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EPR is the ANSWER

Our authors argue that recycled plastic stakeholders and the environment stand to gain if consumer brands are mandated to fund systems for materials recovery. They also say shifting market conditions are leading to greater support for the strategy.

BY MATT PRINDIVILLE AND JAMIE RHODES

The debates around extended producer responsibility for packaging – an approach whereby consumer goods companies pay some or all of the costs for managing packaging materials – have been raging in the U.S. for more than six years.

During this time, UPSTREAM has organized, facilitated, and participated in multiple dialogues and forums with consumer brands, policymakers, public interest groups, local governments, packaging suppliers and waste and recycling companies. While there has been significant opposition from most affected consumer goods companies, there has also been a slow but steady groundswell of support from local and state governments, as well as an increasing openness from other business sectors, especially in the last year.

Below, we'll lay out the details on this growth of EPR acceptance in the U.S. and describe why the plastics recycling sector has good reason to get on board with the policy push.

Local governments reeling in current environment

Three principal factors are leading to the renewed attention on EPR. Recycled commodities markets have experienced a rapid downturn and general uncertainty. The changing mix of the packaging material stream has been defined by shifts away from traditional recyclable materials and toward low-value flexible plastic packaging materials. And there's been a growing recognition that local governments are seeing increased costs to respond to plastic pollution.

Those factors mean local governments are increasingly on the hook for the expanding costs of managing packaging materials, especially plastics. The current slump in recycling markets has helped draw attention to the fact that taxpayers and ratepayers bear the primary risk of any downturn in the value of collected material. When recycled commodities markets slide, additional taxpayer or ratepayer subsidization of community recycling programs is required. In the era of ongoing budget crises, the value of recycling has been increasingly called into question, and some communities have found elements of their recycling programs on the chopping block.

This goes to a core argument for EPR. Producer-funded systems tend to be better-financed and -managed overall and are therefore more resilient in down markets. In an EPR system, the risk of down or collapsed markets is on industry, not on communities.

In addition, the growing costs to manage plastics in the environment are becoming more widely understood. A 2013 report from the Natural Resources Defense Council, for example, estimated that the cost of addressing litter and plastic pollution in California's environment was nearly \$500 million each year. The price tag and logistical challenges of dealing with packaging materials – through collection, recycling, disposal, waterway and beach cleanup, street sweeping, stormwater capture, and outreach and education – are spiraling upward. For these reasons and others, local governments are beginning to look to the companies that produce packaging in the first place to pay their fair share in managing the material.

Smear campaigns against globally embraced strategy

EPR for packaging programs are the most common EPR policies in the world, outnumbering producer-funded programs for electronics, household hazardous waste or other material. More than 1 billion people worldwide live in jurisdictions where consumer goods companies pay some or all of the costs of packaging collection and recycling, according to a United Nations-backed study from 2014. With the exception of container-deposit laws, the U.S. is the only country out of 34 members of the Organization for Economic Co-operation and Development (OECD) – widely seen as representing “developed nations” – that does not have EPR for packaging programs established. Even non-OECD countries including Russia, Taiwan and several South American countries have passed and are implementing EPR programs. Close to home, the vast majority of Canada’s people live in provinces with EPR for packaging, including British Columbia, Manitoba, Ontario, Quebec and Saskatchewan.

But in the U.S., trade associations representing consumer brands have effectively blocked all attempts at moving policy forward. While their member companies finance EPR systems throughout the world, trade associations like the American Institute for Packaging and the Environment (AMERIPEN) and the Grocery Manufacturers Association, have vehemently opposed legislation here under the philosophy that packaging disposal, recycling and litter cleanup costs should be the sole responsibility of government.

To date, the chief strategy of these groups has been scare tactics. In a recently published AMERIPEN blog post, Lynn Dyer, the president of the Foodservice Packaging Institute (FPI), wrote, “What we’ve seen to date related to EPR for packaging has been directed to all packaging, not just one material or one product. EPR may be the broadest threat to packaging so far.”

The message that EPR is a “threat” to business growth is the rallying cry from trade associations to local businesses in states considering EPR policy. They work to organize state and local business associations to alert their memberships by painting EPR as another “tax” or “business regulation.”

These smear campaigns can be very

effective. Several Rhode Island packaging supply companies showed up to oppose EPR legislation during recent hearings in that state, saying the bill would put them out of business. John Kilmartin, president of Interpak, said, “If this bill passes, the next day I’m buying some airline tickets.” He was implying the company would move out of the state.

But this opposition was based on targeted misinformation. These local businesses were falsely led to believe that they would have to pay fees into the EPR program, when in reality, consumer brands and food-service companies would be the responsible parties.

Natural supporters left confused

This misinformation is especially insidious because some of the largest beneficiaries of EPR policies are packaging and material suppliers. These businesses stand to gain access to significantly greater amounts of recycled materials to meet the recycled-content standards demanded by their customers. In addition, EPR would help drive up recycling rates for their own products – a primary sustainability goal for many companies.

Facing pressure to incorporate recycled content, improve recycling metrics, and prevent litter, many of the large packaging and material supply companies want policies adopted that can help accomplish these goals. Such policies include pay-as-you-throw (in which residents pay more for larger trash carts), landfill bans on recyclable materials, financial incentives like container deposits (for glass, PET and aluminum suppliers) and EPR for packaging. Unfortunately, when the goals of packaging suppliers around recycling conflict with those of their customers (consumer brands and food-service companies), the interests of the latter group win out. For this reason, cautiously supportive packaging and material suppliers have remained on the sidelines in EPR policy debates while their customers have mounted opposition campaigns.

Conversely, the European counterparts to U.S. consumer goods trade associations are largely in favor of EPR for packaging and promoting a circular economy. Here is what the European Organization for Packaging and the Environment (EUROPEN) has to say on the issue: “EPR

for packaging in Europe has offered a much more certain future for the entire packaged goods sector. It is far less costly for consumers and society at large, and is the preferred policy tool for industry to drive recovery and recycling ... rates.”

In Europe, global companies have accepted EPR as an appropriate cost of doing business and of being responsible corporate citizens. They’re now working to use their leverage to optimize existing systems, drive performance, build in circular-economy principles and reduce costs.

But in the U.S., these companies have determined it’s better to fight to keep EPR at bay than to partner with local and state governments to develop 21st century systems for designing and managing packaging materials. This argument is predicated solely on having local taxpayers pick up the full tab, allowing multinational corporations to prevent new costs. If they can keep local governments as the sole responsible party for cleaning up packaging materials, why rock the boat?

Now let’s look at how this all affects the waste management sector. With the prospect of EPR packaging systems looming in the U.S., waste management and recycling companies have also had to evaluate what this would mean for their business models. Today in the U.S., waste management companies contract with cities and municipal governments to collect and dispose of or recycle packaging materials. Under prospective EPR systems, their business relationships would potentially change to serve consortiums of producers – or third-party organizations representing broader interests – seeking to meet statutorily obligated recycling and litter reduction targets while minimizing costs.

Negotiating vendor contracts with local governments is fundamentally different than working with private industry. The uncertainty over what this change could mean for waste haulers and recyclers has led to concerns around EPR implementation, more so than the general concept.

However, EPR creates new entrepreneurial opportunities as well as potentially helping to expand competition for hauling, sorting and processing services. In order to meet statutorily mandated recycling targets, producers will need to recycle high quantities of quality materials, necessitating increased investment and demands for recycling infrastructure. Such improvements could materialize as cart

procurement, away-from-home collection, multi-family services, MRF construction and more, all of which would benefit waste and recycling companies.

The recent implementation of the EPR for packaging program in British Columbia provides a useful case study. The requirements on producers to meet recycling targets created opportunities for waste and recycling companies to innovate and meet the needs for expanded infrastructure and services. This led to three Canadian companies coming together to form Green by Nature, which won a major contract and is significantly growing operations to meet the increased demand.

Some brands start to show shifts

In spite of organized trade association opposition, there have been signs of a change from some consumer brands in the ways they view the general concept of EPR. Corporate America finally showed some movement in 2014 with the announcement of voluntary product stewardship efforts like the Closed Loop Fund and The Recycling Partnership. Major brands and packaging suppliers are now putting millions of dollars into both initiatives, which provide loans, grants, and technical assistance to local governments to help bolster recycling.

While these are important developments and demonstrate that legislative pressure is paying off, the funding provided by these voluntary programs is a drop in the bucket compared with what is really needed to boost recycling in the U.S. For example, the Closed Loop Fund aims to raise \$100 million from companies to loan to local governments to boost recycling but continue public responsibility for managing packaging materials. However, a 2014 UPSTREAM analysis showed that New York City taxpayers alone pay \$600 million each year to manage packaging and printed paper.

Nestle Waters has been one of the few strong supporters of EPR for packaging on the consumer-goods side. Few additional brands have stepped forward in significant ways, but in the last six months, public

statements from both Coca-Cola and Unilever have implied support for the concept in theory. So far, neither company

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has been willing to work proactively on legislation introduced in various U.S. states over the last several years.

Though consumer-goods giants are resistant to pay for managing the materials they put on the market, they should also understand EPR systems do offer them long-term return on investment. Despite down markets creating low prices for virgin materials, big brands have showed their commitment to recycled content in packaging has been resilient, driven in part by the ongoing sustainability pledges from consumer brands. That means those brand owners and their packaging vendors still have a vested interest in the supply chain of recycled materials. Being more vested in how well the supply system functions is good motivation for companies to be more open to EPR.

Similarly, for the materials currently on the fringe of recyclability – such as food-service packaging, K-Cups and other items – it will be a long slog to establish that recyclability if companies and their trade associations have to slowly and painfully solve issues in a disaggregated system. EPR can rapidly transform this problem and create the funding, standards and economies

of scale necessary to collect, recycle and market previously “unrecyclable” materials.

Breaking through the impasse

EPR has the potential to deliver a great deal to the U.S. – including lower costs for local government, significantly increased recycling rates and supply of recycled materials, more recyclability for a wider array of products, funding for plastic pollution prevention and mitigation, and more opportunities for system optimization. In order to break through current barriers, local governments will need to band together with statewide environmental organizations and supportive businesses to create a political movement that can move EPR forward.

Leaders will need to organize across sectors to develop legislation that meets their needs while also creating a strong political force in statehouses across the country. In addition, supporters will need to get in front of local business associations and make the case directly that EPR initiatives not only help boost recycling and prevent litter – they also provide services and benefits to businesses. With a strong local backing for EPR policy, “fence sitter” consumer brands and packaging suppliers may step forward to ensure their interests are included in any impending policy developments.

In the end, making EPR for packaging work in the U.S. requires development of a shared understanding of the system benefits for key stakeholders, balancing multiple interests in the governing legislation and implementation process, and building the political will to move the concept forward. **PRU**

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