part of the process will provide helpful responses to the consultation, if that isn’t the case or there is conflicting views HMRC should consider working with focus groups to get a deeper understanding of issue and the merit of differing solutions.

In lieu of an alternative and as yet undefined approach arc21 supports the idea that a lack of appropriate document should result in the tax being applied. However, as with all Government initiatives to support the enabling legislation the Government will need to undertake a comprehensive information and education programme to make sure that all relevant businesses and trade organisations within the packaging / manufacturing sector are well aware of the changes including when the tax is first due.

We would further suggest that such comms initiatives are rolled out well in advance to signpost how the tax will work so that relevant business can start to consider and implement the necessary changes well in advance.

41 Do respondents believe that using UK based agents for non-established taxable persons may help support compliance?

Yes, it may. However, to remove potential for fraud by UK based agents representing non-UK established taxable persons the regime would have to be highly controlled and regularised and penalties for breaches would have to be onerous.

42 Are there any further compliance risks that have not been addressed in this chapter, please provide details?

The compliance risk of substitute materials (i.e. fraudulent introduction to the system of materials as 'recycled' when they are derived of virgin material and have just been processed) has not really been addressed in terms of how such cases would be proved one way or another.

Also changes of recycled content with time and over a tax year are likely and yet not really addressed. For example to avoid a tax cost for a year recycled content could be ramped up in one period of that year in products that would then be sub-standard and could then be sold on (possibly at minimal or nil cost) for disposal or even bought as a fuel.

These issues need to be addressed in how regulation and enforcement of the tax is delivered.

43 If you are a business, what is your annual turnover?

We have no information that would enable us to provide a meaningful response.

44 Are you currently obligated under the Packaging Producer Responsibility system?

We have no information that would enable us to provide a meaningful response.

45 If you manufacture or handle plastic packaging, which sector(s) do you provide it to?

We have no information that would enable us to provide a meaningful response.

- 46 If you manufacture or handle plastic packaging, can you please provide an overview of the types of plastic packaging products as well as the tonnages and the levels of recycled content in each? Do you expect this to change over the next 5 years?**

We have no information that would enable us to provide a meaningful response.

- 47 If you manufacture or handle plastic packaging, how much of this packaging is produced domestically, exported and/or imported?**

We have no information that would enable us to provide a meaningful response.

- 48 If you process or handle recycled plastic, do you export or import any? If so, how much, and where from/to?**

We have no information that would enable us to provide a meaningful response.

- 49 If you manufacture plastic packaging, can you please provide an overview of the prices of some of your plastic packaging products. Can you also provide information on how these costs break down according to material costs, labour costs, other operating costs and profit?**

We have no information that would enable us to provide a meaningful response.

- 50 If you manufacture or handle plastic packaging, can you please describe how plastic packaging prices fluctuate? How much do prices vary, and what are the main causes, e.g. fluctuations in exchange rate, oil and other commodity prices, etc.?**

We have no information that would enable us to provide a meaningful response.

- 51 If you manufacture or handle plastic packaging, how long does it take you (in months) to increase the recycled content of your product? What factors are important in determining this length of time?**

We have no information that would enable us to provide a meaningful response.

- 52 If you manufacture or handle plastic packaging, would the tax incentivise you to speed up any current plans to increase recycled content? To what extent? How quickly?**

We have no information that would enable us to provide a meaningful response.

- 53 If you manage waste, how long would it take you to set up the systems required to supply more plastic waste for recycling/recycle more plastic? How much could you produce?**

Councils collect plastics at either the kerbside and or at Recycling Centres and or via bring banks in various combinations. To supply more plastic for recycling via these routes would currently be an extra financial burden for local authorities involving additional costs including collection, processing and communications costs.

Not all plastics are currently targeted for recycling due to the impracticalities of dealing with them or the lack of sustainable and viable markets, meaning systems change would be required at a fundamental level which does require a strong connection with the possible changes to producer packaging responsibility and the significant increase in funding provided to councils.

- 54 If you manufacture plastic packaging, how would the tax affect the amount and price of product you produce? In cases where you weren't able to increase recycled content, would you pass the price of the tax down the supply chain?**

We have no information that would enable us to provide a meaningful response.

- 55 Is there anything else you would like us to note about how your business operates and how you think it would be impacted by the tax?**

We have no information that would enable us to provide a meaningful response.

- 56 Unless already covered in your responses to other questions within this document, is there anything else you would like us to note about the impact of the tax, especially any potentially adverse impacts on groups with protected characteristics?**

If councils are left to pick up any additional burdens as a consequence of a tax regime without adequate funding then any changes could indirectly affect any group with protected characteristics where any council is then forced to make consequential decisions about funding services due to their reduced ability to continue funding existing services to groups with protected characteristics.
