Who is Responsible for Recycling Packaging?

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We Americans often toss packaging in the trash without much thought. As stated previously, even though we are only 4.4 percent of the world population, we produce 20 percent of the world's garbage; much of it is packaging and printed paper (PPP). Proportionally, that's a lot.

Everyone who touches packaging has a role to play in ensuring that its value is captured and that it doesn't add to the world's pollution. But who should be first in line to take financial responsibility? Is it the producers who make it, the retailers who sell it, or the cities where all of this takes place? Or is it, perhaps, the consumers who choose to buy it?

Despite the global fragmentation of laws and waste management systems, government has a major role in changing consumer and industry behavior when it comes to wasteful packaging. We see that especially when encouraged through a mode we all understand: money—in the form of fines, penalties, and incentives. When such levers are put into place, people improve their behavior quickly and dramatically.

Businesses are subject to vast amounts of government regulation in the interest of protecting consumers and ensuring a level playing field. Among other things, laws today require that labels and packages provide more facts about the contents inside[i] and aim to preserve our health[ii] In the world of consumer packaged goods, we see this with certified-organic and organic-transitional labeling, specific ingredient bans, fair-trade sourcing conditions, and acceptable levels of certain chemicals in products and packaging.

But can you think of any laws regulating the end of life of the packaging itself? Many such laws exist around the world, especially in developed countries. In the United States, some mandatory recycling laws exist at the state and local levels, but federally there are none.

Challenges to Recycling Laws

Business brings tax revenue and jobs to cities, states, and countries, so business interests often drive government regulations. But there are regulations that businesses don't like, mainly those that cost money and reduce the ability to maximize profits. For most businesses and entrepreneurs, regulations are often viewed as financial and legal barriers to growth, and corporations see it as an obstruction to their desire to maximize return for their shareholders.

While their member companies finance recycling and resource management systems throughout the world, trade associations such as the American Institute for Packaging and the Environment and the Grocery Manufacturers Association have opposed legislation in the United States under the philosophy that packaging disposal, recycling, and litter cleanup costs should be the responsibility of government.[iii]

Thus, recycling laws get left to the states in the form of bottle bills; the banning of Styrofoam containers, plastic bags, and drinking straws; and guidelines for the disposal of e-waste, paint, and pharmaceuticals. This means the make-use-dispose linear economy pipeline currently employed around the world becomes only more and more pronounced and entrenched as time goes on. Year over year

manufacturers create new products at a fraction of the cost of their predecessors, so more people now own more and more things—things that have a shorter and shorter useful life.

Policies like bottle bills tend to get pushback from industry. Although bottle bills provide consistent, high-quality recycled material, industry often argues that such regulations are cumbersome, expensive, and a logistical nightmare. As a result, they end up not being passed; in the end governments can regulate only to the point that society is willing to bear.

Even with broad availability of recycling programs in much of the United States, the recycling rate for PPP—including traditional curbside recyclables such as aluminum, glass, plastic, paperboard, newspapers, phone books, and office paper—has been stagnant for the past decade.

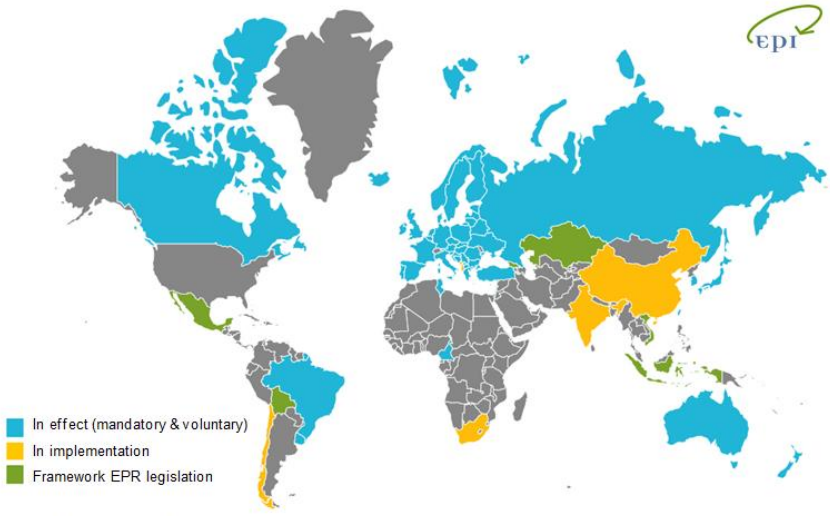
Extended Producer Responsibility

One solution may be to shift the responsibility from taxpayers and governments to packaging producers, as they have the distinct ability to choose what package forms they use for their products. With this in mind, should they be the primary responsible party to pay for the proper end-of-life management of their products and packages, even if this cost finds its way to the consumer in the end?

Extended producer responsibility (EPR) is the policy concept that extends a manufacturer's responsibility for reducing upstream product and packaging impacts to the downstream stage, when consumers are done with them. There are more than 110 EPR laws currently in place for over 13 product categories in more than 30 US states. The United States, however, is currently one of only three nations of the 35-member Organisation for Economic Co-operation and Development that does not have an EPR system specifically for packaging in place or under development.

EPR packaging laws have been in place for up to 30 years in 11 countries in Asia, South America, and Africa, as well as in Australia, 34 European nations, and five Canadian provinces. While not all EPR programs are alike, the best ones are not voluntary in nature and produce recycling rates far higher than

what we have experienced in the United States. British Columbia and Belgium, both of which have EPR packaging laws in place, have attained nearly 80 percent PPP recovery.



Source: Environmental Packaging International, 2018

Voluntary industry-led programs, while laying a foundation for collection and recycling systems, rarely lead to systemic changes that significantly increase the quantity and value of the materials collected, and they do not provide a sustainable funding source across all producers in a certain category. For instance, although voluntary initiatives to collect plastic films at retail outlets have helped reduce contamination of plastic bags in the recycling stream, many US municipalities deem this effort insufficient, resulting in a flurry of bag bans and fees seeking to significantly change consumer behavior and decrease the use of plastic shopping bags.

EPR laws that require brand owners to cover the cost of recycling post-consumer PPP provide an incentive to producers to reduce the amount of packaging they use, incorporate environmentally preferable materials into their packaging, and maximize material recovery and quality. In contrast to the fragmented municipal programs currently in place, well-designed EPR systems provide consistency by establishing statewide producer-funded programs that accept the same materials in all cities and towns and convey the same educational messaging.

Such policies also help meet the supply needs of industry. Today many brand owners that pledge to incorporate recycled content into their products often cannot procure enough recycled material to meet their needs. With strong EPR laws, producers stand to gain access to greater amounts of post-consumer recycled material. These programs also offer financial incentives that encourage manufacturers to design their packaging to be more recyclable.

EPR packaging laws are spreading globally and growing in viability partly because the recycling or disposal cost is typically paid by manufacturers and their consumers, not taxpayers and government agencies, freeing up millions of dollars for other municipal services. In addition, these programs provide a direct financial incentive for manufacturers to use materials that are less expensive to recycle, increasing their value and opportunity to be brought back into the circular economy.

EPR packaging systems are continually evolving. The most innovative are those that charge a fee to manufacturers for each packaging material type based on its cost to recycle or dispose of. One such system charges manufacturers less for producing glass than plastics, as well as less for PET and HDPE containers, compared with films, polystyrene, and other plastics that are not easily recycled. This closed-loop recycling system provides a direct financial incentive for manufacturers to choose environmentally preferable (often more highly recyclable) materials in their packaging.

To be clear, all of this extra cost does directly end up in the price of the product a consumer pays in the end. But perhaps this cost is better incurred at checkout than in negative externalities—like greenhouse gas emissions, marine debris, resource scarcity, toxicity, and food and drinking-water pollution—and continuing the burden on municipalities and taxpayers to subsidize waste.

The True Costs of Packaging

Technically, all packaging can be recycled so long as someone is willing to pay the cost; this is important to note when considering the commitments of various manufacturing companies to make their products technically recyclable by a certain date in the future. What makes a product or package *practically* recyclable is if it's economically viable to do so. As a hyperbolic example, if you want to make all of your products and packages recyclable, a simple answer is to make them from solid gold, as there would be intense competition to collect it. You may not even need garbage cans, as littered gold would be collected seconds after disposal.

In other words, making packaging out of materials with higher value (e.g., aluminum instead of plastic) will make them more likely to be collected and recycled. Inversely, if the cost to collect and recycle an item gets too high, perhaps because it is difficult to capture due to its small size (e.g., single-serve beverage pods) or made of multilayered material (e.g., flexible pouches), it becomes easier to dispose of it.

When it costs more to recycle than dispose, the extra cost to maintain recycling is shifted onto another stakeholder in the product's life. Taxpayers most often fund municipal programs in whole or in part, so the true cost of packaging ultimately falls on them (even if they never bought the product to begin with)—not the consumer who actually purchased it or the company that produced it. This is an inequitable allocation of costs since those who consume fewer products subsidize those who produce more waste. They also subsidize the industry that created the product and its packaging. Unlike in many other developed countries, in the United States manufacturers and brands are not responsible for their packaging once the consumer buys the product.

Take, for instance, the daily experience of a consumer purchasing a cup of coffee. If it is consumed inside a store, the retailer bears the cost of disposing of the associated garbage. If a person steps outside the store with the same paper coffee cup, gulps it down on the street, and dutifully places the cup in the public garbage can, the responsibility shifts to the municipality and, ultimately, the taxpayer.

Do I Want EPR for Packaging?

Most of us don't like to be told what to do, especially when it comes to how we do business or how we spend our money, even if it's projected to benefit the environment or economy in the long run. Regulations and involuntary EPR requirements as a condition of sale can seem limiting and bad for business progress and profits; but when we look at the costs of the way we package, the benefits of product stewardship—either compelled by government or taken up voluntarily—become quite interesting.

EPR laws are a mandatory type of product stewardship that includes, at a minimum, the requirement that the manufacturer's responsibility for its product extends to management of that product and its packaging when it hits the end of its life. There are two key features of this type of policy:

- Shifting financial and management responsibility, with government oversight, upstream to the manufacturer and away from the public sector
- Providing incentives to manufacturers to incorporate environmental considerations into the design of their products and packaging

The misconception about compulsory regulations of this type is that it forces companies to behave in a certain way, an idea that irks big and small businesses alike. But with EPR no one is forcing corporations to use environmentally preferable materials; instead they are incentivizing them to do so. Some countries with EPR laws charge companies less for their production of environmentally preferable materials.

For example, in the Der Grüne Punkt ("Green Dot") system used throughout Europe, the appearance of the trademark on packaging indicates that for such packaging a financial contribution has been paid to a national packaging recovery company for the cost to collect, sort, and recover the material. This system incentivizes companies to cut down on and choose economically viable materials to get the lowest fees. If a company chooses to stick to its unrecyclable design, that's fine—it just needs to pay accordingly.

In Germany packaging that is recyclable or made of recyclates or renewables gets a financial advantage by the PROs (Packaging Recovery Organisation Europe) in a 2019 update to its packaging act. Experts say that this sort of packaging law is likely to be adopted by the European Union someday.

Implementing Extended Producer Responsibility

Improving the reuse, recycling, and remanufacturing of packaging is a big job that requires a lot of research, support, and expertise. Local, state, and federal government agencies have a good deal to take care of with regard to putting plans for EPR laws into action:

- Research and analyze producer responsibility options, solutions, and implementation to inform and shape product stewardship policy
- Facilitate multi-stakeholder dialogues to drive consensus- based action plans
- Design and implement pilot take-back programs
- Draft bills, and track and analyze legislation
- Prepare and deliver testimony, and plan communications and outreach support
- Plan enforcement strategies and department budgets
- Ensure that producer programs are transparent and accountable to the public
- Ensure a level playing field for all parties in the product value chain to maintain a competitive marketplace with open access to all
- Set and enforce performance goals and standards—for supporting industry programs through procurement and for helping educate the public

Private-sector players such as industry associations, manufacturers, recyclers, and retailers have more flexibility. In general, the principles of product stewardship stipulate the following:

- Programs should cover *all products in a given category*, including those from companies no longer in business and from companies that cannot be identified.
- All producers within a particular product category *have the same requirements*, whether they choose to meet them individually or jointly with other producers.
- Producers have flexibility to design the product management system to meet the performance goals established by government, with minimum government involvement. Producer-managed systems must follow the *resource conservation hierarchy of reduce, reuse, recycle* and beneficially use, as appropriate.
- Producer programs, including their development and the fate of the products managed, provide opportunity for input from all stakeholders.

So, what can businesses do now to lay the groundwork for EPR and reap the rewards of product stewardship? Small startups and large corporations can sponsor in-store and mail-in take-back programs for the consumer packaged goods they sell. Industry coalitions and other NGOs can start small with

collection drives to send large shipments of material to organizations like TerraCycle for recycling, and then work up to something like the Carton Council of North America, which is a group of carton-based manufacturers that banded together to expand access to gable-top and aseptic carton recycling.

Who Should Institute Packaging Guidelines?

Although we are not yet at this level of true cost accounting, manufacturers in countries with systems that tie recycling cost to the fees they pay to place their packages on the market tend to make better decisions. Instead of selecting materials based only on upfront costs, they also base their selections on downstream costs of recycling or disposal.

All stakeholders—producers, governments, retailers, and consumers—have a role to play in an EPR packaging system, but the heart of EPR laws is the requirement that the producer of the packaging pay for and manage its collection and recycling.

If a company sells 1 million pounds of packaging into a country, it should pay for that amount to be collected and recycled. Those fees can be set by a nonprofit stewardship organization, approved by a government oversight agency, that works on behalf of producers to maximize operational efficiency. Typically, such organizations contract for collection and recycling services, conduct education and outreach, report to the government oversight body, and determine the fees that each company must pay to the organization.

The government's role is to provide a level playing field for all producers, set system performance goals, and approve the stewardship organization's plan for collection, recycling, education, and the fees paid into the system.

Globally, manufacturers are increasingly being held primarily responsible for reducing the impact of their post-consumer packaging waste because they control the materials used. But providing take-back programs, investing in municipal recycling, and offering return incentives means little unless there is participation by consumers.

While financial responsibility in EPR systems is best held by the producers, changing behavior requires all stakeholders—from retailers to consumers to government—to play a role. If those responsible are able to execute these initiatives and take the necessary steps toward EPR, consumers must use the collection systems provided for them by the producers, municipalities, and retailers. It takes a collective effort, ongoing communication, political will, and cultural acceptance. But the reward is meaningful and well worth the pursuit.

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[i] Federal Trade Commission, "Fair Packaging Labeling Act," https://www.ftc.gov/enforcement/rules/rulemaking-regulatory-reform-proceedings/fair-packaging-labeling-act (accessed May 9, 2018).

[ii] US Food and Drug Administration, "Guidance for Industry: Food Labeling Guide," revised January 2013, https://www.fda.gov/Food/GuidanceRegulation/GuidanceDocumentsRegulatoryInformation/LabelingNutrition/ucm2006828.htm (accessed August 1, 2018).

[iii] Matt Prindiville and Jamie Rhodes, "5 Reasons EPR Is the Answer for Plastics Recycling," Sustainable Brands, May 19, 2016, http://www.sustainablebrands.com/news_and_views/packaging/matt_prindiville/why_epr_answer_plastics_recycling (accessed May 9, 2018).