

# Consultation on reforming the UK Packaging producer responsibility system

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## Valpak Draft Response

**1. What is your name?**

Ben Storer

**2. What is your email address?**

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

**(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)**

Other

Details: Valpak Limited, Producer Compliance Scheme, approximately 150 staff

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

Valpak Limited is the UK's leading producer responsibility compliance scheme operator with member schemes for the Packaging, WEEE and Waste Batteries regulations. In addition we provide our members services for the Carbon Reduction Commitment (CRC), Energy Savings Opportunity Scheme (ESOS) and other environmental areas such as recycling services, REACH, sustainable development consultancy and international compliance. Within our compliance and data services we obtain and process considerable volumes of detailed information on packaging formats and tonnages placed on the market from a large sector of industry.

Over the past decade Valpak have been at the forefront of researching and analysing the packaging flow data available to them, as well as working with stakeholder groups, to produce a series of detailed material flow reports which have become the established and recognised source of UK information. In recent years we have used our expertise and contacts across Europe to put forward a number of quantified proposals for reform of Extended Producer Responsibility (EPR) for packaging including our PackFlow 2025 report in 2017 which was widely acknowledged across industry.

Valpak has been providing compliance solutions to customers since 1997 when the Packaging Regulations were first introduced in the UK. We also work with other international compliance schemes, both from an operational perspective, assisting our customers with their environmental obligations overseas, and also from a strategic and policy perspective.

**5. Would you like your response to be confidential?**

No

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

a. Yes.

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We broadly agree with the principles outlined in the consultation document. We would also like to suggest adding the following important principles:

- The system should operate on a UK-wide basis
- The costs included within Full Net Costs should be both clearly and transparently defined and also the system designed to keep these to a minimum and drive efficiencies and economies of scale. Simply transferring existing costs from Local Authorities (LAs) to producers will produce no net benefits for the UK as a whole. In addition, the scope and effectiveness of aspects such as litter clean up and the coverage of costs borne by producers will need to be carefully defined and monitored.
- Any decisions regarding packaging design should be made on a clear and transparent life-cycle assessment basis in order to ensure any unintended consequences are minimised
- We strongly agree that any fees raised within an EPR system should be kept within that system, for example for investment in infrastructure or other measures to increase recycling or cost efficiencies
- The UK Packaging system, and interlinking system such as a Deposit Return Scheme if applicable, should be kept under review with clear monitoring requirements in line with the targets and objectives set

### **7. Do you agree with the outcomes that a packaging EPR should contribute to?**

#### **a. Yes**

We broadly support the outcomes stated in the consultation document, however we have the following comments:

- The term “unnecessary packaging” is widely used but not often clearly defined. Packaging has many uses including protecting products and food from unnecessary waste, providing convenience for consumers, communicating important information, promoting brands and businesses etc. all of which could be interpreted as necessary for different reasons. Therefore this will need significantly more work to define more closely
- One of the stated outcomes is that there is high quality reprocessing capacity within the UK. Whilst some of the policy initiatives encourage this (encouraging recycled plastic content, modulating fees to encourage more easily recyclable materials, consistent collections of core set of recyclable materials, consumers finding it easier to understand what they can / cannot recycle) there are no explicit measures that will require or guarantee this as an outcome. We suggest that the Government considers ensuring greater funding is available for investment in UK end markets to increase recycling capacity by for example setting gradually increasing mandatory targets for UK reprocessing in appropriate materials.

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

#### **b. No**

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We believe it would be most effective to maintain the currently agreed EU-wide definition of packaging so there is consistency across markets. It may be very difficult to define these types of products to have a main role as packaging, as a number of the products listed are used more widely, for example in food preparation (in particular foil). This would also require a very distinct differentiation to be made between those products which are considered single use and those products which may be considered to have a similar function but are reusable (for example plastic reusable containers for food storage). Currently, reusable packaging is covered by the regulations but only for the first trip, so these types of products may then be considered within scope of the regulations. Single use would also need to be defined, as some of the products listed can be, and frequently are used more than once (for example jiffy bags).

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

#### c. Neither – please say why, and provide a description of how your business categorises packaging

We are not a packaging producer so do not categorise our own packaging. If the Government's intention is to include the Full Net Costs (FNC) of household (HH) or household-like (HH-like) with separate responsibilities for commercial and industrial (C&I) / transit packaging then we believe it is essential for the system to set new and clear classifications. For example, we suggest that HH and HH-like includes all consumer-facing packaging, for example primary packaging intended to be used by private consumers at home, similar primary packaging used in commercial establishments such as cafes, restaurants, transport hubs, transit packaging for home delivery. C&I / transit packaging would include all distribution packaging and packaging used between business and also non-HH-like primary packaging, for example pallets, stretch wrap, transit cases, drums and crates, and other large primary packaging such as catering size tubs.

We suggest that the Government with advice from industry should set a standard list for the classification of packaging items to be used across the system, for example all glass bottles might be classified as HH or HH-like or consumer-facing even if used in commercial businesses.

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

#### c. No, it goes beyond the polluter pays principle

Whilst we agree that the majority of items listed should fall within the FNC recovery definition we believe that "clean up of littered and fly-tipped packaging items" and disposal of residual is more difficult to justify. Providing that the system has led to extensive and convenient recycling infrastructure and clear instructions to consumers on what and how to recycle and raised general awareness then it is arguable whether producers should also pick up the cost of dealing with packaging which has not been separated for recycling when it should have been and could have been. For litter, this should at least be considered as partly a cost of poor consumer behaviour to society as a whole, as is other illegal or anti-social activity.

### 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?

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### b. No

**If no, please briefly state the reasons for your response and state what waste you think full net cost recovery should apply to.**

Whilst we understand the government's proposal for producers to fund full net costs of collecting and managing household packaging waste as required by the directive, this should not necessarily be extended to all household-like packaging waste. Much of this is produced by businesses such as offices, food service etc and already funded in a similar way to other types of commercial and industrial type waste by the businesses themselves.

Therefore, while there may be requirements for some additional funding from packaging producers to ensure recycling of this material, packaging producers should not be expected to cover all of these costs for household-like packaging.

This area may need further detailed work during the second stage of consultation.

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

#### a. 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?

#### c. I don't know

**Please briefly state the reasons for your response.**

There are some advantages and disadvantages to including in both but it needs to be ensured that this doesn't lead to excessive or double charging for producers. If DRS items were also included under EPR system they should be subject to a significantly lower modulated fee depending on the return rate achieved by the DRS. It is likely that producers may need to be in both systems anyway as DRS producers are likely to still need to cover any non-DRS and C&I packaging under EPR.

### 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?

#### a. Yes

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

We support the concept of modulated fees to incentivise the use of more recyclable materials in packaging. As noted in the consultation document, when the approved list is being devised careful consideration should be made to any possible unintended consequences, for example encouraging use of materials with an

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overall higher environmental impact. We also strongly agree that all actors in the supply chain should be involved in development of the approved list. The approved list should then be reflected in the consistent set of core recyclable materials with Local Authorities collect (under the consistent collections consultation). It would be important to ensure that the approved list is reviewed and updated regularly to keep up to date with the latest technology and material advances.

**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.**

This choice will depend entirely on the detail and scale of charges and we suggest that more work should be done on this. For example, if the costs under FNC are significantly higher than the modulation of fees / deposit values then the impact may not make as much of a difference to producers who will be required to pay much higher fees as part of FNC anyway. There is also not enough information in the Impact Assessment (IA); any decisions should be made on sound economic analysis.

There are also some other important issues to consider with Model 4 (deposit-based model) and so we do not favour this approach. Firstly the proposal for individual producers to be trying to access and contract for evidence from a vast range of recyclers would be both hugely complex and is also unlikely to be practicable for the majority of smaller and medium sized businesses who would have neither the resources or expertise to do this effectively. Secondly the potentially large up front deposit payment may be a cash flow issue for many businesses.

**16. Do you think there could be 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 answer**

Please see response to question 15.

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

**a. I neither agree nor disagree**

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

If more closed loop recycling is desired, then this can be achieved through either the EPR system or the deposit approach for example via use of modulated fees in EPR to encourage closed loop recycling. We would recommend that the impact of reformed EPR system should be assessed before a decision on DRS is finalised. We note there appears to be two definitions of closed loop recycling used in the consultation document. One definition refers to any process whereby recycled material is used to replace virgin material. The second definition is application-specific closed loop recycling, for example where a PET bottle is recycled

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back into a PET bottle. The second definition is very much more narrowly defined and limited and therefore our preference would be to use the wider definition to allow for applications where there is not an application-specific route available, for example food contact PP cannot be recycled back into food contact PP. If the application-specific definition were to be used it must be ensured that there is the right recycling infrastructure and end market drivers in place to allow this type of recycling to occur.

This question also seems to be focused specifically on plastic recycling, whereas the application-specific definition would be more difficult to apply for certain other packaging materials. For example packaging steel is commonly recycled along with scrap steel from other sources into new material which is indistinguishable from that made from virgin materials and may be used in any number of applications from vehicles to construction to electrical appliances depending on the grade. There are also other potential policy drivers which could encourage application-specific recycling, for example the current PRN system splits the glass recycling target so a specific amount must be recycled via re-melt.

There should be a specific and detailed life cycle analysis to assess the costs and benefits before any closed loop recycling requirement is finalised.

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

**No answer specified**

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

As our members represent all stages of the supply chain we are unable to provide a consistent view. This is a matter for discussion amongst producers. For each option there are a number of points to consider:

- In each single point of compliance scenario we would assume that manufacturers and converters would still need to report C&I material. This may lead to a number of definitions of producer, or possibly supply class definitions. For example, a manufacturer will still have transit material obligations and a seller still have own-brand reporting to consider under the brand-owner scenario
- The seller would likely need to be involved in any point of compliance scenario even if they are not classified as the producer, as they are most likely to be able to report by nation. This would need to be a statutory requirement in the regulations.
- The assumption of which point in the supply chain has control over packaging design should be tested. For example whereas major brand companies are likely to have the commercial and technical expertise to significantly influence their packaging design, but many smaller producers and importers will have much less ability to influence this.
- The shared approach also has merits because (as mentioned above) in many situations design decisions and responsibilities occur at different point in the supply chain for different types of businesses and therefore sharing out the responsibility in a similar way to the current system may continue to have benefits.

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

c. Other, please state

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

We would support the lowering of the de minimis in any of the point of compliance scenarios, including if shared responsibility was maintained, however we recommend that this should be specified as a tonnage onto the market only. The reasons for this are:

- Full net cost requirements will significantly increase costs to producers. If the number of producers within the system is increased, these costs will be shared in line with the polluter pays principle
- The UK has the highest de minimis level for packaging of the European Union Member States therefore we would recommend it is reduced, but using tonnage onto the market only
- In order to ensure the administration and costs burdens to smaller producers were minimised there could be an alternative methodology used for small producers contributions. For example a flat fee for producers under a certain size, or a simplified obligation calculation methodology
- The use of turnover within the de minimis threshold causes a number of difficulties and loop holes within the system, due to the requirement for audited accounts. This causes a number of problems, for example when companies re-structure. If the de minimis threshold is lowered rather than removed, we would suggest that the turnover aspect is removed entirely and replaced with a simple tonnage measure (similar to WEEE and batteries)

The requirement for increased monitoring and enforcement with a lowered or removed de minimis should also be a consideration when assessing this option.

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

b. No

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

All producers should be covered by the same de minimis rules, as this leads to a level playing field.

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 de minimis)

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

As per our answer to question 19 we would suggest that the de minimis for tonnage is lowered or removed. The current turnover criteria of the de minimis threshold should be removed, as this can lead to unintended consequences when companies restructure due to the requirement for audited accounts.

There are also other aspects which could be considered if the policy intention is to include more packaging the system, for example internal packaging use and the role of third party logistics.

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### 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)

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

We would suggest that the de minimis threshold is lowered as we recognize the burden could be unnecessarily high on very small businesses. A thorough analysis of the impact of different threshold levels should be carried out. It is very usual for tonnage thresholds to be 10 tonnes or lower in other European Union Member States. The UK currently has the highest de minimis level of all European Union Member States. The reduction of the de minimis would ensure that more companies were included in the system, thereby sharing the significantly increased costs and raising awareness of the packaging system and the importance of recycling of packaging materials.

We strongly agree that the change to the de minimis should not cause any unnecessary financial or administration burden to smaller businesses, therefore we would suggest that smaller businesses comply in a simplified manner, for example by paying a flat rate fee. This would also make enforcement of smaller businesses much more straightforward. As per our responses to question 19 and 21, we would also suggest that the current turnover aspect of the threshold is removed due to the unintended consequences caused by the requirement for audited accounts.

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

#### No Answer Specified

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

As our members represent all stages of the supply chain we are unable to provide a consistent view. This is a matter for discussion amongst producers. For each option there are a number of points to consider:

- In each single point of compliance scenario we would assume that manufacturers and converters would still need to report C&I material. This may lead to a number of definitions of producer, or possibly supply class definitions. For example, a manufacturer will still have transit material obligations and a seller still have own-brand reporting to consider under the brand-owner scenario
- The seller would likely need to be involved in any point of compliance scenario even if they are not classified as the producer, as they are most likely to be able to report by nation. This would need to be a statutory requirement in the regulations.
- The assumption of which point in the supply chain has control over packaging design should be tested. For example whereas major brand companies are likely to have the commercial and technical expertise to significantly influence their packaging design, but many smaller producers and importers will have much less ability to influence this.
- The shared approach also has merits because (as mentioned above) in many situations design decisions and responsibilities occur at different point in the supply chain for different types of



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businesses and therefore sharing out the responsibility in a similar way to the current system may continue to have benefits

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

#### c. Other, please describe

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

Producers could be able to decide whether to complete an allocation calculation or alternatively pay a flat fee, for example towards communication and other costs. It would be possible for there to be more than one threshold level, with different associated fees.

It is difficult to complete full analysis for this question as the Impact Assessment does not include a full breakdown of how many producers may be brought into the system and this work should be undertaken before a decision is finalised.

### 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?

#### a. Yes

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

We fully support the inclusion of online marketplaces as a type of packaging producer. The inclusion of online marketplaces would increase the amount of packaging included within the UK system, and would help to create a level playing field amongst businesses. This area of concern has been highlighted with particular reference to electrical and electronic goods entering the market (see OECD report “Extended Producer Responsibility (EPR) and the Impact of Online Sales”, published June 2018). The OECD study notes that whilst focusing on electrical and electronic equipment, a number of the issues would also apply to packaging (and batteries). The OECD report lists requiring online market places being classed as a producer under EPR as one of the recommended actions.

We also suggest there may be other areas where some packaging is currently excluded from the system that could be considered for change, for example removing the exemption on internal use packaging.

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

#### b. quantity and quality of target packaging materials collected for recycling;

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

We would generally support this approach, however further consideration should be given to whether producers should be required to pay for the disposal of recyclable packaging from the household system. If producers have funded the infrastructure for the packaging materials to be recycled, have designed them in such a way as that they can be recycled (in line with the three recyclability criteria outlined) and have

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funded, through EPR, communication campaigns to increase awareness of recycling to householders, it seems that requesting producers to pay for disposal costs does not incentivise the right type of consumer behaviour change.

With regards to payments for litter clean up and litter awareness campaigns there are a number of producers which produce packaging which is much less likely to be littered because they are much less likely to have the packaging removed on the go, for example large electrical producers, clothing retailers, DIY, pharmaceuticals etc. We suggest that the formula for allocation for the payments regarding litter costs should be adjusted to take this into account.

Any payment formulas should be designed to encourage Local Authorities to collect higher quality and quantity collections whilst also driving higher efficiency and lower costs, therefore the payment should be linked to higher performance standards or incentives. If this was not the case there would be no incentive on Local Authorities to improve or even retain existing efficiencies and performance, and cost to producers would be likely to increase over time.

### **27. Do you think we have considered all of the costs to local authorities of managing packaging waste?**

#### **c. Neither agree nor disagree**

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

In the new EPR Packaging system there rightly will be an increased focus on transparency throughout the system. As most of the cost will be relating to payments to Local Authorities, then mechanisms need to be devised to provide sufficiently transparent monitoring of this funding so that value for money can be demonstrated.

Costs to Local Authorities for the management of packaging waste would be met by producers however it should also be ensured that any costs are only applicable for household packaging and that there is no cross-subsidisation occurring between material streams, or different waste streams or other services. In particular, Local Authorities should not be able to use any income they receive for collecting household packaging to subsidise their commercial waste collections.

There should also be a clear incentive for waste management costs to be optimised and efficiencies met. Any financial benefits of waste management, for example revenue from material sales, should be included in the full net cost calculations, and may be dependent on other consultations outcomes, for example Deposit Return Scheme. A DRS will remove some of the highest value material from the kerbside collection system and will therefore increase the net cost of HH collections.

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

#### **b. No**

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

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We understand the principles behind separating HH-like packaging waste from C&I packaging waste because of the very different supply chains and economics involved. Clearly C&I waste is already funded by businesses and should not qualify for additional payments from producers. Similarly businesses producing household-like packaging waste should continue to pay for its management under separate commercial arrangements rather than this being funded through the system to support household waste collections, so HH-like packaging from non-HH sources should not qualify for the LA funding.

However, because it would be very difficult in practice to keep separate the generation of recycling evidence from strictly HH packaging and that which is identical but from non-HH sources e.g. small businesses, cafes etc on balance we would support combining these into a single category to be treated in the same way for the purpose of achieving set recycling targets.

The complex approach described is likely to be unworkable due to the number of companies, different circumstances, contractual arrangements etc. involved in the chain, i.e. the sorting facilities, the waste carriers and ultimately the business waste producer. Some consideration needs to be given to those businesses which are producing HH-like packaging waste and will be required to separate recyclables and therefore incur higher costs and whether and how they should be recompensed. It may be more appropriate to consider achieving this through a market based mechanism as opposed to a direct-funding approach (e.g. hybrid model) and we recommend that further work on this aspect of the system needs to be conducted before the next consultation and before it is finalised.

Certain materials may require further consideration as to which type of packaging, HH/HH-like or C&I, they fall into for example pharmaceutical products which are used by hospitals. We recommend the government or agencies produce either further guidance or lists to confirm scoping of packaging, similar to dual use guidance for WEEE.

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

**b. No**

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

As explained in our response to questions 11 and 28 we believe that these costs should continue to be covered by the businesses producing the waste, although there may be a case for packaging producers to fund a contribution towards these costs in order to ensure there are sufficient end markets for the material and recycling targets are achieved This would not mean a direct payment to business waste producers.

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

#### **a. Local authorities?**

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

The current approach only transfers the current costs as opposed to investing in additional infrastructure or other measures to assist meeting the new, higher targets.

Costs to Local Authorities for the management of packaging waste would be met by producers however it should also be ensured that any costs are only applicable for packaging and that there is no cross-subsidisation occurring between material streams, or different waste streams.

Any payments should be linked to improvements in quality and quantity of material being collected to maintain the incentive on Local Authorities to improve efficiencies and drive economies of scale.

It must be ensured that a DRS does not negatively effect the investment already made in kerbside collections.

#### **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.**

This area requires further clarification on the practicalities of how this would be implemented. There would be a requirement for a high level of transparency to ensure the benefits are being achieved throughout the waste supply chain. It will also be important to ensure that there are sufficient protections in place so that material from non-household sources are not misclassified as household or household like and that local authorities and their contractors can clearly distinguish between their household collections and trade collections. In particular, Local Authorities should not be able to use any income they receive for collecting household packaging to subsidise their commercial waste collections.

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

No.

The cost of dealing with litter and fly-tipped packaging depends largely on the scope of activity required, for example does this mean the cost of running anti-littering communication campaigns or does it mean nationwide litter clean up programmes to deal with all litter historically dropped?

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

There are a number of considerations with regards to on-the-go. One of these areas is that infrastructure would need to be coherent with consistent collections to ensure one harmonized message could be communicated to consumers i.e. you can recycle the same items on the go as you can at home. Consistency between these systems is also required, for example including somewhere to put food waste and/or liquids as this would reduce the levels of contamination. Strong messages and communications to consumers would

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be needed. On-the-go would also need to be coherent with any DRS implemented and also allow for non-recyclable waste.

**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, we do not have any specific information regarding costs for provision of on the go collection and disposal.

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

a. Yes

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

Disposable cups are already obligated under the UK Packaging system. The current voluntary National Disposable Cup Recycling Scheme was established by Costa Coffee and Valpak is the Scheme Administrator. It has since grown and now includes Greggs, Café Nero, McDonalds, Pret a Manager and Burger King, and waste collectors including Biffa, Suez and Veolia, and reprocessors including ACE UK, James Cropper and DS Smith. This scheme has been made by a number of disposable cup producers going beyond their legal requirement and over 70 million cups were collected for recycling within the first year. These companies are already paying the full net costs of the disposable cups they are placing on the market.

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

b. EPR

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

As per our response to question 34 disposable cups are already obligated under EPR and under the voluntary commitment are achieving the requirements of EPR so are therefore clearly being managed within the EPR environment. There are significant technical difficulties with introducing a DRS which includes disposable cups.

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

c. I neither agree nor disagree

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

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Any imposed recycling targets should be based on a full cost benefit analysis to ensure that there are no unintended consequences of the target for example ensuring that the proposal does achieve the best environmental outcome.

Imposing a target on a specific sub-type of packaging material should be carefully assessed in the light of quantified data on the benefits and costs. For example, if there are separate targets for coffee cups should there also be targets for crisp packets or sweet wrappers?

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

a. Yes

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

Whilst producer fees should be used to support local, as well as national, communications campaigns these should be consistent with and complementary to national communication campaigns. Any campaign should be reviewed and the impact of the communication campaign measured to ensure the funding is being used efficiently and effectively.

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

a. Yes

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

Any campaign should be reviewed and the impact of the communication campaign measured to ensure the funding is being used efficiently and effectively.

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

b. No

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

Our response relates to recycling campaigns only (not litter communication campaigns). In order to ensure a level playing field all obligated producers should contribute to the cost of communications campaigns. How the costs should be apportioned amongst material obligations and different sizes of producers needs further investigation, for example a flat fee for smaller producers. However, the central communication campaign should not be expected to fund programmes that are not in line with the agreed national guidelines and messages.

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

a. Yes

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

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This would assist the behavioural change for consumers to make it easier to “do the right thing”. A number of brand owners already voluntarily label their products in line with the On Pack Recycling Label system (OPRL). Decisions about the list of products which are “recyclable” or “not recyclable” should be taken centrally so that they apply to all producers with input from all actors within the recycling supply chain, and should be reviewed in line with decisions on core materials collected under the consistent collections regime, and modulated fees under governance model 1, 2 and 3 (and our proposed hybrid model, please see question 57), or deposit level under governance model 4. It should also be noted that for a number of products more than one label may be required, for example where there is more than one component of packaging, one of which is recyclable and the other not, for example a PET bottle with a multi-material pump or spray.

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

#### c. I neither agree nor disagree

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

This may be appropriate in some circumstances, however may not be appropriate in others. For example, it is not possible currently to include recycled content in food contact PP, however if there was a requirement for recycled content labelling a consumer may be likely to assume this is not “environmentally friendly”, and may add to consumer confusion. Also for some materials, such as metals and glass, recycled material is almost indistinguishable from virgin.

However, for some products producers may wish to show recycled content on a voluntary basis to show consumers where changes are being made. There would also need to be strict rules and standards applied to any labelling to ensure there are no false claims and consumer confusion is minimised.

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

**Please describe briefly.**

Please see response to question 41.

### 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?

No, we do not have any information on this point.

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

**a. Yes**

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

We note that the most recently updated material Flow reports which Valpak has assisted with have not yet been published. These contain updated data from the previous versions and provide the best data to use when assessing future targets. The Flow reports make considerable efforts to consult with a wide range of industry stakeholders and are periodically reviewed.

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

**b. No**

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

We would view that the most recent Flow reports contain the best available data. The Flow reports make considerable efforts to consult with a wide range of industry stakeholders and are periodically reviewed.

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

**a. Yes**

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

This would include issues such as exemptions (e.g. internal use packaging), unintended consequences of business restructures (for example acquisitions/ mergers) which have in the past led to significant obligations being excluded for a period of time because of the lack of audited accounts (which are required to meet the turnover threshold), and non-compliance (e.g. free-riders).

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

**b. No**

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

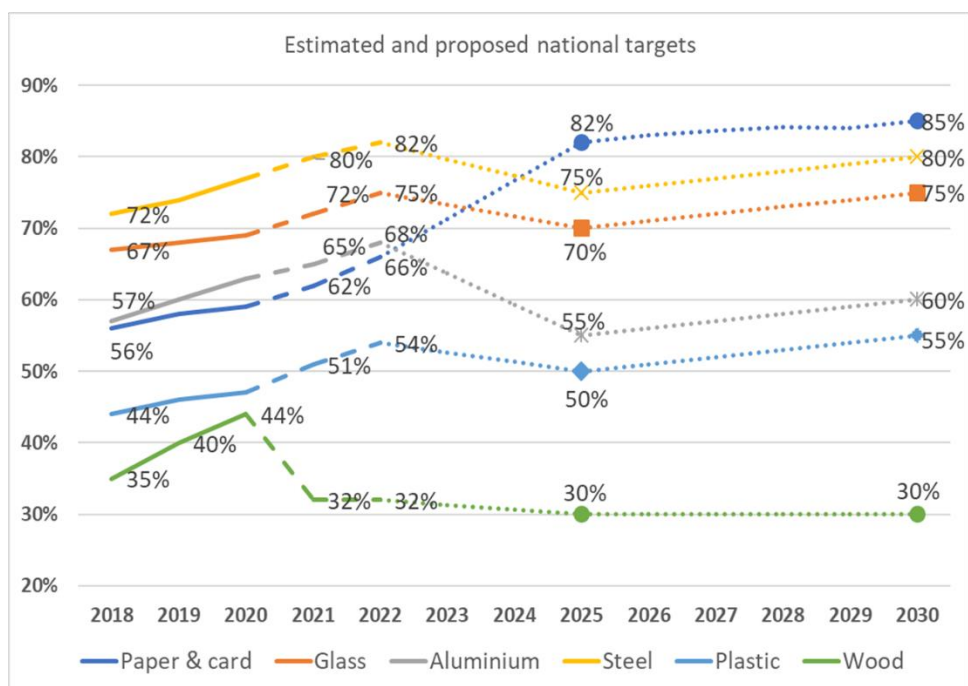
We note that the 2025 and 2030 targets proposed are broadly in line or slightly above those proposed in the EU Circular Economy Package. When assessed against our estimates of the national targets likely to be achieved for 2021 and 2022 all materials have targets reducing in 2025 compared to 2022, apart from paper which increases sharply. Please see the graph below which shows our estimated national recycling rate targets to 2020, the interim national targets to 2022 and the proposed 2025 and 2030 targets. If the targets were implemented as proposed this would lead to a rise in recycling to 2022 followed by a decline to 2025, and then increasing targets to 2030 (apart from wood). This profile could cause significant variations in costs to producers and also risk undermining future



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investment in sorting and recycling facilities. A preferred route would be to have gradually increasing targets year-on-year from 2020 - 2030 so that the recycling industry can plan the necessary investment and costs to producers are likely to be more stable.



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

b. no

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

Please see response to question 48

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.

Please see our response to question 48.

Any more ambitious recycling targets should be considered and justified on the basis of a sound cost/benefit analysis. Steady and gradual increases towards the desired end goal and setting targets for at least 5 years in advance will help achieve this, in a way which minimizes overall cost and cost variations. In addition, the participation of all producers in the system should be thoroughly enforced.

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

a. Yes

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

It is likely that this information for packaging placed on the market by nation may only be held at the retailer point of the supply chain. This would therefore need to be taken into account when considering point of compliance and legal obligations as retailers are likely to need to report this information in any of the point of compliance scenarios, for example if the definition of producer is changed to the brand owner/filler/importer there will have to be an additional obligation on retailers to report packaging data by retailers as this information would not be known by brand owners/fillers/importers.

Off the market data should be based on where the material is collected from and not where the reprocessing takes place. In addition this is likely to be more complicated, particularly where material is bulked and then subsequently transferred or around border areas where “milk-round” collections take place. However an improved waste tracking system may assist with this requirement.

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

**c. I don't know / I don't have enough information**

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

This should be assessed on a material-by-material basis (and perhaps polymer-by-polymer for plastics) and on thorough life cycle analysis to determine for which types of material this would be beneficial. This analysis should also be used to investigate whether there is benefit from a simple definition of closed loop recycling, for example replacement of virgin material, or a stricter definition of closed loop recycling, for example PET bottles into PET bottles.

There appear to be two definitions of closed loop recycling used in the consultation document. One definition refers to any process whereby recycled material is used to replace virgin material. The second definition is application-specific closed loop recycling, for example where a PET bottle is recycled back into a PET bottle. The second definition is very much more narrowly defined and limited and therefore our preference would be to use the wider definition to allow for applications where there is not an application-specific route available, for example food contact PP cannot be recycled back into food contact PP. If the application-specific definition were to be used it must be ensured that there is the right recycling infrastructure and end market drivers in place to allow this type of recycling to occur.

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

**b. No**

**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 would assume this would be dealt with using modulated fees to incentivise design changes where practicable.

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

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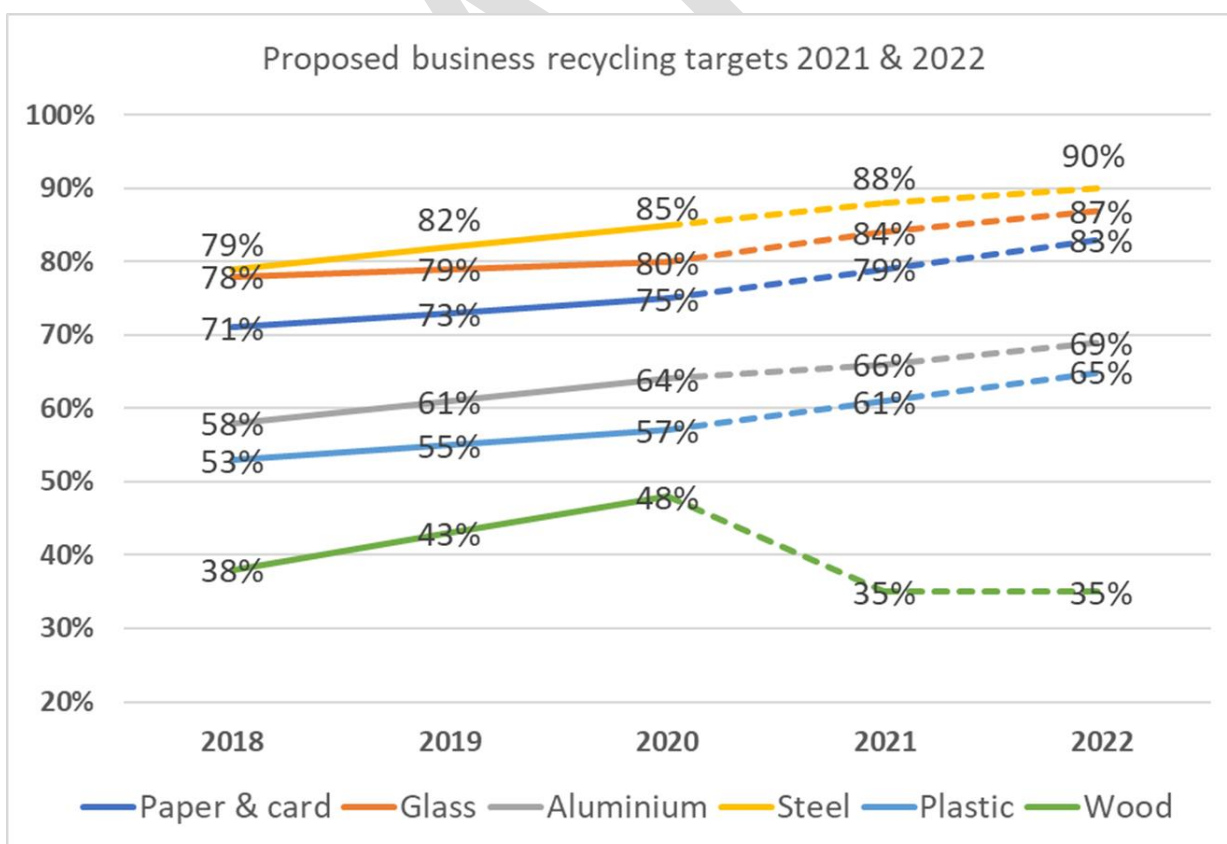
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### b. No

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

We note the revised version of Table 6 compared to the original consultation document. The interim 2021 business targets appear to be ambitious for certain materials and increased targets to 2022 are proposed for all materials (apart from wood). But it is very odd that these are followed by a decline in targets in 2025, apart from the paper target which increases sharply (see our response to question 48). Of particular concern would be the plastics target where restrictions in export markets are already increasing the costs of compliance. Without the new EPR proposals being in place it may be difficult to meet these targets. Our chart below shows the trajectory for these targets.

If the targets were implemented as proposed this would lead to a rise in recycling to 2022 followed by a decline to 2025, and then increasing targets to 2030 (apart from wood). This profile could cause significant variations in costs to producers and also risk undermining future investment in sorting and recycling facilities. A preferred route would be to have gradually increasing targets year-on-year from 2020 - 2030 so that the recycling industry can plan the necessary investment and costs to producers are likely to be more stable.



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

#### c. I neither agree nor disagree

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

There does not appear to be a justification provided for this figure, so it is difficult to provide a response to this point.

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

#### a. Model 1

Please briefly explain your preference.

There are a range of opinions on this amongst our membership, therefore we have answered this question in respect of Valpak's own knowledge and experience of compliance schemes both in the UK and across Europe.

#### Model 1

We think that the principles of model 1 as described would be likely to provide the greatest level of choice and at most competitive costs for producers. It will also provide direct funding to Local Authorities and clear legal responsibility for meeting recycling targets between compliance Schemes. However we recognize that this model places significantly higher responsibility and financial accountability onto compliance schemes and also would require a clear contingency mechanism to be put in place to ensure that Local Authorities which are not contracted (for whatever reason) are suitably and fairly recompensed.

#### Model 2

Model 2 is similar to the approach used in a number of other EU countries where responsibility for household packaging lies with a single monopoly organisation. Whilst evidence shows this approach has effectively driven up recycling rates and assisted in the role out of collection infrastructures, particularly in the early years of system development, there are increasing concerns that it can lead to inefficiencies and increased costs for producers over the medium to longer term. The UK is in a much more advanced position than it was when EPR was first introduced and there would be considerable transition issues, loss of expertise, and costs in moving to this approach.

#### Model 3

Model 3 appears to include substantially the same approach as model 2 to HH and HH like packaging, with the existing scheme-based approach applying to C&I packaging. We believe that the same issues as described for Model 2 also apply as the vast majority of cost is associated with HH and HH like packaging.

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### Model 4

Model 4 is a fully market based approach which relies on commercial drives to incentivise producers to increase packaging recycling. Whilst we believe that commercial drivers can be very powerful we have concerns over the practical and operational complexity of this approach.

In order to address these issues we have developed hybrid model which has taken elements from all 4 models and is explained in more detail in question 57 and our additional evidence paper “Packflow Hybrid Model – An Enhanced Approach to EPR Reform”.

### **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?**

The current UK producer responsibility system does not guarantee returns on investment in new infrastructure or other projects for a reasonable investment period and compliance schemes struggle to influence infrastructure and end markets development. This is despite increasing interest from scheme members for their PRNs to fund the development of UK recycling. Our proposed Hybrid Model incorporates the best elements of Models 1 to 4 and enhances support for UK recycling and end markets.

This is described in more detail and the benefits explained in our additional evidence paper “Packflow Hybrid Model – An Enhanced Approach to EPR Reform”

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

#### **a. Yes**

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

Yes, we have a number of concerns about the feasibility of implementing the proposed governance models

#### Model 1:

Of the 4 models proposed model 1 is closest to the existing system but there are still significant differences and implementation issues to be overcome. It could build on the existing system of compliance schemes and their member contacts, expertise, IT and reporting systems etc. but we would expect it to require a new and detailed approval process where schemes would have to demonstrate a much more strategic focus to meet future targets and also in many cases require significant additional resource and expertise to be able to deal with Local Authority contractual arrangements. We expect that this would be mitigated to some extent as we would expect the significantly higher enforcement and monitoring requirements of this system to be passed onto schemes in the form of higher approval / subsistence fees which would be likely to limit the number of schemes to a more manageable number.

#### Model 2:

This model probably has the highest potential for implementation issues because it will require the setting up, financing, resourcing and training of a completely new organisation of perhaps 200-300 staff to be fully

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operational before the implementation date of 1 January 2023. It is not clear under what basis this would be undertaken and how it would be financed before the new regulations come into force. It would also mean that much of the existing expertise, member contacts, records and detailed knowledge within the existing compliance schemes would be lost.

### Model 3:

Whilst model 3 may retain existing compliance schemes for some activity (e.g. C&I) it would appear to have almost identical implementation issues to those for model 2.

### Model 4:

This is the most radical change in approach from the current system and whilst it may appear to be relatively straight forward in concept it is the model most likely to lead to huge operational issue post-implementation, for example as producers or their agents fight to put suitable arrangements in place to obtain evidence of recycling. It will also require a vast change in financing and cash flow for producers who would be expected to fund their deposits in advance.

### Hybrid model:

The hybrid model is most similar from an implementation point of view as model 1 as proposed, but with the addition of a much smaller central organisation than model 2, therefore any transitional or implementation issues should be much simpler to manage and the costs involved similarly reduced. We expect that this would be largely mitigated as we would expect the significantly higher enforcement and monitoring requirements of this system to be passed onto schemes in the form of higher approval / subsistence fees which would be likely to limit the number of schemes to a more manageable number.

## **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?**

Models 1, 2 and 3, and our hybrid model, would be relatively equivalent in their ability to provide a UK-wide approach whilst also enabling different priorities in the devolved administrations for example communication campaigns and possibly differentiated targets if these are ever desired.

Because Model 4 relies almost entirely on market drivers to achieve recycling and does not have specific targets set for producers it would appear most difficult to differentiate responsibility by 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?**

### **a. Yes**

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

This should apply in Model 1 and our hybrid model. A Compliance Fee mechanism has been shown to be a positive contribution to:

Minimizing unexpected volatility;

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Providing an alternative mechanism where there is simply insufficient recycling capacity available or there is excessive profiteering in the sector;

To provide a fund which can be used for suitable projects to grow recycling for the future

**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**

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

This would also apply in our hybrid model and would also incorporate functions such as defining the list of packaging types for modulated fees and the levels of funding required for national communication campaigns. The precise division of responsibilities between the PAB and the enforcement agencies needs further consideration to ensure there is no overlap or gaps.

**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.**

This appears to refer only to model 2, which is not our preferred solution, but if this is the option the government choose then the organisation should be owned by industry as a not-for-distribution organisation. This would mean it could make operational profits in one year which would be then rolled over against costs in the following year. This approach would also apply to the PMB in our hybrid model, although the central organization would be on a much smaller scale.

**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?**

**a. Yes**

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

**b. No**

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

It should not be a single scheme as per our reasons in question 56, but it should be a common system. Within the hybrid model we have put forward there should separate targets and separate reporting for HH/HH-like and C&I as the practicalities and economics of these two streams are so different.

**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?**

**b. No**

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### **d. If no: do you have suggestions on an alternative approach?**

Please see our responses to questions 56 and 64, and our additional evidence paper describing our hybrid model.

### **66. Under model 4 are producers more likely to?**

#### **b. Join a compliance scheme?**

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

A relatively small number of the larger producers may have the internal resources and expertise to manage their own compliance but this is very unlikely for the vast majority of smaller to medium sized producers who would be likely to require specialist third party assistance. This model does not seem to include formally approved and regulated schemes as in the current system but anticipates the emergence of third party service providers to fulfil some of the functions although these would not appear to be formally regulated.

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

#### **a. Yes**

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

The requirements for transparency need to be more clearly defined and specified.

### **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?**

#### **a. Yes**

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

- Measure 1 (requirement for accreditation) would ensure UK exporters and reprocessors were required to maintain their accreditation, including adhering to any standards
- Measures 2 and 3 (where exporters register and pay fees to properly reflect the level of enforcement work required) are also positive proposals. For measure 3 the fees should be ring-fenced, and appropriate mechanisms in place to ensure the fees are reflective of the regulatory effort involved
- Measures 4 and 5 (pre-notification of Annex VII forms and pre-reporting of shipments) require the fully completed documentation to be submitted prior to shipment. This would not be possible as the Annex VII form is only complete once confirmation of reprocessing (at the export location) has been completed. However it would be possible to submit the Annex VII form and accompanying documentation prior to shipment, with as much information completed as is possible prior to shipment. Fully completed documentation can be requested once the shipment and reprocessing is



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complete. The timescale provided of 7 days prior notification might need tightening to perhaps 3 days, as sites may not know 7 days in advance that a shipment is required.

- Measure 6 (overseas inspection of reprocessing facilities) may require further careful consideration of the potential cost impact on exporters to ensure there is not the unintended consequence of discouraging exporters from the market. For example, would a risk-based approach be taken, or would all sites be required to be audited, and would one audit allow all exporters to export to that end market, and if so, how would this cost be shared amongst exporters?
- Measure 7 (regarding rejection of shipment) appears to be a sensible approach, however it may be more appropriate for the local competent authority to provide local market-based intelligence (relating to point 3)
- Measure 8 (audit of accounts) appears to be a sensible approach, however further practical details would need to be considered, for example would this be an annual check, part of an annual reporting mechanism or alternatively used only during an investigation?
- Measure 9 (point of evidence). The issuing of evidence should be for packaging waste only and based on the final reprocessing operation. The protocols should be applied equally to reprocessing in the UK and other countries, with evidence of compliance forming part of a third party audit (measure 6) for overseas sites. Specifically, evidence should not be issued on the total tonnage of material exported unless evidence can be provided that the shipment is 100% packaging waste with zero contamination, and all material is reprocessed.
- Measure 10 (sort and clean prior to export) appears to be a sensible approach, however the consultation document refers to meeting end of waste criteria. If the material meets end of waste criteria, it would no longer be considered a waste, and therefore waste shipment requirements, including Annex VII forms and accompanying documentation, would no longer be required as the shipment would be a product as opposed to a waste.
- The higher standards and therefore necessarily increased monitoring and enforcement costs to ensure exports are properly dealt with should be passed onto exporters in the form of higher accreditation fees.

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

a. Yes

c. If yes, please explain which potential measures should be considered.

In addition to the proposed measures to better manage material exports we would suggest that if government policy is to preferentially seek for increased levels of material to be recycled in the UK as opposed to exported then we would suggest that the government considers setting separate targets, within some or all materials, for UK processing. For example, a material recycling target of x % of which at least y% must be UK reprocessing, similar to the current target for glass remelt.

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These could be set in line with current capacity initially and gradually increased over a period of years. This may be most appropriate for plastics where exports carry the most significant environmental risks.

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

a. Yes

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

It should be ensured that any cost increases required for increased monitoring and enforcement should be passed to reprocessors and exporters in the form of higher accreditation fees. It should be ensured that any costs for measures outside the remit of the reprocessors and exports, for example third party auditing of overseas sites, are monitored to prevent excessive charging.

All measures should also ensure the costs do not reach a level where it is no longer economically viable for exporters and reprocessors to take part in the system.

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

a. 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?**

We agree that reprocessors and exporters should be required to provide more information about how any funding they receive from producers is used to improve collection and recycling of packaging waste. This should be a mandatory condition of accreditation but the details of how this should work in practice need further consideration to avoid any breaches of legitimate commercial interest and to avoid the potential unintended consequence of discouraging reprocessors and exporters to participate in the system.

One method to achieve this may be to reconsider and enhance the requirements which used to be in the regulations for reprocessors and exporters to submit independent audit reports and then to use this information to produce national data by material which is easily available and transparent to stakeholders.

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

a. Yes

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

This would ensure that the best data and the complete picture of recycling performance is available. It will avoid the potential for reprocessors or exporters to withhold evidence which can cause an unnecessary increase in costs. The details of how this works in practice will need further investigation.

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

**c. I don't know**

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

Whilst this would help reproescors and exporters maintain records, this may be too administratively burdensome for smaller reprocessors.

**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?**

**a. Yes**

**If yes, please provide details**

It is important to recognize that transparency does not necessarily ensure the best application of funds, and we are concerned that in model 4 there is likely to be a tendency for evidence prices to rise towards the level of the deposit fee even where this is not necessary to drive increased recycling. In fact it is feasible for evidence prices even to be significantly above this level and still be more economic for producers to fund rather than lose their deposit. Even if reprocessors are required to report funding transparently this does not guarantee that the funds are effectively used, only that there is more information available.

If the aim is to have better control of funding as well as transparency then additional measures will be necessary which are difficult to envisage in this free market type of model.

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

**a. Yes**

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

There should be increased requirements on compliance schemes to report their use of producer funding in a more transparent way, consistent with maintaining necessary commercial confidentiality. These requirements will need further work to develop the details. In addition, there should be a greater degree of strategic responsibility placed on schemes as part of the approval process and this should be effectively monitored by either the enforcement agencies or central body through measures such as annual Strategic Plans.

This should be done in addition to a greater requirement for similar increased levels of transparency in other sectors of the recycling chain including, for example, local authorities, waste management companies and reprocessors.

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**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?**

**b. Other, please explain**

It is likely that the roles and responsibilities of compliance schemes would be significantly different under a reformed system and so this will also entail a different level of regulatory expertise and resources to the current system. Further detail of this will need to be developed but we would suggest that a combination of approval and monitoring activities by both the existing regulators together with the central body would be required.

The necessary increased levels of resource that this would require should be reflected in increased approval and subsistence fees for schemes.

One option may be for approval to remain with existing regulators but for one of the factors to be taken into account to include the agreement by the central body that the schemes strategic plan is consistent with national requirements.

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

**a. Yes**

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

A single producer organisation should provide the same level of transparency as any other system and would also require measures to require transparency of reporting in other sectors of the recycling chain including, for example, local authorities, waste management companies and reprocessors.

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

**a. Yes**

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

In our studies of systems in other countries a key factor in ensuring high recycling rates has been shown to be consistent and high-profile national consumer and business recycling communication campaigns. This includes both clear on-pack information but also extensive off-pack campaigns.

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

**a. Yes**

**If yes please explain which datasets will be needed.**

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In order to monitor potentially unregistered producers the enforcement authorities will need access to a range of general company datasets which could be used for intelligence gathering and prioritising enforcement work.

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

#### a. Yes

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

This is generally more difficult for retailers and importers who have large numbers of different product lines, particularly where these are rapidly changing, for example with seasonality or promotional products.

Similarly, producing data on packaging placed on the market by nation will be difficult for brand-owners, fillers, and importers because these business often do not have data on the exact geographical sales figures. This would require either retailers to be required to provide the data to brand-owners, fillers and imports, or for there to be a separate mandatory reporting requirement on retailers even if they weren't the producer.

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

#### b. No

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

We cannot envisage how a central database for all packaging weights for every producer would work, and question whether it is necessary. The concept implies that all producers would need to provide individual packaging weights for every product line and keep it continually updated. This would be a huge undertaking and it is not at all clear who would run this, how it would be funded, or how it would be enforced. In addition, there are likely to be considerable issues of commercial confidentiality as many producers are understandably reluctant to make details of their packaging specifications public and available to competitors.

However, we do support the concept that a central national reporting system is essential for effective running and monitoring of the system. Whilst the existing NPWD system has performed well over many years it will need significant levels of enhancement and investment to meet the challenges of a reformed approach.

### 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?

#### a. Yes

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

This approach has been shown to be successful over previous years providing that there is sufficient assurance that compliance schemes are doing this effectively and consistently. Ensuring schemes operate to high standards of producer audit and assurance is a key function of the regulator in models 1 to 3 and also in our proposed hybrid model. It is also important to note that producer audits are not the only method of ensuring producers report and comply correctly. Schemes should also be responsible for implementing other measures such as regular training, providing advice and guidance, on-line systems which guide their members and internal cross checking systems to look for inconsistencies.

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

a. Yes

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

This would increase the ability of the regulators to track down and investigate potential free riders and bring them into compliance.

**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?**

a. Yes

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

Continuing with the current system of civil sanctions and enforcement undertakings has been proved to be an effective mechanism and should be continued.

We also strongly support the Government's proposals to relax the requirements for the enforcement agencies so that they are able to use increased fees raised from participants in the system to fund greater levels of enforcement activity. In particular this could cover higher levels of investigation work into detecting potential producer free-riders as well as reprocessors and exporters that are not operating correctly, for example through greater use of spot site inspections.

**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.**

If it is required to provide reporting of packaging on to the market and recycled by nation, then compliance schemes or the single management organisation will need to collect this information from producers. This is likely to mean that there will need to be mandatory data reporting obligations on retailers/sellers of packaging even if they are not necessarily defined as the producer because fillers/brands/importers do not necessarily know in which country their products are sold.

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Similarly, the system will need to obtain information on which country any packaging reprocessed on was collected from in order to report recycling by nation. This reporting requirement would have to be incorporated in some way into the mandatory requirements for accreditation of reprocessors and exporters.

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

**a. Yes**

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

We would not see this as a penalty charge as such because the mechanism described appears to be closer to the current 'compliance fee' mechanism used in WEEE which is an alternative form of compliance rather than a penalty. This has proved effective over recent years in preventing excessive profiteering by evidence providers and also creates an alternative method of compliance for schemes or the central manage organisation if targets are unachievable. In addition, it can generate a useful central funding source which can be used for projects to improve recycling in future.

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

**b. No**

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

It is only when material arrives at a final reprocessing site, i.e. where the material is processed into a product and is no longer waste, that it can be assumed to be recycled and so evidence should only be issued at this point. This would include processes have demonstrated that they have achieved 'end of waste' status. Where material is exported for reprocessing overseas then the evidence should be issued for the material entering the actual reprocessing sites abroad to ensure equivalence with UK recycling operations, not on the total quantity of material exported which may include some non-target or non-packaging material.

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

**a. Yes**

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

As mentioned in our response to question 71 these operators should have additional responsibilities for reporting to ensure greater levels of transparency along the whole recycling chain.

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

**a. Yes**

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

Please see our responses to question 68. These changes would provide the enforcement authorities with a more effective and flexible set of tools to encourage and manage compliance amongst reprocessors and exporters.

**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?**

**b. No**

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

This risk is not related to the alternative governance models but is determined by the degree of monitoring and enforcement activity amongst reprocessors and exporters, which we have already suggested should be increased in all models.

**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?**

**b. No**

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

The current sampling and inspection plan regime does not specifically cover the potential misclassification of imported packaging waste although it could be modified to include this

**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?**

**a. Yes**

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

This should be supported by increased reporting requirements amongst reprocessors and exporters on the sources of their material and higher levels of enforcement activity including greater use of spot checks.

**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?**

Please see our update “Packflow Hybrid Model – An Enhanced Approach to EPR Reform”, provided separately.

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



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### Baseline calculation

- The rationale for a new higher price equilibrium given higher future targets appears tenuous against the context of changes in targets historically. While the latter likely contributed in part to past price volatility higher prices were not sustained (as they are assumed to be to 2032). Assuming such a higher price equilibrium over estimates the savings to producers from removing current compliance costs.
- We acknowledge that there are differences in estimates of materials based on Placed on the Market (POM) and waste arisings and that both methodologies have advantages and disadvantages. For wood packaging, POM and waste arisings can be substantially different essentially because of the durability of wood packaging, it has a long life on the market and is extensively re-used and repaired. Therefore, there is a long (and unknown) lag between wood packaging being POM and arising in the waste stream. Therefore, it is not sensible to consider as POM minus recycling of wood packaging as residual. We note other packaging recycling is ignored and absorbed into the baseline residual.
- Our analysis of t2e PRN pricing data agrees with the 'best estimate' PRN prices reported to apply in 2032 in appendix G. However, the PRN prices as reported in Table 10 of the consultation document look to be incorrect and presumably aren't those actually used in the modelling of savings to producers from removing current compliance costs.
- The calculation of baseline net household packaging recycling costs is derived from a figure for dry recyclables in a multi-stream service for England of £824m. It is unclear how applying the share of dry recyclables, 78.7% by volume, to this figure results in modelled packaging recycling costs of £518m. We agree applying the uplift of 1.24 to £518m equates to the modelled 2018 baseline net packaging recycling cost of £644m but this ignores the tonnage uplift also mentioned in the methodology.

### Governance Operational Costs

- The operational costs of the PMO (best estimates) are modelled as £21.32 million per year (Tables 31, 50) in the Impact Assessment (IA); this would amount to £213.2 million (£183.5 discounted) over 2023 to 2032. By contrast, the summary table of monetised costs and benefits reports admin costs of running a reformed packaging EPR system as £25million (discounted) over 2023 to 2032. The operational/admin costs in the DRS scenarios (scenarios 2 & 3) are assumed to be the same (£25mn) as operational admin costs of the PMO in the EPR scenario (scenario 1).

### DRS and Landfill Costs

- We consider that the EPR modelling in the IA is so limited in its scope that it is not plausible to consider its performance, benefits and costs relative to the DRS scenario options as presented in the IA. Similarly, since the assessment of societal benefits and costs for the DRS scenarios only considers the impact on full net costs and not the relevant total system costs (eg DRS producer fees) and benefits (eg GHG impacts) of DRS alternatives, it is therefore not possible to compare the relative economic benefits and costs and draw conclusions.
- Across the IAs which consider DRS scenarios there are substantially different estimates of the economic impacts of DRS depending on the modelling assumptions and the assumptions in the baseline. For example, the DRS schemes in the DRS IA show positive societal net present values, however in the EPR IA the all-in

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DRS shows a societal net cost (-£243mn) compared to a societal net benefit of £2,189mn in the DRS IA. An important factor (which is subject to huge uncertainty) is the inclusion or not of litter disamenity impacts. We believe the IAs should present modelled costs and benefits of the scenarios based on a common set of scenario assumptions and a common baseline.

- In the DRS scenarios, the modelling assumption assumes in-scope DRS material is removed from municipal recycling collections. This is a transfer of DRS materials from one collection system to another. The IA only reports 2032 modelling results, so it is not possible to see the results on impact in 2023. We would suggest instant achievement of 85% return rates for DRS materials is overoptimistic and a phased in achievement of container return rates should be modelled.
- The modelling assumes additional recycling of DRS in-scope materials reduces municipal residual tonnages. The IA results for municipal residual collections as reported in Tables 45 & 46 of the IA agree with our analysis, except for steel packaging. We note that as reported in Table 46 DRS appears to have no impact on steel packaging in the non-household municipal residual stream. In the DRS IA additional steel packaging recycling is 6,952 tonnes in the all-in scenario (Table 9 of the DRS IA) and 389 tonnes in the OTG scenario (Table 29 of the DRS IA). However, in the EPR IA scenario 2, municipal residual tonnages for steel packaging reduce by 3,059 tonnes for the all-in DRS, and by 249 tonnes for the on the go DRS scenario. This calculation should be reassessed and corrected.
- The EPR+DRS scenarios adopt the assumptions of the DRS modelling. In the latter an 85% return rate in-scope materials littered is assumed to reduce packaging litter by 85%. However, given the baseline recycling rates at 70% for all-in DRS materials and 54% for on the go materials, modelled additional recycling coming from residual/litter reduction amounts to 51% of baseline in the all-in scenario and 67% in the on the go scenario. This calculation should be re-assessed and corrected
- The DRS IA scenarios are assumed to capture all baseline recycling of in-scope materials which implies consumers are indifferent (in terms of time and effort) between using kerbside systems and return points. For some consumers the deposit is not sufficient compensation and DRS materials will be captured in kerbside systems.
- In the DRS scenarios (Table 47) net material profits are reduced relative to baseline. This analysis should consider costs and material revenues to the system as a whole (and not just the impact on full net costs) since in the overall system there is more material recycled (and overall recycling rates are increased).
- The modelling assumption using a landfill tax rate of £82.6 implies that the landfill tax savings to the municipal sector, and reduction in full net cost to producers, are underestimated by around 10%.

### Materials Considerations

- In the EPR scenario, non-household municipal recycling cost increase because the materials revenue benefit of the additional plastic packaging recycling is not included (but the cost of collection is). The IA regards this approach as a conservative estimate, however, it is not clear why assumptions similar to those for household municipal could not be used to also estimate the benefit of material sales for non-household municipal recycling.

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- The EPR scenario makes no references to what the modulated fee levels might be for the plastic pack types considered (or indeed for any other packaging materials), we agree this is critical data gap and an area for further detailed analysis.
- The EPR scenario only considers substitution of plastic-to-plastic packaging, we understand plastic is already being displaced by other packaging materials, unnecessary packaging and difficult to recycle plastics are being removed, such initiatives are likely be substantially advanced by 2023 and would therefore impact on the baseline and scenario modelled costs and benefits.

**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.**

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