

## **Annex: Submission from Green Alliance and Defra's response**

### **Offsetting obligations**

*Q: Para 7.9 of the draft explanatory memorandum states that one of the amendments (to paragraph 23 in Schedule 1) will allow producers to "offset" some of their obligations if they collect reusable packaging from closed loop systems for recycling, but little context is provided as to how the department envisages this will work, either in the draft explanatory memorandum notes or the text of the regulation. It is conceivable that the ability to offset obligations could mean that some single use packaging is not covered by producer obligations/fees. Question for Defra: What measures will be in place to ensure that this does not transpire, and to cover the costs for handling the single use packaging that is "offset" in this way?*

Defra's response: The "offsetting" provisions will be set out separately in the main EPR for packaging regulations later this year. The producer data required to support the offsetting of "relevant packaging waste" tonnages against producer's supplied tonnages is set out already in the 2023 data reporting regulation and in this EPR data reporting regulations amending SI.

The existing 2023 packaging reporting regulations require producers to report where they have collected "relevant packaging waste" from consumers for recycling. "Relevant packaging waste" includes waste that is not collected by the majority of waste collection authorities. This amending SI widens this offset provision to "reusable packaging" that is part of operational reuse system and has become waste after having been reused.

To ensure we are maximising recycling rates and encouraging efficient and effective local authority collection systems we are not allowing producers to off-set single-use packaging that is widely recyclable through local authority collection services. Whilst at the same time encouraging producers of packaging to consider and invest in their own reuse systems.

Where producers do manage packaging that is not commonly collected for recycling, or as part of a re-use system, they will have incurred costs directly in its management.

### **Avoiding perverse environmental outcomes**

*Q: The ability to offset obligations could also create incentives for producers to recycle potentially reusable packaging before it reaches the end of its useful life, to avoid paying fees into the central system, for instance. This would be a perverse environmental outcome. Question for Defra: What measures will the department put in place to ensure that this does not happen?*

Defra's response: Through the amending SI we have added clarifying wording to ensure that the "reusable packaging" reported as part of "relevant packaging waste" tonnages needs to have been "reused" before it becomes waste.

Where producers fail to record or report this data as required or they knowingly or recklessly furnish false or misleading information to the regulators, they will be guilty of offences under the offences and penalty provisions. Regulators will compliance monitor the reporting of this data as part of their functions under these regulations and will use the data obligations on reusable packaging systems to support them in their compliance monitoring of these reporting provisions.

Government will keep these provisions under review and should it become evident that they are not having the intended effect, shall review what revisions may be necessary as part of the phased implementation of EPR.

**26 April & 4 May 2023**