

## IOM3 Response

### Extended Producer Responsibility for Packaging

The Institute of Materials, Minerals and Mining (IOM3) is a major UK science and engineering institution and a registered charity, governed by a Royal Charter. IOM3 is the professional body for the materials cycle from extraction, through processing and application, to end of life management, with around 15,000 individual members. This response has been informed by the expertise and experience of members and developed with input from the IOM3 Technical Communities including the Packaging Society, Polymer Society, Iron & Steel Society, Light Metals Division, Resources Strategy Group, Sustainable Development Group and Wood Technology Society.

#### [Extended Producer Responsibility \(EPR\) for Packaging Consultation Document](#)

*Please note the question numbers relate to the citizen space numbering (the online submission form for the consultation response). The consultation document Q101-104 reuse and refill are listed as Q19-Q22. The consultation document numbering (CD) is added at the end of each question.*

#### **What we want to achieve: packaging waste recycling targets**

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

- Agree
- Disagree
- Neither agree nor disagree

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

- Agree
- Disagree
- Neither agree nor disagree

As noted in response to Q101 (CD Q97), IOM3 does not believe that implementing EPR commencing in 2023 is feasible or practical. If EPR therefore commences in 2024, which is likely still to be challenging but is more realistic, then an uplift in the business packaging waste recycling targets set for 2023 would be required to maintain momentum and progress towards the proposed future targets. In addition, the consultation document cites the introduction of the Scottish deposit return scheme commencing in 2022 as a reason to maintain the targets at the current rate, however, the independent gateway review into the implementation date of the Scottish scheme should now be taken into consideration.

If EPR is introduced commencing in 2023, IOM3 agrees that the business packaging waste recycling targets set for 2022 should be rolled over to the calendar year 2023. This reflects the likely transitional nature of 2023, including:

- the new and existing schemes operating alongside each other
- uncertainty and/or fluctuation of PRN prices as the current packaging producer responsibility ends 31 December 2023
- the potential implementation of the Scottish DRS (depending on the outcome of the independent gateway review) with in scope packaging not contributing to business waste recycling targets.

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

- Agree
- Disagree
- Neither agree nor disagree

IOM3 believes that the proposed target for aluminium of 30% is not ambitious enough. Even with drinks cans out of scope (as in scope of DRS) and the uncertainties to changes in material, the combination of the high recycling potential of aluminium and the quantity of rigid packaging in the waste stream means that a higher target could be achieved and should be set. IOM3 is concerned that there is no proposed uplift with both the 2024 and 2030 targets proposed as 30%. The industry is growing at a rapid rate and it is essential to embed and drive the right behaviours that deliver the best overall environmental outcomes.

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

- Agree
- Disagree
- Neither agree nor disagree

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

The glass re-melt target plays an important role in the move towards a circular economy for glass packaging and reducing greenhouse gas emissions from the sector. A tonne of recycled glass used in the manufacture of new glass packaging saves around 580kg of CO<sub>2</sub> compared to using raw materials.

Raising the glass re-melt target therefore has an important role to play. However, as just 20% of glass packaging is expected to be in scope of EPR (if glass drinks bottles are in scope of DRS), this will significantly reduce the reach and impact of a glass re-melt target. A glass re-melt target incorporating all glass packaging placed on the UK market whether it is in scope of EPR or DRS, with an appropriate uplift from the 2021 72% target should be set to drive decarbonisation of the sector and the effective recycling of glass.

IOM3 would welcome clarification that 'non-bottle' packaging as stated in the question refers to material in scope of EPR as not all glass bottle packaging will be drinks bottles and in scope of DRS, for example condiment/sauce bottles.

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

- Agree
- Disagree
- Neither agree nor disagree

A significant uplift in the capture and recycling of plastics is required to achieve the desired scheme outcomes.

The proposed target of 56% for 2030 is likely to be conservative, however it is difficult to determine a meaningful target for plastic at this stage given the amount of change expected for the polymer portion of the waste stream. The plastic packaging tax, proposed collection of films and flexibles with varying timelines, uncertain approach to business waste and implementation of DRS\* will all affect the quantity and makeup of the material in scope.

\*Approximately 12% of total plastic packaging placed on the market (using 2019 data) is PET drinks containers which are proposed to be in scope of DRS.

Plastics are very complex and sophisticated with a number of materials, formats and applications. Therefore, alongside an overarching recycling rate for plastic, IOM3 sees benefit in additional minimum recycling rates for specific polymers to help phase out or incentivise solutions for those which are difficult to or are not commonly recycled.

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

- Yes
- No
- Unsure

The target for 2024 (38%) is 10% lower than 2020 (48%) and the 2030 target is a proposed uplift of just 1% from 2024 to 39%.

IOM3 believes that a higher, more ambitious recycling target should be set for wood. If recycling rates are lowered or remain stagnant, there is a concern that less sorting will occur, and valuable waste wood packaging material will be directed to Chapter IV compliant biomass instead of being sorted to Grade A - clean untreated, which can be used for long term uses such as particle board and long-term storage of carbon.

IOM3 welcomes the further work noted in the document and encourages cross supply chain collaboration with the working group to sense check future proposed targets.

**13. If higher recycling targets are to be set for 2030, should a sub-target be set that encourages long term end markets for recycled wood?**

- Yes
- No
- Unsure

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

- Agree
- Disagree
- Neither agree nor disagree

Steel is high value and magnetic and therefore unlikely to be knowingly landfilled. The proposed target is very high, leaving little room for leakage of material or of data.

It is likely that in practice the target can be achieved but the ability to achieve targets 'on paper' may be affected by reporting for the following reasons:

- There are approximately 2500 smaller scrap dealers across UK where packaging and non-packaging material is often recycled but not necessarily reported dependent upon whether this enters a protocol grade. E.g. paint cans from small businesses such as decorators, mechanics/car body painters that cannot be collected at kerbside.
- Only 97.5% of fully tinplate packaging bails can be claimed towards the recycling target
- The long shelf life of steel packaging
- Repurposing of steel packaging by the consumer rather than it entering the recycling system - for example gift biscuit tins repurposed within the home or paint tins stored for future touch-ups.

If a 92% target is set, IOM3 considers that further work will be essential to ensure reporting is improved and takes into consideration and resolves the above factors. Part of the solution could be to revisit recycling protocols.

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

- Agree
- Disagree
- Neither agree nor disagree

If films and flexibles are included in collections (potentially increasing contamination) as proposed, separate collection of paper/card would support the likely achievement of this target and improve quality.

There is likely a need to review the mixed grade protocols to monitor changes in the mix of packaging and non-packaging paper to help ensure all paper/card packaging is captured.

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

- Agree
- Disagree
- Neither agree nor disagree

IOM3 agrees in principle but more clarity is required around the definition of fibre-based composites. Due consideration will need to be given to the collection and reprocessing infrastructure that will be required for this material. IOM3 welcomes government's intention to take steps to obtain better data before setting a target and suggests that the further research outlined in the consultation be considered with collaboration from the full supply chain.

**17. Do you agree or disagree that there may be a need for 'closed loop' recycling targets for plastics, in addition to the Plastics Packaging Tax?**

- Agree
- Disagree
- Neither agree nor disagree

Although there are barriers that would first need to be overcome, closed loop recycling may have a useful role to play for food grade plastic.

Most UK packaging recycling is currently directed towards non-food grade packaging. As a result, food grade packaging currently ends up in lower quality applications. If this could be segregated, a stream that is suitable for food grade recycling could be created; boosting capacity to recycle at high value and keeping material at a higher value for longer until it has to exit into other applications.

There will, however, be substantial changes to the make-up of the polymer portion of the waste stream with PET bottles in scope of DRS (likely to be implemented to different timelines across the UK), the collection of film and flexible plastics and introduction of the plastic packaging tax. As a result, IOM3 suggests that these measures are allowed time to bed in first, allowing proper review and evaluation, with the Scheme Administrator then determining the need and likely additional environmental benefit of potential closed loop targets based on sound data at the appropriate point.

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

Once sufficient quality data has been collected, this is a role for the Scheme Administrator to determine, ensuring well-informed, appropriate targets where the overall environmental outcome is taken into consideration and avoiding unintended consequences. Life cycle analysis alongside detailed understanding of the market capacity for closed loop recycling and the impact on current open-loop recycling markets is essential to ensure the best overall environmental outcome.

**19. Which of the definitions listed below most accurately defines reusable packaging that could be applied to possible future reuse/refill targets or obligations in regulations? Q101**

Further information to help answer this question (and the 4 that follow) can be found in Annex 1 of the consultation document.

- Definition in The Packaging (Essential Requirements) 2015
- Definition in The Packaging and Packaging Waste Directive (PPWD)
- Definition adopted by The UK Plastic Pact/The Ellen MacArthur Foundation
- None of the above

IOM3 proposes that the European Packaging Waste Directive as amended in 2018 provides a suitable basis for a definition of reuse and supports the criteria in Annex II, with particular note that the material should be recoverable by recycling in available collection and recycling systems once it does become waste. This is the most recent legislative definition and utilising this definition will also ensure alignment and consistency with the EU market.

To further strengthen this definition, consideration should be given to ensuring containers intended for reuse are not used as single use.

A concern associated with reuse and the rapid expansion of this sector, is the misalignment of terminology including between the different models of consumer-owned and business-owned. IOM3 supports further research and review of reuse definitions with the aim of establishing a unified and cohesive definition for adoption (as is being conducted as part of the UKRI-funded project *Many Happy Returns: Enabling reusable packaging systems* at the University of Sheffield)

**20. Do you have any views on any of the listed approaches, or any alternative approaches, for setting reuse and refill targets and obligations? Please provide evidence where possible to support your views. Q102**

IOM3 strongly supports the principles of reuse and refill and their role in shifting from a linear to more circular economy. However, the approaches taken should be very carefully considered to avoid unintended consequences.

As stated in the consultation document, any target needs to capture packaging that is being re-used, not just the amount of reusable packaging that is placed on the market. The statement 'there is no benefit to be gained from switching to reusable packaging if a packaging item is only used once and then discarded' should be taken further, in that it may be of detriment to overall environmental outcomes.

Setting reuse and refill targets and obligations requires careful consideration of a range of complex issues, including consumer choice and convenience, barriers to establishing a system, investment, logistics and the overall environmental outcome.

Different sectors and products will have different environmental outcomes from implementing reuse models. Some specific sectors and products are well suited, whereas in other situations it may not be the best overall option. Therefore, IOM3 believes that the approach to mandating that certain products must be packaged in reusable or refillable packaging would be more

appropriate than an overarching, all-encompassing target such as a certain percentage of packaging placed on the market being reusable.

A packaging reduction target must be considered carefully in the context of the important role of packaging (such as increasing food shelf-life) and should be targeted towards unnecessary or problematic packaging.

In addition, consumer choice and behaviour must be considered. Positive engagement from the consumer is essential to ensuring the success of such a scheme.

A quantitative measure that may be worth further investigation is weight of product in single-use displaced by weight of product in reuse.

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

- Agree
- Disagree
- Neither agree nor disagree

IOM3 strongly supports the role of reuse and refill where this provides the best overall environmental outcome. However, this may be better addressed elsewhere with other, more appropriate, policy measures. IOM3 feels this proposal extends beyond the polluter pays principle and is not consistent with the framework that 'the modulation of fees should aim to raise no more, or less, than what has been deemed the necessary costs of an effective and efficient system for managing packaging waste'.

## **22. Do you agree or disagree that the Scheme Administrator should look to use modulated fees to incentivise the adoption of reuse and refill packaging systems?**

- Agree
- Disagree
- Neither agree nor disagree

IOM3 agrees that the Scheme Administrator should look to use modulated fees to incentivise the adoption of reuse and refill packaging providing the overall environmental outcomes are assessed and interventions are managed carefully to ensure no unintended consequences (compare, for example, the impact on 'Bags for Life' sales of the single-use carrier bag charge).

## **Producer obligations for full net cost payments and reporting**

## **23. Do you agree or disagree that Brand Owners are best placed to respond effectively and quickly to incentives that are provided through the scheme? Q19**

- Agree
- Disagree

Neither agree nor disagree

IOM3 agrees in principle that Brand Owners are best placed to respond effectively and quickly to the changes that are required. As the owner of the product, Brand Owners make the final decisions about the packaging, material specification and artwork approval.

In reality, dependent on the Brand Owner and the technical skills and experience of the employees, work may need to be outsourced to facilitate the decisions required to respond effectively and quickly. Skills and knowledge of the packaging professionals available and collaboration with suppliers will be critical.

Regulators must be properly resourced to ensure the responsibility is being picked up. Although a single point of obligation is determined as 'Brand Owners', as stated this could fall to six different types of actors.

**24. Are there any situations where the proposed approach to imports would result in packaging being imported into the UK which does not pick up an obligation (except if the importer or first-owner is below the de-minimis, or if the packaging is subsequently exported)? Q20**

Unsure

**25. Of Options 2 and 3, which do you think would be most effective at both capturing more packaging in the system and ensuring the smallest businesses are protected from excessive burden? Q21**

- Option 2
- Option 3
- Neither
- Don't know

As an overarching principle, IOM3 believes that it is essential to have the fewest interfaces and layers between those who decide on the design of packaging and the costs and practicalities of handling at end of life. The opportunities for the market signal to be attenuated should be kept to the minimum possible.

A key issue with the existing packaging system (and similarly for other existing producer responsibility schemes in the UK) is the disconnect between the actor who has the decision-making power about the product (designer, producer, importer) and how it is handled at end of life. IOM3 therefore welcomes opportunities for this to be minimised in the reformed system.

For this reason, IOM3 favours option 2 out of those proposed.

**26. If either Option 2 or 3 is implemented, do you consider there to be a strong case to also reduce the de-minimis threshold as set out in Option 1? Q22**

Yes



- No
- Unsure

This will bring material that is not accounted for in the current system into scope. IOM3 notes that plastic packaging producers (10 tonnes de minimis) will already have a reporting requirement under the plastic packaging tax.

IOM3 believes that businesses should be encouraged to engage with EPR from the outset so as they grow, this becomes business as usual rather than an imposed threshold or obstacle to expansion.

### **27. Do you think that Online Marketplaces should be obligated for unfilled packaging in addition to filled packaging? Q23**

- Yes
- No
- Unsure

IOM3 strongly supports the fundamental principle of a level playing field. IOM3, therefore, believes that Online Marketplaces should be obligated for unfilled packaging in addition to filled packaging to ensure a level playing field both

- between online and non-online
- and between UK businesses and non-UK businesses supplying packaging through online marketplaces

Obligating Online Marketplaces for unfilled packaging will bring otherwise unaccounted for material into the system and is particularly important given the huge growth of online marketplaces, decline of the high street and changing purchasing behaviours.

### **28. Do you foresee any issues with Online Marketplaces not being obligated for packaging sold through their platforms by UK-based businesses? Q24**

- Yes
- No
- Unsure

Providing there is effective enforcement by the Online Marketplaces to ensure suppliers are compliant before selling.

### **29. This proposal will require Online Marketplaces to assess what packaging data they can collate and then, where there are gaps to work together to create a methodology for how they will fill those gaps. Do you think there are any barriers to Online Marketplaces developing a methodology in time for the start of the 2022 reporting year (January 2022)? Q25**

- Yes
- No

Unsure

The timescale proposed is extremely tight to agree and develop a methodology and all before the Scheme Administrator is established, which presents a risk of misalignment.

It is critical that 2022 packaging data is as accurate and robust as possible and therefore the use of estimations should be limited.

**30. Is there any packaging that would not be reported by the obligation as proposed below (except for packaging that is manufactured and sold by businesses who sit below the de-minimis)? Q26**

Yes

No

Unsure

Further analysis is required.

**31. Do you agree or disagree that the Allocation Method should be removed? Q27**

Agree

Disagree

Neither agree nor disagree

Producers above the de-minimis should be responsible for the packaging they place on the market. The allocation method would not allow for fee modulation - a key lever in driving the changes required to deliver the scheme outcomes. As stated throughout this response, IOM3 believes that the signal should be direct and as impactful as possible with any additional layers, interfaces and opportunities for attenuation minimised.

**Producer obligations: disposable cups takeback**

**32. Do you agree or disagree that a mandatory, producer-led takeback obligation should be placed on sellers of filled disposable paper cups? Q28**

Agree

Disagree

Neither agree nor disagree

There are already a number of voluntary take back schemes in operation and a general awareness that a mandatory approach was likely to be implemented through either EPR or DRS. A mandatory approach will help to address the challenges presented by the collection, sorting and reprocessing of this stream.

Due consideration will need to be given to collection of this material, for example through backhauling to ensure positive overall environmental outcomes. In addition, it will be essential to

ensure that only paper cups are collected, and those deemed to be 'compostable' as are commonly used by smaller sellers not contaminating the stream.

**33. Do you agree or disagree with the proposed phased approach to introducing the takeback obligation, with larger businesses/sellers of filled disposable paper cups obligated by the end of 2023, and the obligation extended to all sellers of filled disposable paper cups by the end of 2025? Q29**

- Agree
- Disagree
- Neither agree nor disagree

The proposal for a phased approach is pragmatic in that it allows time for proposed EPR business payments to be in place and takes into consideration the risk that smaller chains and individual shops may have a disproportionately high burden if they are expected to take back cups from any brand. However, the scheme's success relies in part on convenience for the consumer, the more locations for drop off available, the better uptake and use of the scheme is likely to be. Noting the progress made with voluntary approaches and that 35% of the overall market is accounted for by small and micro businesses, it would be more effective if the obligation for all businesses was introduced at the same time or as close as feasibly possible, with smaller sellers encouraged or incentivised to comply as soon as possible and ahead of the timescale proposed.

**Modulated fees, labelling and plastic films recycling**

**34. Do you think that the proposed strategic frameworks will result in a fair and effective system to modulate producer fees being established? Q30**

- Yes
- No
- Unsure

In principle, IOM3 agrees with the proposed strategic frameworks, however, further detail is required before it can be determined if this will result in a fair and effective system to modulate producer fees being established.

Establishing the reporting categories and corresponding data collection is essential in this process, determining the sweet spot in getting the detail right; granular enough to allow the modulation mechanism to function effectively but not so granular that reporting becomes too burdensome. This will require extensive work requiring a detailed understanding of packaging materials, formats and production specifications, as well as the corresponding production lines. There are challenges around the availability of sufficient packaging professionals who have the skills required to input into this process, especially in the timeframe currently proposed.

The proposed timeline is cause for concern with the approach to recyclability assessments being established following the Scheme Administrator's appointment in 2023, for the following reasons:

- Obligated producers require time to review packaging ranges, consider changing formats, evaluate the proposed changes, carry out line trials and pack evaluations and ensure the decisions will not carry unintended consequences.
- IOM3 is concerned that material switching decisions will be made in advance of the framework being in place due to tight overall timelines and based on 'best guess' of what is likely to have lower fees, potentially leading to worse overall environmental outcomes.
- IOM3 believes that the accuracy of the first year's data is at risk due to the proposed timing of the Scheme Administrator's appointment in 2023, then developing an approach to recyclability assessments that producers are to be collating data against for the entirety of 2023.

The establishment of the packaging EPR system, the changes that it intends to drive in the switching of packaging to more sustainable materials and specifications and the accurate data collection that is required for the system to function effectively represents a significant increase in the requirement for professionals working in packaging. IOM3 has concerns that there are not currently the number of technologists and buyers working in the industry required, particularly given the timeline proposed. As a professional body that represents packaging professionals, IOM3 will provide the training and education required to help ensure our current members and new entrants into the sector, who will be integral to the delivery of an effective system, have the skills required, including the prescribed assessment methodology for assessing recycling as determined by the System Administrator.

**35. Do you agree or disagree that the Scheme Administrator should decide what measures should be taken to adjust fees if a producer has been unable to self-assess, or provides inaccurate information? This is in addition to any enforcement that might be undertaken by the regulators. Q31**

- Agree  
 Disagree  
 Neither agree nor disagree

The accuracy of the data supplied will rely on clear definitions within the modulation framework in sufficient time for all producers to be able to review their packaging range. The availability of sufficient packaging professionals with the skills and capabilities to undertake this work will affect the ability to deliver this information accurately.

While there are some high-volume packaging formats that are made principally from one material, a significant number of packaging formats that may appear to be simple are in fact complex due to either multilayer structures, barrier coatings, additional components integral to the pack itself or other factors related to the fit for purpose function of the packaging.

Easy-to access assessment tools should be available to ensure any obligated producer is able to make an assessment of their packaging and without undue cost or regulatory burden. It would be appropriate for these tools to err on the side of caution in determining recyclability, which will provide an incentive for obligated producers to develop a more accurate understanding of their packaging over time and also help to reduce the risk of contamination in the recycling stream.

**36. Do you agree or disagree with our preferred approach (Option 1) to implementing mandatory labelling? Q32**

- Agree
- Disagree
- Neither agree nor disagree

Clear and consistent labelling is critical to the success of the scheme and improving the collection and quality of material for recycling.

Consumers should be given the best chance of playing their role effectively and this is an opportunity to address the ongoing issue of consumer confusion. IOM3 believes standardisation should be implemented as with nutrition information. There should be one approved label design for "Recycle" and one approved label design for "Don't Recycle", based around the well-recognised Recycle Now iconography. IOM3 believes, however, that this could be delivered by multiple competing schemes.

Updating packaging artworks to include the required label will be a time-consuming exercise and will require appropriately skilled professionals. Clear guidelines will be essential for everyone involved in the creation and approval of artworks to ensure this is delivered effectively. Creative and implementation agencies for artworks and printers work across a number of brands and therefore having one set of rules will make the process of implementation smoother and consistent.

A single labelling framework for recyclability should be used for both EPR and DRS that clearly directs the consumer's required action. A single framework for recycling labelling would enable producers to meet their labelling obligations via a single source and clear and consistent messaging to consumers.

IOM3 would welcome additional clarity regarding how interim labelling will be managed during the transition period.

**37. Do you agree or disagree with the proposal that all producers could be required to use the same 'do not recycle' label? Q33**

- Agree
- Disagree
- Neither agree nor disagree

Clear and consistent messaging is essential. Consumer indecision due to uncertainty can lead to inaction.

**38. Do you think that the timescales proposed provide sufficient time to implement the new labelling requirements? Q34**

- Yes
- No
- Unsure

IOM3 does not believe the proposed timescale provides sufficient time to implement the new labelling requirements and is likely to lead to unnecessary cost and disruption.

As it is proposed that the Scheme Administrator will be involved in finalising the requirements for labelling, the very earliest artwork updates will be able to start will likely be mid-2023 which would give under two years to introduce correct labelling.

Artwork changes are expensive to make and require a number of activities and different skills:

- Specification and briefing of all artwork changes – brand owners (marketing & technologists)
- Artwork design and creation – creative/artwork/implementation agencies
- Artwork approval – brand owners (marketing, technologists, legal, printers)
- Print approval –agency & brand owner (marketing)
- Line trials of new artwork – brand owners (packaging technologists, Production & Quality)
- Production & Distribution – brand owners (Production, Logistics, Quality)

There is extensive change on the horizon with the EPR and DRS proposals, and the resources available with the required skills to carry out all the changes needs to be considered.

In addition, stock inventory of packaging will vary significantly depending on the product and where the packaging is produced and filled. Stock levels could range from 6 weeks for fast moving products to 18 months for products with a longer product lifecycle or that are packaged further afield.

Product stock levels should also be factored in – there will be stocks of unlabelled products in the distribution channels. Some products such as luxury cosmetics and perfumes can take up to a year to work new pack designs through the distribution channel.

In bringing in the new EPR system, it would be counter intuitive to the purpose and desired outcomes to destroy stock in order to meet the labelling requirements timelines. There may therefore need to be an allowance made by which if producers can demonstrate that the artwork has been updated but the stock with the new packaging has not made its way through to shelf by the deadline. This is not an unusual allowance for artwork changes, all best efforts should be made to achieve the deadline but measures should be in place to prevent a product from being destroyed because it doesn't comply.

### **39. Do you agree or disagree that the labelling requirement should be placed on businesses who sell unfilled packaging directly to small businesses? Q35**

- Agree
- Disagree
- Neither agree nor disagree

The labelling requirement for any product should be placed on the producer of the product, this would be the same requirement as for product ingredients.

While it may be workable for the business selling the unfilled packaging to the small business to pay the obligated costs for that packaging, they are not responsible for how the small business uses that packaging; how they combine the packaging with any other details such as branding, fastenings or labelling, or the product used. Therefore, the final responsibility for labelling should sit with the producer of the product. While this could be seen to be burdensome to the small business, if the guidelines for implementation of the labelling artwork are clear and easy to use then it should be manageable and would be a sensible step to ensure that recycling is business as usual.

The supplier could be obligated to supply the correct information to small businesses on the status of the packaging as supplied, but the small business would need to retain the obligation to apply the correct label in light of any alterations, additions or processing. If the labelling requirement is placed on businesses who sell unfilled packaging directly to small businesses, there must be an agreement or guidance on maintaining packaging and labelling integrity - that the packaging will not be altered in any way or treated such that could affect the recyclability of the packaging or obscure or remove the labels.

#### **40. Do you think it would be useful to have enhancements on labels, such as including 'in the UK' and making them digitally enabled? Q36**

- Yes
- No
- Unsure

A significant proportion of goods placed on the market in the UK are imported, and are also for sale outside the UK. At the same time, goods made in the UK are sent for export. A geographical identifier can therefore be important, but information must be kept as simple and straightforward as possible to ensure clarity of message.

Digitally enabled labelling should be encouraged but not mandatory. This would help consumers to engage more with the product/brand and provide further information. It is important that this is a supporting detail which adds more information and should not substitute or interfere with the messaging of the clear binary label allowing a quick decision and action to be made by the consumer.

#### **41. Do you agree or disagree that local authorities across the UK who do not currently collect plastic films in their collection services should adopt the collection of this material no later than end of financial year 2026/27? Q37**

- Agree
- Disagree
- Neither agree nor disagree

Local authorities across the UK who do not currently collect plastic films in their collection services should adopt the collection of this material no later than the end of financial year 2026/27, but ideally sooner and in line with collection from business premises.

There is a significant cost difference in recycling films compared to rigids as technology is currently not cost efficient and end markets unavailable. Some energy from waste plants are currently pulling out films and flexibles due to overheating of the boilers or to address carbon targets – the material is being bundled and stored but currently has no value. To enable and facilitate appropriate and cost-efficient reprocessing infrastructure and sorting to enable this material to be revalued, sufficient tonnage (and further work is required to determine what level this is) is required.

Recycling of films is critical and the material needs to be collected earlier in the system to retain value. Further thought is required, however, regarding collection and sorting systems and potential contamination of existing streams for example, the potential requirement for separate collection of paper and board and/or whether this material would present unacceptable levels of contamination of rigid plastics.

Retailer take back schemes have demonstrated the willingness of consumers to participate in the system and kerbside collection is likely to significantly increase the capture of material as a result of consumer convenience.

#### **42. Do you agree or disagree that collections of plastic films and flexibles from business premises across the UK could be achieved by end of financial year 2024/5? Q38**

- Agree
- Disagree
- Neither agree nor disagree

IOM3 believes that the staggered implementation between local authority collection services and business premises collections may lead to confusion and risk the consistent approach that ensures consumers can behave the same way with their recycling at home or at work. IOM3 advocates for a consistent system and the aligned introduction of collections by local authorities' collection services and from business premises.

Labelling and messaging will need to play an important role to ensure consumer confidence in the system.

#### **43. Do you agree or disagree that there should be an exemption from the 'do not recycle' label for biodegradable/compostable packaging that is filled and consumed (and collected and taken to composting/anaerobic digestion facilities that accept it), in closed loop situations where reuse or recycling options are unavailable? Q39**

- Agree
- Disagree
- Neither agree nor disagree

Clear and consistent messaging is key.

It is not clear in what situations there would not be any option to recycle or where packaging could not be taken away to enter the wider recycling system. In which case the 'do not recycle' label would still be as an essential requirement to prevent this material from entering the dry



recycling stream and risking contamination. Similarly, there would be few closed loop situations where there is no risk that non-compostable packaging items could be brought in and thereby contaminating the AD/compost feedstock.

IOM3 recognises an important role for biodegradable/compostable packaging in certain situations or formats and a separate and additional clearly identifiable label should be developed and used for this alongside the 'do not recycle' label.

This labelling system could then be used more widely as appropriate collection services and treatment infrastructure is put in place.

#### **44. Do you consider that any unintended consequences may arise as a result of the proposed approach to modulated fees for compostable and biodegradable plastic packaging? Q40**

- Yes
- No
- Unsure

There is a risk to research, innovation, investment and development of compostable and biodegradable plastic packaging. There are specific instances where these materials will play an important role and the higher modulated fee may be a barrier or prevent entry into using these materials and development in this area. For this to be a viable packaging material in the future, investment and innovation is required to find an appropriate end of life solution.

### **Payments for managing packaging waste: necessary costs**

#### **45. Do you agree or disagree with the proposed definition and scope of necessary costs? Q41**

- Agree
- Disagree
- Neither agree nor disagree

IOM3 agrees, in principle, with the scope of necessary costs set out, however, further definition and detail of what is included is required to be able to respond fully, including but not limited to:

- What is included within the scope of each cost set out
- Appropriate calculation frameworks and the potential requirement for limits to be set, for example on corporate overheads and caps on contract negotiations.
- Detailing how costs will be evidenced for transparency and auditing
- The consultation document sets out that costs borne by producers where packaging is managed as part of integrated waste systems should be 'reasonable and proportionate' – defining and separating the costs associated with EPR obligated packaging as part of an overall collection and sorting regime will be challenging and requires greater consideration.

Compliance monitoring and enforcement will play an essential role in ensuring a transparent, credible and successful system and to reduce the risk of free riders. While it is noted that these costs are defined separately to the definition and scope of necessary costs, there is a lack of detail regarding how monitoring will take place and the likely costs producers will face in addition to those deemed necessary in this definition.

There has been a significant increase in the cost to producers since the first consultation and still with considerable uncertainty around the figures. IOM3 notes the multiple payments producers would be required to pay in addition to the necessary costs outlined as well as the potential scope for the Scheme Administrator to use its discretion to increase costs in addition to the core full net cost recovery. Greater clarity would therefore be welcome regarding the potential additional impact.

## **Payments for managing packaging waste from households**

### **46. Do you agree or disagree that payments should be based on good practice, efficient and effective system costs and relevant peer benchmarks? Q42**

- Agree
- Disagree
- Neither agree nor disagree

IOM3 agrees with the principle of payments based on performance and stresses the need for this to be fair, consistent, and transparent.

IOM3 notes the ongoing work being undertaken by WRAP but believes there is currently insufficient detail and explanation of how the extremely complex and challenging tasks of defining 'good practice', 'efficient and effective systems' and determining relevant benchmarks taking into consideration the vast variation in structural differences including from rurality, housing number and type, levels of deprivation and locality of reprocessing infrastructure will be achieved.

IOM3 welcomes the requirement to regularly review this framework to ensure it remains fit for purpose, and to establish appropriate consultation and dispute resolution mechanisms with local authorities across the UK.

### **47. Do you agree or disagree that the per tonne payment to local authorities for packaging materials collected and sorted for recycling should be net off an average price per tonne for each material collected? Q43**

- Agree
- Disagree
- Neither agree nor disagree

### **48. Do you agree or disagree that the Scheme Administrator should have the ability to apply incentive adjustments to local authority payments to drive performance and quality in the system? Q44**

- Agree
- Disagree
- Neither agree nor disagree

**49. Do you agree or disagree that local authorities should be given reasonable time and support to move to efficient and effective systems and improve their performance before incentive adjustments to payments are applied? Q45**

- Agree
- Disagree
- Neither agree nor disagree

Further definition of 'reasonable time and support' is required

**50. Should individual local authorities be guaranteed a minimum proportion of their waste management cost regardless of performance? Q46**

- Yes
- No
- Unsure

All local authorities collect packaging waste and should be paid for that. However, this needs to be an appropriate amount to ensure the financial incentive to improve.

**51. Do you agree or disagree that there should be incentive adjustments or rewards to encourage local authorities to exceed their modelled recycling benchmarks? Q47**

- Agree
- Disagree
- Neither agree nor disagree

IOM3 agrees that there should be incentive adjustments or rewards to encourage local authorities to exceed their modelled recycling benchmarks, subject to decision by the Scheme Administrator and potentially with caps.

**52. Do you agree or disagree that unallocated payments should be used to help local authorities meet their recycling performance benchmarks, and contribute to Extended Producer Responsibility outcomes through wider investment and innovation, where it provides value for money? Q48**

- Agree
- Disagree
- Neither agree nor disagree

IOM3 disagrees with the premise that there should be unallocated payments. If the system is functioning well and 'no more, or less' than what has been deemed the necessary costs, then this

situation should not arise. However, if it does occur, unallocated payments should either be used to reduce the cost to obligated producers the following year or used to contribute to EPR outcomes through wider investment and innovation where it provides value for money as proposed, but this should not be restricted to Local Authorities and should be used wherever it is most beneficial along the supply chain. A transparent framework for 'value for money' should be determined by the Scheme Administrator.

**53. Do you agree or disagree that residual payments should be calculated using modelled costs of efficient and effective systems based on the average composition of packaging waste within the residual stream? Q49**

- Agree
- Disagree
- Neither agree nor disagree

**54. Do you agree or disagree that a disposal authority within a two-tier authority area (England only) should receive the disposal element of the residual waste payment directly? Q50**

- Agree
- Disagree
- Neither agree nor disagree

**Payments for managing packaging waste from businesses**

**55. Do you agree or disagree that there remains a strong rationale for making producers responsible for the costs of managing packaging waste produced by businesses? Q51**

- Agree
- Disagree
- Neither agree nor disagree

Packaging waste produced by businesses accounts for approximately 61% of all packaging waste placed on the market. Its effective management will be important to meet targets and achieve the intended outcomes of the scheme.

In line with the polluter pays principle, the objective to change producer behaviour to reduce packaging waste and/or make packaging more recyclable, and the importance of consistency (in this case between households and businesses) to prevent boundary decisions and reduce complexity, IOM3 agrees that there remains a strong rationale for making producers responsible for the costs of managing packaging waste produced by business.

**56. Do you agree or disagree that all commercial and industrial packaging should be in scope of the producer payment requirements except where a producer has the necessary evidence that they have paid for its management directly? Q52**

- Agree
- Disagree
- Neither agree nor disagree

Boundaries are not always distinct between commercial and industrial 'household like' and 'other' commercial and industrial packaging.

It is important that in introducing a new system, effective existing systems that are functioning well should not be disrupted.

**57. Which approach do you believe is most suited to deliver the outcomes being sought below? Q53**

- Option 1
- Option 2
- Option 3
- All could work
- Do not know enough to provide a view

IOM3 does not believe there is sufficient detail to support that any of the approaches outlined would effectively deliver the outcomes being sought in paragraph 8.84.

**58. Do you disagree strongly with any of the options listed in the previous question? Q54**

- Yes
- No
- Unsure

Both option 2 and option 3 add significant layers of complexity and bureaucracy. IOM3 also supports the overall governance model without compliance schemes, which are required in Options 2 & 3.

**59. Do you think there will be any issues with not having either Packaging Recovery Notes/Packaging Export Recovery Notes or the business payment mechanism (and as a result recycling targets) in place for a short period of time? Q55**

- Yes
- No
- Unsure

Unstable or low PRN prices as the system is ending. For high value material such as aluminium, fewer issues are likely but it could be a significant issue for plastics.

IOM3 is also concerned about the impact this may have on data collection and the calculation of recycling rates.

## **Payments for managing packaging waste: data and reporting requirements**

**60. Do you agree or disagree with the proposal to introduce a sampling regime for packaging as an amendment to the MF Regulations in England, Wales and Scotland and incorporation into new or existing regulations in Northern Ireland? Q56**

- Agree
- Disagree
- Neither agree nor disagree

Quality data and evidence is fundamental to a successful scheme. However, further consideration is required regarding the sampling frequency and associated implications including cost, space requirements, infrastructure, additional resource including staff time and skills required, and enforcement.

**61. Do you agree or disagree with the proposal to require all First Points of Consolidation to be responsible for sampling and reporting in accordance with a new packaging waste sampling and reporting regime? Q57**

- Agree
- Disagree
- Neither agree nor disagree

Quality data and sufficient granularity is fundamental to enable the system to be successful, fair and transparent. However, further consideration is required to how this will work in practice as well as be monitored and enforced to ensure the data can be captured and that it is accurate and robust. Poor quality data will undermine the system and negate the benefits anticipated by introducing this requirement. Specific attention is required in relation to smaller First Points of Consolidation including considerations of cost, space, infrastructure and resource requirements.

**62. Do you agree or disagree that the existing MF Regulations' de-minimis threshold of facilities that receive 1000 tonnes or more per annum of mixed waste material would need to be removed or changed to capture all First Points of Consolidation? Q58**

- Agree
- Disagree
- Neither agree nor disagree

**63. Do you think the following list of materials and packaging formats should form the basis for a manual sampling protocol? Q59**

- Yes
- No
- Unsure

This list covers some of the elements, but it is not clear why all the materials with recycling targets are not being separately identified (for example, wood, different metals and once introduced, films and flexibles) or regarding the approach to containers in scope of DRS.

**64. Do you think it is feasible to implement more rigorous sampling arrangements within 6-12 months of the regulations being in place? Q60**

- Yes
- No
- Unsure

IOM3 believes this is ambitious but potentially achievable for larger facilities, however, there is concern around whether this would be feasible for the smaller First Points of Consolidation. There is a range of facilities and capability, with some requiring investment for new technology, equipment and infrastructure as well as installation costs and space requirements. There is also the need for a sufficient and appropriately skilled workforce and any training needs to be met. A rushed timeline may result in improper preparation resulting in poor quality data which would undermine the system.

**65. Do you think visual detection technology should be introduced from 2025 to further enhance the sampling regime? Q61**

- Yes
- No
- Unsure

Visual detection technology in principle could play a useful role, however, as stated in the consultation document, further work is required. Questions remain around the availability and accessibility of such technology and whilst it may be appropriate or viable for some facilities, this may not be widespread with barriers including cost and space. Machine learning may also play a useful role in improving the consistency and accuracy, but success would be heavily dependent on the quality of data inputted to begin with.

**66. Do you think existing packaging proportion protocols used by reprocessors would provide a robust and proportionate system to estimate the packaging content of source segregated materials? Q62**

- Yes
- Yes, with refinement
- No
- Unsure

Further work is required to ensure protocols are sufficiently robust and up to date. Existing protocols could be used as a basis but must be developed to suit the new proposed system taking into consideration the cost and complexity and proposed increase in material quality.

**67. Do you agree or disagree that minimum output material quality standards should be set for sorted packaging materials at a material facility? Q63**

- Agree
- Disagree
- Neither agree nor disagree

Every part of the supply chain must play its role in ensuring quality. Further detail is required as to how the standards would be determined.

**68. Do you agree or disagree that material facilities that undertake sorting prior to sending the material to a reprocessor or exporter should have to meet those minimum standards in addition to just assessing and reporting against them? Q64**

- Agree
- Disagree
- Neither agree nor disagree

**69. Do you think any existing industry grades and standards could be used as minimal output material quality standards? Q65**

- Yes
- No
- Unsure

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## **Payments for managing packaging waste: reporting and payment cycles**

**70. Do you agree or disagree that local authority payments should be made quarterly, on a financial year basis? Q66**

- Agree
- Disagree
- Neither agree nor disagree

**71. Do you agree or disagree that household and business packaging waste management payments should be based on previous year's data? Q67**

- Agree
- Disagree
- Neither agree nor disagree

In the first instance, while the system beds in this is a sensible approach. However, once the scheme is up and running it may be possible to move to making payments using real time data or based on the previous quarter and these approaches should not be discounted at this stage.



## **Litter payments**

**72. Do you agree or disagree that the costs of litter management should be borne by the producers of commonly littered items based on their prevalence in the litter waste stream as determined by a composition analysis which is described in option 2? Q68**

- Agree
- Disagree
- Neither agree nor disagree

IOM3 does not believe that producers should be responsible for paying for the socially irresponsible and/or criminal act of a consumer. This goes beyond the statement that 'costs to producers should not exceed those necessary to provide packaging waste services in a cost-efficient way'. A fundamental principle of EPR is the polluter pays principle and, in this instance, the polluter would be the littering individual.

The principle of determining costs based on the prevalence of commonly littered items in the litter waste stream as determined by a composition analysis is reasonable. However, further detail is required around the frequency and standard of the compositional analysis and the definitions of 'regular' and 'commonly'.

IOM3 believes that any contribution to litter management should be focused on prevention activity, communication, contribution to infrastructure to prevent littering and supporting enforcement.

**73. In addition to local authorities, which of the following duty bodies do you agree should also receive full net cost payments for managing littered packaging? Please select all that apply. Q69**

- Other duty bodies
- Litter authorities
- Statutory undertakers
- None of the above
- Any other(s) - please specify

**74. Do you agree or disagree that producers should contribute to the costs of litter prevention and management activities on other land? Q70**

- Agree
- Disagree
- Neither agree nor disagree

This is because IOM3 does not consider this is appropriate for EPR at all.

**75. Do you agree or disagree that local authority litter payments should be linked to improved data reporting? Q71**

- Agree
- Disagree
- Neither agree nor disagree

IOM3 agrees that, if they do exist, local authority litter payments should be linked to improved data reporting – quality data and analysis is critical to ensure an effective system. Further information is required, however, regarding what data would be included. IOM3 believes that the provision of litter infrastructure, evidence of effective enforcement and litter prevention communication campaigns should be key elements for data reporting linked to payments. IOM3 notes the variation across the UK and between local authorities on data monitoring and reporting requirements as well differing approaches to litter. A clear framework, developed in consultation with the full supply chain, will be required to ensure a consistent, transparent, and fair approach to litter data collection and analysis.

**76. Do you agree or disagree that payments should be linked to standards of local cleanliness over time? Q72**

- Agree
- Disagree
- Neither agree nor disagree

Yes, if these payments exist, and as stated in response to Q75 (CD Q71) also linked to enforcement and communications. IOM3 notes the variation in measuring standards of local cleanliness and a clear framework, developed in consultation with the full supply chain, will be required to ensure a consistent, transparent, and fair approach across the UK to assessing standards of local cleanliness in relation to packaging litter and linked payments.

**Scheme administration and governance**

**77. Do you agree or disagree that the functions relating to the management of producer obligations in respect of household packaging waste and litter including the distribution of payments to local authorities are managed by a single organisation? Q73**

- Agree
- Disagree
- Neither agree nor disagree

As stated throughout this response, IOM3 strongly advocates for consistency, a level playing field and opportunities for signal attenuation to be removed. IOM3 agrees that a single organisation should be responsible for these functions to ensure effectiveness, consistency and fairness on a UK wide basis.

**78. Overall which governance and administrative option do you prefer? Q74**

- Option 1
- Option 2
- Neither Option 1 nor Option 2

As stated throughout this response, IOM3 believes in consistency and that opportunities to blunt the financial signal to packaging producers and additional layers of complexity should be avoided. As a result, IOM3 prefers governance and administrative option 1.

Option 1 provides a single point of accountability and responsibility. IOM3 believes this will enable a more consistent and transparent approach and remove boundary decisions and blurred lines such as those between household and non-household waste.

IOM3 recommends that appropriate, representative, and inclusive governance (including not only the packaging supply chain but also local authorities and green or consumer NGOs) is required and that there is a requirement for an ombudsman-type right of appeal that sits independent to the Scheme Administrator. This is important with self-declarations forming an integral part of the proposed system and should provide access to independent technical experts.

### **79. How do you think in-year cost uncertainty to producers could be managed? Q75**

- A reserve fund
- In-year adjustment to fees
- Giving individual producers flexibility to choose between options 1) and 2)
- No preference
- Need more information to decide

Reserve fund may present a sensible option particularly while the system is set up to allow for cost fluctuations but more information is required to make an informed decision.

### **80. Under Option 1, does the proposed initial contract period of 8-10 years (2023 to 2030/32) provide the necessary certainty for the Scheme Administrator to adopt a strategic approach to the management and delivery of its functions and make the investments necessary to deliver targets and outcomes? Q76**

Option 1 - Scheme Administrator delivers all functions.

- Yes
- No
- Unsure

Providing there are appropriate contract performance reviews and break clauses.

### **81. Under Option 2, does the proposed initial contract period of 8-10 years (2023 to 2030/32) provide the necessary certainty for the Scheme Administrator to adopt a strategic approach to the management and delivery of its functions and make the investments necessary to deliver targets and outcomes? Q77**

Option 2 - Scheme Administrator delivers functions related to household packaging waste and litter.

- Yes

- No
- Unsure

Providing there are appropriate contract performance reviews and break clauses.

**82. Do you agree or disagree with the timeline proposed for the appointment of the Scheme Administrator? Q78**

- Agree
- Disagree
- Neither agree nor disagree

However, IOM3 cautions that this timeline is incredibly tight and allows no time for delays at any stage of the process including the environment bill.

**83. If the Scheme Administrator is appointed in January 2023 as proposed, would it have sufficient time to mobilise in order to make payments to local authorities from October 2023? Q79**

- Yes
- No
- Unsure

It is unlikely that this will be sufficient time given the extent of the systems and process required to be in place.

**84. Do you agree or disagree with the approval criteria proposed for compliance schemes? Q80**

- Agree
- Disagree
- Neither agree nor disagree

**85. Should Government consider introducing a Compliance Scheme Code of Practice and/or a 'fit and proper person' test? Q81**

- A Compliance Scheme Code of Practice
- A 'fit and proper person' test for operators of compliance schemes
- Both
- Neither
- Unsure

IOM3 agrees that a 'fit and proper person' test for key personnel of compliance schemes is required to demonstrate they have the ability to comply with the conditions of their registration. IOM3 believes there is an argument for this to extend to the packaging technical specialist or packaging technologist, a role that provides the underpinning understanding of the complexities

of packaging, recyclability and the EPR system. The number of competent packaging persons available is currently below the demand for such persons in the commercial sector and the demand is growing as the pressure for packaging change increases. This would need to be addressed in the very short term to ensure appropriate persons and training is given to provide enough fit and proper packaging persons for both the commercial sector and the needs of the scheme administrator and the compliance schemes.

IOM3 agrees with the introduction of a Compliance Scheme Code of Practice that sets out minimum standards for compliance. An agreed common methodology would aid consistency, transparency and clarity. IOM3 notes that the Code of Practice would require some 'teeth' and be enforceable, and enforced, to prevent diluted impacts as with the current voluntary scheme.

### **86. Do you agree or disagree with the proposed reporting requirements for Option 1? Q82**

- Agree
- Disagree
- Neither agree nor disagree

Agree as a minimum, more detail required.

### **87. Do you agree or disagree with the proposed reporting requirements for Option 2? Q83**

- Agree
- Disagree
- Neither agree nor disagree

Agree as a minimum, more detail required.

## **Reprocessors and exporters**

### **88. Do you agree or disagree with the proposal that all reprocessors and exporters handling packaging waste will be required to register with a regulator? Q84**

- Agree
- Disagree
- Neither agree nor disagree

### **89. Do you agree or disagree that all reprocessors and exporters should report on the quality and quantity, of packaging waste received? Q85**

- Agree
- Disagree
- Neither agree nor disagree

**90. What challenges would there be in reporting on the quality and quantity of packaging waste received at the point of reprocessing and/or export? Q86**

This should be feasible for UK. For export, the lack of flow of data from overseas could be a challenge. Despite any challenges that may be identified, reprocessors and exporters should have the same requirement to report on the quality of packaging waste.

**91. Do you think contractual arrangements between reprocessors and material facilities or with waste collectors and carriers are a suitable means for facilitating the apportionment and flow of recycling data back through the system to support Extended Producer Responsibility payment mechanisms, incentives and targets? Q87**

- Yes
- No
- Unsure

At the current time, there does not seem to be a better solution than using contractual arrangements, though in the future digital tracking might offer a workable alternative. It will be important to ensure proper audit of these contractual arrangements.

**92. Do you agree or disagree that exporters should be required to provide evidence that exported waste has been received and processed by an overseas reprocessor? Q88**

- Agree
- Disagree
- Neither agree nor disagree

IOM3 agrees that exporters should be required to provide evidence as outlined but notes the challenges in obtaining this evidence in practice. In the future, digital tracking might play a useful role here.

**93. Do you agree or disagree that only packaging waste that has achieved end of waste status should be able to be exported and count towards the achievement of recycling targets? Q89**

- Agree
- Disagree
- Neither agree nor disagree

IOM3 does not agree that only packaging waste that has achieved end of waste status should be able to be exported and count towards recycling targets at this stage for two main reasons:

- End of waste status is extremely complicated with inconsistent approaches and commonly subject to lengthy processes (noting the UK Quality Protocols remain under review).
- Whilst advocating a transition to UK reprocessing, there simply isn't sufficient infrastructure at present to meet existing requirements. There is a concern that this could lead to less favourable end of life treatment lower down the waste hierarchy.

Therefore, IOM3 believes that with sufficient strengthening of International Waste Shipment requirements and appropriate assurances that materials have been suitably recycled or reprocessed, material that has not achieved end of waste status should be able to count towards the achievement of recycling targets until enough reprocessing infrastructure is available in the UK.

**94. Do you agree or disagree that there should be a mandatory requirement for exporters to submit fully completed Annex VII forms, contracts and other audit documentation as part of the supporting information when reporting on the export of packaging waste? Q90**

- Agree
- Disagree
- Neither agree nor disagree

Likely to become a requirement as part of wider regulatory reforms to the International Waste Shipments regime therefore early implementation for EPR seems pragmatic.

**95. Do you agree or disagree that regulators seek to undertake additional inspections of receiving sites, via 3rd party operators? Q91**

- Agree
- Disagree
- Neither agree nor disagree

It is essential that compliance and enforcement is effective, properly resourced, robust, consistent and transparent.

## **Compliance and enforcement**

**96. Do you agree or disagree with the proposed approach to regulating the packaging Extended Producer Responsibility system? Q92**

- Agree
- Disagree
- Neither agree nor disagree

It is unclear whether the Scheme Administrator will be regulated by all four regulators (and if so, will there be co-ordination) or primarily by one (and if so, which one). For the other activities, more detail is required to ensure effective, properly resourced, robust, consistent and transparent regulation.

**97. Do you have further suggestions on what environmental regulators should include in their monitoring and inspection plans that they do not at present? Q93**

Not at this time.

**98. In principle, what are your views if the regulator fees and charges were used for enforcement? Q94**

Supportive. It is essential that enforcement is effective, properly resourced, robust, consistent and transparent so that free riders and unscrupulous actors do not benefit. Using fees and charges to fund this is reasonable and of benefit to all reputable actors.

**99. Would you prefer to see an instant monetary penalty for a non-compliance, or another sanction as listed below, such as prosecution? Q95**

Penalty to suit the level and persistence of non-compliance. A combination of options is required to provide this flexibility but must be consistent and fair.

**Implementation timeline**

**100. Do you agree or disagree with the activities that the Scheme Administrator would need to undertake in order to make initial payments to local authorities in 2023 (as described above under Phase 1)? Q96**

- Agree
- Disagree
- Neither agree nor disagree

While IOM3 agrees in principle with the activities, there is insufficient detail provided and the timescale is unlikely to be achievable.

**101. Do you think a phased approach to the implementation of packaging Extended Producer Responsibility, starting in 2023 is feasible and practical? Q97**

- Yes
- No
- Unsure

IOM3 appreciates the desire for pump priming the system and starting to support local authorities to make the changes required and therefore believes a phased approach is sensible. IOM3 also acknowledges the commitment under the terms of the trade and cooperation agreement, however commencing the phased approach in 2023 is neither practical nor feasible in the time available.

The EPR and related consultations have been published over a year later than intended and whilst this may have been unavoidable, the time lost is being expected to be absorbed by the sector, significantly compacting the implementation timelines and fundamentally risking the integrity and success of the system.

Uncertainty caused by the compacted timelines is risking perverse outcomes. Changing material and/or packaging format takes time and with the required information to make informed decisions not yet available, alongside aggressive timelines, there is a risk of these decisions



being made as 'best guess' which could lead to overall worse environmental outcomes. In addition, as data systems take considerable time to set up, there is a risk that new data systems will be implemented in preparation but without knowing the requirements.

Overlapping the new system with the current system presents a significant challenge for producers to comply with both, manage supply of material (which is presenting challenges itself) and maintain customer confidence.

IOM3 believes that appropriate skills and number of packaging technologists are simply not available to achieve what is necessary in the timeline proposed.

**102. Do you prefer a phased approach to implementing Extended Producer Responsibility starting in 2023 with partial recovery of the costs of managing packaging waste from households or later implementation, which could enable full cost recovery for household packaging waste from the start? Q98**

- Phased approach starting in 2023
- Later implementation
- Unsure

IOM3 believes a phased approach to implementing Extended Producer Responsibility is sensible but the timeline of starting in 2023 as stated in response to Q101 (CD Q97) is neither practical nor feasible. IOM3 therefore supports later implementation but with earlier data requirements and framework for modulation to support beneficial choices in materials, packaging formats and related investment.

**103. Of the options presented for reporting of packaging data for 2022 which do you prefer? Q99**

- Option 1
- Option 2
- Neither

**104. Are there other datasets required to be reported by producers in order for the Scheme Administrator to determine the costs to be paid by them in 2023? Q100**

- Yes
- No
- Unsure