

BIR Position Paper on Extended Producer Responsibility (EPR)

Background

BIR, the Bureau of International Recycling, is the world federation which has been supporting the interests of the recycling industry on an international scale since 1948. As the largest international recycling federation, we represent over 30,000 companies across 70 countries, through 37 national associations and over 1000 direct corporate members. BIR covers eight material streams including ferrous and non-ferrous metals, paper, textiles, plastics and tyres/rubber, as well as electrical/electronic equipment.

BIR's mission is to promote materials recycling, free and fair trade of recyclables in a sustainable and competitive world economy, the environmentally sound management of resources, and the use of recycled materials worldwide. In this respect, BIR would like to convey its key messages in relation to the growing interest in extended producer responsibility (EPR) schemes, which are perceived as a circular economy enabler.

Our position

Summary:

I) Over recent decades, EPR schemes have been set up for various waste streams to apply the polluter pays principle. While BIR supports policy instruments to increase circularity, it is imperative that **EPR schemes must not disrupt existing efficient markets. They should be set up only when there is a need** and only once the effectiveness and the intrinsic value of a waste stream have been assessed. Preserving free and fair competition for the recycling industry is vital because recycled materials are subject to market complexities, such as supply and demand, and EPR schemes could disrupt efficient markets if not designed correctly.

II) Governments should first **refer to other policy instruments** to increase circularity such as **making design for recycling mandatory** and **legally-binding recycled content targets**. These are powerful tools to accelerate demand for recycled materials and level the playing field with extracted raw materials.

III) When and where EPR schemes are considered an absolute necessity, **recyclers should be involved in the governance bodies of such schemes** to ensure an appropriate balance of interests among the most relevant stakeholders in the value chain. **Ownership of waste should be retained by the recycling company** entrusted with the responsibility of processing the waste so that it can remain competitive and pursue continuous investment in the business. Furthermore, it is essential to have **transparent and fair tenders** and to **avoid monopolies** to comply with competition rules. BIR stands ready to engage with policy-makers and authorities in their efforts to increase recycling rates and circularity.

I. The recycling industry needs free and fair competition

Recycling creates value by turning what might otherwise be waste into recycled materials. In addition to preserving resources, recycling also reduces energy demands and greenhouse gas emissions when compared to extracting new raw materials. Over recent decades, EPR schemes have been set up for various waste streams to shift the polluter-pays principle from governments, local authorities and end-consumers to the producers placing products on the market. When considering EPR schemes, it is essential to have a better understanding of the recycling industry.

- **Competition is vital to the recycling industry:** EPR schemes should be set up only when there is a need and should refrain from setting unnecessary requirements. Preserving free and fair competition for the recycling industry is vital for it to thrive.
- **Recycling is a business model:** Recycling companies compete with extracted raw materials, which is a challenge on its own because the market fails to reward the environmental benefits of recycling. The expertise to create value by turning waste into recycled materials is first and foremost a business model. Recyclers must sell recycled materials in a way that enables their businesses to be competitive and profitable if they are to continue investing in new machines and processes to enhance and optimize recycling capacity and quality.
- **Assessing effectiveness:** It is essential first to assess the effectiveness of the existing collection, sorting and recycling value chain. The decision to implement other policy instruments, or where absolutely necessary an EPR scheme, should be taken based on a costs and economic balance assessment.
- **Assessing the intrinsic value of specific waste streams:** Prior to setting up an EPR scheme, it is essential to assess the intrinsic value of a waste stream in order to check whether there is, or is not, an overall positive value. When recycled materials recovered from the waste stream pay for the costs of collection and proper treatment, this stream should not be made subject to EPR schemes. For waste streams which have a negative value (whereby the costs of collection and proper treatment cannot be covered by income resulting from the sale of recycled materials recovered during sorting and material recovery processes), these may benefit from policy instruments supporting their recovery.

II. Other policy instruments governments can use first to increase circularity

EPR schemes have not yet succeeded in driving design for recycling. Without design for recycling, the ability to recycle can be compromised or even made impossible when products reach end-of-life status. Requirements for design and recycled content targets are instrumental to the delivery of a circular economy.

- **Making design for recycling mandatory:** The circular economy should encompass the whole product value chain, from raw material extraction, design and production through the waste and recycling phase. The design of products should be optimal in order to repair, reuse and recycle materials when they reach end-of-life status. At present, a large number of products contain chemicals that are difficult to recycle; it is essential to phase out these chemicals to enable recycling. With 80% of a product's

environmental footprint determined at the design stage, design for recycling is essential to the circular economy transition for all waste streams.

- **Recycled content targets:** Recycled content targets are a powerful tool to accelerate demand for recycled materials and level the playing field with extracted raw materials. It is essential to incentivize the environmental advantages of using recycled materials in new products to reward the associated reductions in energy consumption and greenhouse gas emissions. These targets would also enable further interaction and co-operation between designers, manufacturers and recyclers in order to ensure the recyclability of new products placed on the market.

III. **EPR schemes should be introduced only when strictly necessary**

Below is a set of basic principles for EPR schemes, to guarantee free and fair competition as well as to ensure the transition to a functional and competitive circular economy.

- **Recyclers should be involved in the governance bodies of EPR schemes:** The governing body of an EPR scheme should be more co-operative, fair and representative. At present, governing bodies are mostly composed of producer representatives which contribute financially to the scheme; representatives of the waste management and recycling sectors are often absent. As a result, the interests pursued by EPR schemes are driven mostly by cost-management rather than recycling objectives. Co-operation with the recycling industry could be beneficial to increase the efficiency and effectiveness of waste stream management, to explore constraints along the value chain and to improve design for recycling. Better results are obtained when a "board of stakeholders" is set juridically above the producer responsibility organization in charge of the "polluters" interest, to define the "collective" goals.
- **Balanced roles in governance:** EPR schemes should ensure an appropriate balance of interests among the most relevant stakeholders in the value chain. Therefore, recycling industry representation within governing bodies of EPR schemes should be proportionate to the operational costs borne for the actual recycling of the waste stream.
- **Ownership of waste:** It is necessary to have a clear understanding of who is the owner of each of the streams throughout the value chain. There is currently a misguided tendency for EPR schemes to claim ownership of recycled materials recovered by recycling companies which have won the tender to process end-of-life products. It is essential to ensure that waste ownership is retained by the recycling company entrusted with the responsibility of processing the waste in order for it to remain competitive and pursue continuous investment in the business. Should recyclers be deprived of ownership, the transition to a circular economy will be rendered impossible.
- **Avoiding monopolies:** Monopolies should be avoided by safeguarding the right of waste operators and downstream users to access waste, as well as to own and trade their output. EPR schemes should comply with competition rules and should be prohibited from having an operational role in the market they manage and oversee.

- **Non-disclosure of sensitive business information:** A recycler's key asset is the information on their clients and suppliers; therefore, legislation should ensure recycling companies do not need to disclose confidential business information to producer responsibility organizations within the framework of an EPR scheme. Where an audit is required, only public bodies or the administration should have access to such confidential information, not private entities that may compete with recyclers.
- **Transparent and fair tenders:** Tender procedures organized by EPR schemes should be transparent, non-discriminatory and respectful of free and fair competition. At present, producer organizations control the entire system and unjust tenders are a regular occurrence. It is essential to level the playing field between SMEs and larger operators which are more strongly placed to win tenders. Furthermore, recyclers should not be treated as subcontractors or service providers at the mercy of producer organizations, while the latter should be subject to oversight and control. It is strongly recommended to establish generic rules for tenders.
- **Modulated fees:** Most EPR schemes have been implemented in the form of collective producer responsibility, weakening investments in design for recycling. Fee modulation can target environmental impacts at different stages of the product's lifecycle and incentivize the use of recycled materials. It can incite changes in the design of the product to increase recyclability and reduce end of life costs. However, demonstrating that products are eco-designed can be expensive and cumbersome in terms of administration. Such instruments should be simplified for producers to be incentivized.
- **Deciding on the most appropriate form for the EPR scheme:** When designing EPR schemes, one should be mindful of the local context. Developed countries may have more advanced waste management infrastructures which can facilitate the implementation of EPR schemes for a broader range of products and have higher levels of consumer awareness. In contrast, developing countries may face more challenges in terms of inadequate waste management infrastructures as well as limited financial and human resources to implement comprehensive EPR schemes. Therefore, a fair and feasible approach should be taken to designing EPR schemes.

BIR stands ready to engage with policy-makers and authorities in their efforts to increase recycling rates and circularity. Recycled content targets and eco-design requirements are essential policy tools for meeting these objectives. When and where an EPR scheme is absolutely necessary, it should be temporary in nature until the market for that particular commodity product matures. This would ensure a commodity's exemption from an EPR scheme once a market has developed. It would safeguard against commodities with robust markets being drawn into an EPR scheme, while also ensuring that materials within an EPR framework can work towards an eventual opt-out. Free and fair competition is vital to sustaining the recycling industry and to promoting further investments to deliver a well-functioning circular economy.