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The way forward in EPR

What role do producers and retailers of products have in ensuring they are properly managed? With many plastic items designed to be "single-use" products, producer responsibility models face unique challenges in plastics recycling. Learn how those challenges can be met and what the industry is doing in this article.

By Paul Gardner

By now, many readers of *Plastics Recycling Update* have probably heard an earful about extended producer responsibility (EPR) for packaging and printed paper (PPP). For more than a year, Recycling Reinvented and its partners, including Nestlé Waters North America, have been sharing our objectives to overhaul the current recycling system in the U.S.

Over the past year we've met with more than 100 stakeholders including consumer brands, manufacturers that use recycled material, retailers, haulers, local and state governments and environmental non-governmental organizations (NGOs). Several industry organizations such as the Grocery Manufacturers Association (GMA), have responded negatively to our calls for EPR while others are studying the issue.

Let's quickly review the basics of EPR for PPP:

1) Consumer brands would assume the costs of household and away-from-home recycling and then spread those costs among themselves according to a formula that they devise using one or more producer responsibility organizations (PRO).
2) A PRO would then pay for recycling through contracts with public, private, and nonprofit material recovery facilities (MRFs) and haulers at rates that have been calculated by the PRO.
3) Brands would then internalize the costs into the price of new products.
4) Households would no longer pay for recycling on utility bills, property tax statements, etc.

While the uniquely American-style EPR that we envision would be a business-led effort, legislation would be required to prevent free riders among brands and to set the rules of the road (and the targets) for the EPR system. Cities that do not want to participate could opt out of participation, but they would not get any funding from the brands. Best practices would be scaled up to the largest scale possible by the PRO, which would also move to standardize what materials would be collected across a state.

EPR is not a new concept and has been in place for PPP in Europe and parts of Canada for many years. But we haven't debated the idea in earnest here in the U.S., probably because no one thought it was a politically viable option. There are several trends emerging that now make EPR appealing. Having talked to dozens of companies that might foot the bill, we are now observing a growing alignment between economic and environmental objectives.

EPR can be a hedge against higher commodity pricing. Manufacturers of new products and packaging already know that they need more material. But their customers – who are the consumer brands – generally have not placed a priority on using public policy to change the situation. That is starting to change. Global demand for rigid packaging is going up, and that will continue to tighten supply available in the U.S.

EPR is a tool for meeting other corporate objectives. When I started in recycling in 1997, there were few consumer brands that had high level executives responsible for sustainability. Today, most of them have someone at the vice-president level overseeing sustainability and those brands are now tracking their carbon footprint, water use, energy use and other indicators. The results are usually announced to their shareholders, the public, and the media in corporate social responsibility (CSR) reports.

The result is that a lot of brands have made some significant improvements in environmental performance from increasing pallet density in trucks to reducing the weight of their packaging. They are looking for more recycled material because it offers measurable ways to reduce the company's environmental footprint.

EPR is a way to align supply and demand. Once their product reaches the consumer, the brands are finding that they don't have much control over what happens to the packaging. Since companies have made commitments to use more recycled content and to recover more of their end-of-life packaging, they are looking for ways to boost recycling. EPR offers a comprehensive way to achieve their goal.

In particular, EPR would give brands more control over their supply chain when it comes to recycled materials. Our current recycling model has local governments – even if they don't actually pick up and process the material – sitting on that supply chain. And, unlike the private sector, government is not designed to supply more material in response to higher commodity prices. Supply and demand then get out of alignment.

New public investment in recycling is unlikely. There are cities here and there that upgrade their recycling programs or start new ones, but we need something on a bigger scale. For years, many brands have pivoted away from making any commitments to fund recycling other than for education. It is now sinking in that there is little political will for local and state governments to invest more in recycling. Indeed, many states have diverted money set aside for recycling and used it to balance chronic public deficits. EPR offers a way not to reimburse governments for their costs but to reduce their mandates to organize and finance recycling.

Industry-led EPR could be a lot cheaper than "bad" policy. One executive I met with recently summed up the risks of avoiding EPR: "Bad policy travels." Companies spend a lot of time trying to kill legislation not because they disagree about the problem to be solved, but because they fear that the cure may be worse than the disease.

Due to minimal federal involvement in solid waste policy in recent decades, most policy changes have taken place at the state and local level. When states pass wildly different laws to address the same issue – the e-waste laws in half the states come to mind – it is a costly compliance headache for national and global brands.

Brands are finding that they need to be able to say "yes" to some policy and not just be against the latest proposal. EPR offers an opportunity for them to not only say "yes" but to guide the design of an efficient national or regional system with minimal government involvement.

I don't want to imply that all consumer brands are jumping for joy at EPR. Nestlé Waters North America has been the most visible advocate, but there has been some significant opposition from trade groups like the Grocery Manufactuers' Association.

However, as we meet privately with companies and they get over the shock of the idea of state legislation to enable EPR, heads start to nod in agreement at the trends I have just listed. The conversation during the last year with these companies has evolved from, "Why on earth would you want to do this?" to "How would this system work, how much would it cost us, and what benefit do we get?"

As companies warm up to the idea, they point to some principles that American EPR should have:

- EPR shouldn't be about funding government and fees charged to brands must be managed by a PRO. If government operates recycling assets, the PRO cannot be asked for a "blank check."
- EPR should harmonize what materials are collected through an entire state, so that the brands' recyclable packaging will actually be accepted for recycling everywhere.
- EPR should keep waste material out of retail stores and maximize use of existing recycling systems like curbside collection.
- EPR's highest priority should be about diverting the greatest amount of recyclable material from disposal in the most efficient and cost-effective way possible.
- Current financing of recycling by households using fees and line-item taxes has to go away in exchange for shifting the cost of recycling to the price of new products (e.g., no "double dipping").
- EPR legislation is necessary to make sure all applicable brands are participating in the system (e.g., no free riders) and to enable the brands to collaborate on making a more efficient recycling system.

One thoughtful lobbyist told me, "Getting these companies to agree on something is like herding cats." We have already seen areas of concern and disagreement. Most companies don't trust government to "get it right" and fear the "slippery slope" of agreeing to government action that could lead to other proposals.

Each stakeholder has a unique concern that needs to ultimately be addressed as we craft a solution. For instance, the beverage industry, which has usually been the focus of recycling legislation, would like other non-beverage brands to play a role in addressing their own packaging and paper. Manufacturers of new packaging are concerned about the quality of recycled material and they fear having brands shift the cost of EPR fees onto them. Commodity associations worry about EPR favoring some material types over others. Retailers are interesting in doing something but generally don't want waste in their stores. Integrated waste companies that have already made significant recycling investments fear any strings attached to industry funding of recycling. Smaller haulers worry about being run over by bigger companies. Governments seek help, but it is likely to come in the form of mandate relief and not additional funding. NGOs are often distrustful of corporations left to their own devices.

Recycling Reinvented seeks a carefully managed legislative solution, but the timing and details of that solution will depend on how well we align these stakeholders. Obviously we have our work cut out for us in the next few years.

I am a former state legislator from Minnesota, and our outreach director, Melissa Innes, is a former state legislator from Maine who authored the first-in-the-country product stewardship framework law. Our experiences have taught us first-hand that the political process has many obstacles. But in the end, successful policy usually means that everyone has to give up a little in order to gain something much bigger. I think we can all recognize that the cost of doing nothing is getting too high.

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