

26 August 2013

Mr Roger Harrington
Assistant Principal Officer
Department of Environment, Community and Local Government
Custom House
Dublin 1

Producer Responsibility Initiative – Corporate Governance Report

Dear Roger,

My sector association colleagues and I would like to thank you for the opportunity to comment on this consultation. In framing our response we have discussed the report's recommendations with members of IBEC's Environment Policy Committee and also with key staff in those PRI schemes that have a significant overlap with IBEC in terms of corporate membership.

Voluntary compliance schemes appear to have had different degrees of success in discharging their members' legal obligations to recover and recycle waste streams. Packaging and WEEE schemes, for example, have generally exceeded targets to date, although in doing so they have experienced widely differing levels of customer satisfaction, some of which relates to transparency and corporate governance. Indeed, many of our members believe that there is considerable scope for improving aspects of the governance framework in certain of these schemes.

However, we feel that the Governance Report Annex could have provided rather more detail about the specific problems that DECLG is seeking to address. We are really struggling to understand the reasoning that led to the conclusion that a mandatory SLA-based approach (rather than an improved licensing regime) would be a proportionate regulatory response to whatever problems have been identified. Perhaps these issues are addressed more fully in the main body of the PRI report that has been submitted to Minister Hogan. If so, we would welcome early publication of the relevant sections, which could be redacted where necessary to preserve anonymity.

Service level agreements may well have a role to play in improving the effectiveness of PRI schemes in Ireland, but only where firms are voluntarily contracting (and paying) for a defined service. Such relationships exist between the schemes and their corporate members, and between the schemes and their sub-contractors. No such relationship exists between the schemes and their economic regulator. For the avoidance of doubt, IBEC is unaware of any SLA-based regulatory model currently being operated, or even being considered, anywhere else in the world. This is hardly surprising; as outlined in our presentation to you dated 31 July 2013, there are several good reasons why it would be inappropriate and potentially open to legal challenge.

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IBEC believes that the Department's legitimate concerns about ensuring compliance with future waste recovery and recycling targets can be addressed more easily - and far more effectively - through a revamp of the existing licensing regime. IBEC members who also belong to one or more PRI schemes would appear to have no objection in principle to such a revamp, and we would encourage the Department to reconsider this aspect of the report.

IBEC would also be supportive of setting common governance principles applicable to all the schemes, although the rules applying to each individual scheme would need to be sufficiently flexible to take due account of the relevant supply chain characteristics and legal ownership structures. Accordingly, we would suggest that the Governance Report's other key recommendations, especially regarding the composition and election of Boards of Directors, could be debated at an early meeting of the Department's National Waste Forum. If held promptly, this need not delay any Ministerial decisions, and it could pay dividends in terms of finding more workable arrangements. Moreover, the Forum could also provide an opportunity for the Department to outline the remaining steps in the wider PRI study.

Yours sincerely,

Neil Walker

Head of Energy and Environment Policy

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