



INDIA'S DRAFT UNIFORM EPR FRAMEWORK MISSES THE UNIFORMITY IT PROMISED TO BRING

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The potential benefits of Extended Producer Responsibility (EPR) for improving plastic waste management (PWM) and meeting circular economy targets have been widely documented. EPR based on the 'polluter's pay principle' places the responsibility of managing the product's life cycle from the use until the end of life on the producer¹. In India, EPR as a policy measure was first introduced briefly in the Plastic Waste Management Rules (PWM) in 2011, and then with more emphasis in PWM 2016². However, a detailed operating model was not provided. With no guidelines in place, some proactive producers, importers and brand owners (PIBOs) partnered with newly established Producer Responsibility Organizations (PROs) or with aggregators, recyclers and cement plants to push the EPR in India forward. However, the adoption has been patchy and multiple models emerged with no convergence. The recently released draft guideline document Uniform Framework for EPR³ proposes two approaches – plastic credit/ PRO model and fee-based model for smaller players. In doing so, it aims to streamline the implementation and governance models, define roles and responsibilities of stakeholders and create new institutions to serve EPR compliance. However, instead of taking a step-back to assess the learnings from experiences so far, the guidelines simply tend to institutionalize the status-quo. In particular, the draft guidelines fall short of fulfilling its purpose for three reasons – a) modalities proposed are not in line with generally accepted principles on which successful EPR systems across the world are based, b) lacks the implementation-level detailing of some critical provisions, and c) failure to layout

¹ OECD (2016), *Extended Producer Responsibility: Updated Guidance for Efficient Waste Management*, OECD Publishing, Paris, <https://doi.org/10.1787/9789264256385-en>.

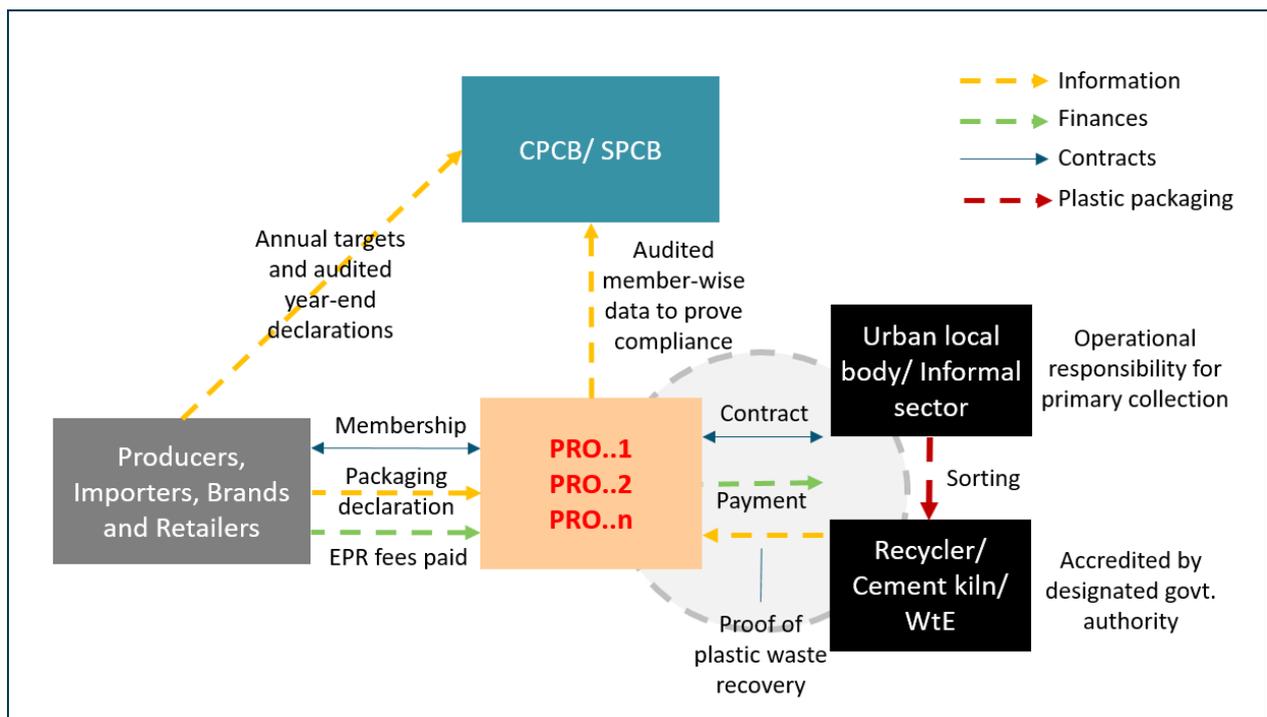
² Hemkhaus, M., Henzler, M., Hibler, S., Mehra, G., Gaurav, J. K., & Eisinger, F. (2018). *Enhancing Resource Efficiency through Extended Producer Responsibility*. New Delhi: Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH

³ Ministry of Environment, Forest and Climate Change. (2020). Uniform Framework for Extended Producer Responsibility. Delhi: MoEFCC. ([Document Link](#))

a vision on how the regulation can meet its objective of robust plastic waste management and circular economy in long run, beyond the mere compliance. In this analysis, we attempt to highlight strengths and weaknesses of the proposed draft EPR framework, and suggest recommendations to address some of the key gaps.

Empower the PRO as an institution: India has adopted a competitive PRO system (similar to Germany) instead of non-profit monopolistic PRO system (similar to Belgium or France). While the reason is understandable, it becomes crucial to envision an empowered role for PROs as vehicles of coordination across stakeholders. On the contrary, the proposed framework tends to limit their role by design. The main reason is the unfair competition between PROs and recycling and treatment companies such as recyclers, cement companies and waste-to-energy (WtE) players etc. By allowing recycling and treatment companies to directly sell 'plastic credits' as a proof of compliance to PIBOs, the draft puts PROs in competitive disadvantage. In such a scenario, recyclers and treatment companies will be able to offer a lower EPR fee to PIBOs as compared to PROs. As long as recyclers are able to secure a supply of the materials (most likely through informal sector channels such as large aggregators), there is no direct incentive for them to invest in either a robust collection and sorting infrastructure or in labor and safety norms. While this may still seem feasible for high-value plastics such as PET, the collection rate of low-value plastics may not improve significantly. As is the case in most mature EPR systems, PROs should be the only entity (as shown in Figure 1) entitled to generate non-replicable plastic credits against proof of recovery they receive from registered recyclers and treatment companies they have partnered with. Central Pollution Control Board (CPCB) or State Pollution Control Board (SPCB) can then triangulate the data that they receive from PROs and from the PIBOs at the end of the year to verify EPR compliance.

Figure 1 Schematic to show the role of PROs in the EPR implementation



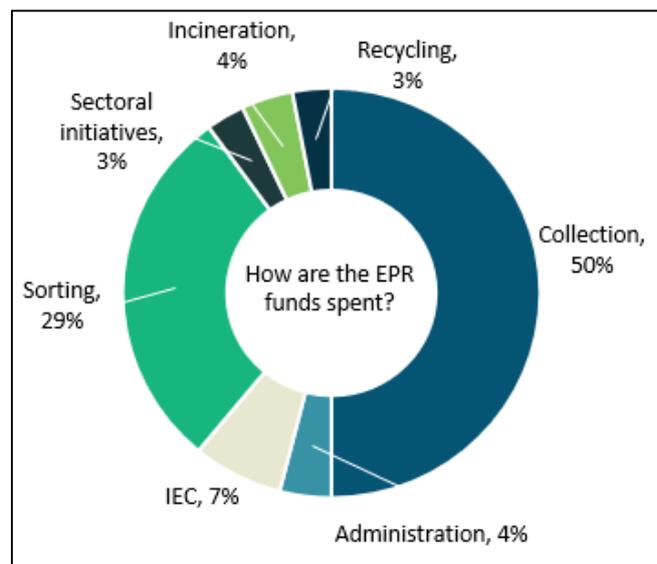
That would also enable an effective implementation of standardized traceability mechanism at a wider scale. From governance point of view, it will always be easier to make fewer PROs (after consolidation in next 5-10 years) accountable instead of 100s of recyclers. We suggest viewing and designing the role of PROs as that of a bridge between collection stage and recycling stage (most PROs in India are involved in the sorting operations anyway), wherein they act as a program management unit, but with a business model.

Demarcate between operational and financial responsibility: In the draft guidelines, there is no clear distinction between the financial and operational responsibility of PIBOs and Urban Local Bodies (ULBs). This, in implementation, would create confusion due to overlap of responsibilities or some tasks being left unattended to. It could be inferred from the draft that end-to-end financial responsibility lies

with the PIBOs. However, the operational responsibility from collection stage to sorting stage can be either fully owned by ULBs or shared between ULBs and PROs on behalf of PIBOs. According to PWM Rules 2016⁴ and Solid Waste Management (SWM) Rules 2016⁵, the primary ownership lies with the ULBs. In such a case, it becomes important to define the split between operational responsibility of ULB vis-à-vis that of PROs. That should also guide the modalities of cost sharing between PROs and ULBs for collection, sorting, transportation etc. Two potential alternatives are – a) spot procurement of materials from ULB and b) long-term supply contract with ULBs. Of these two, EPR fee is best spend on the second alternative to reduce dependence on fluctuating oil prices and create a consistent flow of high-quality materials. A streamlined interface between ULBs and PROs will go a long way in driving the economies of scale PROs intend to provide. Mechanisms should be in place to ensure that PROs collaborate even with ULBs handling relatively lower plastic waste volumes. Similarly, ULBs should provide a level playing field for interested PROs to compete in an open market, thus ensuring transparency and financial benefits for itself.

Ensure full-cost principle in EPR fee setting mechanism: The excessive competition among the providers of plastic credits and the fact that plastic credit could also be generated by recyclers and treatment companies, would drive down the prices. In such a scenario, prices of plastic credit may end-up not reflecting the true costs involved. Therefore, a fee setting mechanism based on full-cost principle becomes crucial. In a full cost system, EPR fees should cover all costs related to PWM as well as additional capital expenditure, informal sector integration, comprehensive reporting and, Information, Education and Communication (IEC). The draft guidelines must call out these requirements more explicitly, for instance, in terms of how the PROs should spend funds on awareness creation about source segregation or on data reporting and auditing. An obvious benefit of the approach

Figure 2 Expenditure split of EPR revenues in France



proposed in the guidelines is an overall low compliance cost to PIBOs. But an ideal scenario would be one where EPR fees are allocated to all critical cost heads equitably. As shown in figure 2, almost 50% of the total EPR contributions in France go towards explicit operational expenditure support to collection⁶. Therefore, a uniform EPR framework should look at laying out a broad methodology for calculation of EPR fee, which may also feed into the normative cost charged to smaller players under the corpus fund model. In getting inspired from the UK's tradeable plastic recovery notes (PRN) system, it should be carefully noted that although the EPR fee in the UK is among the lowest in EU⁷, its collection and recycling rates are also very low and credit trading system has become too complex to govern. A higher expenditure now could be used to create new infrastructure, professionalize the informal sector and support quality control processes. This will pay-off in the long run and benefit the industry by keeping the overall project costs low.

Detail the implementation of corpus fund model: Compliance by players, which put smaller quantities of plastic packaging on the market, presents a huge challenge to monitoring of EPR implementation. With approximately 30,000 plastic processing units, which are mostly operated by small players, the industry is fragmented and unorganized⁸. However, they cannot be excluded from the EPR system

⁴ Ministry of Environment, Forest and Climate Change. (2016). Plastic Waste Management Rules 2016. New Delhi: MoEFCC.

⁵ Ministry of Environment, Forest and Climate Change. (2016). Solid Waste Management Rules 2016. New Delhi: MoEFCC.

⁶ Citeo. (2019). Citeo, Accelerating the Circular Economy. Citeo

⁷ Hemkhaus, M., Henzler, M., Hibler, S., Mehra, G., Gaurav, J. K., & Eisinger, F. (2018). *Enhancing Resource Efficiency through Extended Producer Responsibility*. New Delhi: Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH

⁸ FICCI and TATA Strategic Management Group. (2017). Sustainable Infrastructure with Plastics. New Delhi: FICCI

as they collectively represent a large portion of the plastic processing market. The draft guidelines address this problem by proposing creation of a centralized corpus fund through a fee-based model in which EPR contributions from PIBOs using “less” quantity of plastic (it does not specify the cut-off quantity) would be covered. The fund is proposed to be managed and disbursed for use by a newly established Special Purpose Vehicle (SPV). However, the guidelines provide little detail and leave crucial aspects of implementation unclear. In particular, two areas require more explanation – a) methodology for fee computation: the basis of fee calculation is proposed to be based on normative cost principle and will be decided as per ‘*the efforts required and money spent by the ULB/Government to handle the plastic part of the waste*⁹. However, this calculation, if based on full-cost principle, could be higher than the prevailing rates of plastic credits. To avoid this difference, corpus fund fee should be benchmarked against the market prices of plastic credits or fees being charged by PROs periodically. b) Modalities of disbursement: ULBs will have to submit proposals through State-level Advisory Boards (SLABs) to avail the funds. However, mechanism of flow of funds from the centralized corpus to ULBs via the SLAB-route is unclear. Similarly, allowing assemblers and recyclers to be eligible for these funds is good, but unless there are clear guidelines on how, what and whom, there is ample scope for unethical practices. Besides that, there is need to incentivize ULBs to form associations, submit joint proposals and pool funds for projects such as setting-up a large material recovery facility. Having said that, it is a step in the right direction and will provide ease of compliance to smaller players.

Recommend informal sector integration requirements: The informal sector plays a crucial role in waste management in India. However, the acknowledgement has been limited and hardly any serious effort has been made towards its professionalization or formalization. To address that, the draft guidelines should propose standard approaches and detail-out tangible requirements on part of PROs, large assemblers and recyclers. Without being too prescriptive, the guidelines can draw inspiration from novel formal-informal partnership models developed by existing PROs like Saahas and NEPRA or non-profit initiative such as that by UNDP. For waste pickers and smaller aggregators, this could mean mandatory registration with the PRO, provision of personal protective equipment and workplace safety norms and other social benefits such as health insurance etc. Similarly, if large aggregators handling high-value plastics were to benefit from EPR funding, they must open themselves to full formalization which minimizes risks such as child labor, creates green jobs and adds them to the IT-enabled traceability network. All these metrics could be audited and reported in an aggregate form. Instead of being holistic in a way that redistributes value across the chain, starting from waste pickers to recyclers, the proposed guidelines seem to be biased towards recyclers, cement plants and incinerators. With the role of PROs already weakened by allowing the end-of-value chain to generate credits, the informal sector will largely be left on their own to be formalized.

Strengthen data-driven monitoring and surveillance: Germany has created an independent not-for-profit body (under the oversight of the federal environment ministry), called *Zentrale Stelle Verpackungsregister* (Central Office for Packaging Register) to handle registration of PIBOs, receiving and verification of data reports from various parties and establish the IT platform for data management. While the draft guidelines touch upon various aspects of how this IT platform could look like, it misses upon providing a holistic picture (e.g. harmonized reporting would be extremely difficult without clear split in roles of various platform users). Development of IT platform can begin only after the processes are agreed-upon, atleast at a high-level. Besides that, guidelines should also make provisions for third party auditing across the system (e.g. to verify volume flow certificates of PROs or to check the declarations submitted by the PIBOs). Like in most mature systems, additional cost of auditing and other transparency initiatives should be absorbed in the EPR fee itself. A central agency will also be in a position to monitor the progress towards overall collection and recycling rates at the national level. Besides that, industry should prepare itself for high-quality recycled polymer production (e.g. food-grade rPET) in near future. To achieve that goal, a central agency which can provide the strategic direction (e.g. by developing sorting guidelines or the technical specifications for recyclability) can play an instrumental role. Proposal of National PRO Association seems to be a step in that direction but it's not clear if it will evolve into the apex governance body. Without clear guidance, ad-hoc mechanisms are likely

⁹ Ministry of Environment, Forest and Climate Change. (2020). Uniform Framework for Extended Producer Responsibility. Delhi: MoEFCC. ([Document Link](#))

to emerge once again, thus significantly jeopardizing the regulator's ability to detect fraud and free-riding.

To summarize, we understand the on-ground implementation challenges in India and appreciate several novel elements introduced by the draft framework. However, instead of being an amalgamation of so many possibilities, uniform EPR framework should pick preferred components in the PRO/ Plastic credit model, tie them together and present a holistic solution based on generally-accepted principles of EPR. Similarly, instead of making some high-level observations, uniform EPR framework must layout the specifics in detail if it wishes to add real value. It is not to favor over-regulation but to favor the policy steer in a concerted direction. We hope policymakers, PROs, recyclers, non-profits and academia find these inputs helpful in informing their next steps.

The commentary was prepared by Anurodh Sachdeva, a German Chancellor Fellow at Ecologic Institute and Arpit Srivastava, a German Chancellor Fellow at Fraunhofer Institute of Material Flow and Logistics. Their fellowship is supported by the Alexander von Humboldt Foundation. The work was done under the guidance of Dr. Martin Hirschnitz-Garbers as a part of their fellowship project which aims to develop high-potential EPR implementation models for developing countries like India

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