

**Extended Producer Responsibility (EPR) Case study
summary for the OECD Working Party on Resource
Productivity and Waste**

COLOMBIA

From "EPR schemes including for WEEE in Colombia"
By the Colombian Ministry of Environment and Sustainable Development

EPR Case Study Summary
The case of EPR schemes including for WEEE in Colombia
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SUMMARY BOX	
Cost allocation	No information (ANLA does not hold data on costs and the regulations do not determine the financing mechanisms). However, producers must give assurances that they finance the schemes through their own contributions
Cost coverage	No information (ANLA does not hold data on costs and the regulations do not determine the financing mechanisms)
Role of government	The Ministry of Environment approves producers' schemes. ANLA assesses and oversees the functioning of the schemes.
Environmental performance	For computers for example, individual schemes have a 100% compliance rate for the collection target (% of target weight). Collective schemes on the other hand have only reach 32,41% of the target. Schemes for batteries and light bulbs have higher compliance rates.
DfE incentive	None
Cost efficiency	No information

1. Description of EPR set-up

a) *Legal context*

In Colombia, specific resolutions regulate separate waste collection schemes under the EPR principle, including four resolutions focusing on WEEE streams (i.e. batteries, used tyres, bulbs and computers) that were issued in 2010 and implemented from 2011. The Act 1672 of 2013, which is still under development by the state government, will establish policy guidelines on the environmentally responsible management of WEEE in Colombia. The upcoming implementation of the Act may require some adaptation of the obligations and processes stipulated in the resolutions.

b) *Allocation of responsibilities (distribution of roles, financial flows)*

Producers are financially and organizationally responsible for the proper management of covered products during collection, transport, storage, processing, reuse, recovery and/or final disposal. They assume the costs of separate collection and environmentally responsible management of waste. They are also in charge of designing and paying for any public information campaigns needed to raise awareness of the scheme. Producers have to design and submit waste management and separate collection schemes for approval by the Ministry of Environment, Housing and Regional Development. Producers can fulfil their obligations individually or as a group under a collective scheme, either through an agreement between producers (most frequent) or through the establishment of a legal entity (i.e. a PRO). Suppliers and retailers support producers in the running of the schemes by allowing consumers to return used products at no cost and providing a space for containers or receptacle provided by producers. Waste management companies that participate in the schemes must require an environmental licence issued by the regional environmental authorities. Consumers have to separate covered products from municipal solid waste and are required to return or deposit covered products to collection points². Municipalities inform consumers

¹ The development of this case study received the support of Christoph Vanderstricht and his colleagues at Ernst&Young.

² Remark: no provisions for advanced disposal or recycling fees or similar financial instruments are currently included in the resolutions.

on their duties, and support the community education and awareness raising programmes run by producers. The overall assessment and oversight of the Schemes is under the responsibility of the National Environmental Licensing Authority (ANLA), a special public entity with administrative and financial autonomy.

c) Governance system and sanctions

ANLA performs initial assessment and annual follow-ups regarding producers' obligations set in separate collection schemes. Sanctions in case of non-compliance are set forth in Act 1333 of 2009, which identifies two types of environmental infractions: (i) breaches of prevailing environmental legislation; and (ii) damages to the environment. A breach is any case of non-compliance with the obligations imposed on producers, retailers and distributors of covered products, and any acts by consumers (both households and professionals) that do not result in post-consumer waste being deposited at collection points. For minor infractions, the sanctions stipulated in Act 1259 of 2008 on community work and environmental penalties provided for in Act 1333 of 2009 may be imposed. For more serious infringements, preventive measures³, daily fines up to 5,000 minimum statutory monthly salary payments or temporary closure of an establishment may be imposed.

2. Environmental effectiveness

a) Collection and recycling rates

The resolutions include two kinds of collection targets: year-on-year increases, and a medium-term target that must be reached and maintained. For example, in the case of batteries, the year-on-year increase is of 4% until 2016 and 5% from 2017, and the final value to be maintained is of 45%. Collection rates are generally calculated as a percentage of average product sales in previous years. While collection rates are improving effectively (see table 1), the possibilities for recovering the components of post-consumer waste remain limited. Indeed, a large number of waste management companies do not currently have sufficient capability to recover the components from post-consumer waste.

Table 1: Post-consumer waste collection, 2012

Type of scheme	Waste	2012 collection target (tonnes)	Waste collected, 2012 (tonnes)	Compliance rate (% of target weight)	Compliance rate (% of schemes hitting targets)
Individual	Batteries	23.4	22.50	96.15	*
	Bulbs	Not disclosed	Not disclosed	*	*
	Computers	0.693	3.0	100	*
Collective	Batteries	135.08	101.4	75.06	66,6
	Bulbs	243.73	253.014	100	100
	Computers	463.4	150.2	32.41	*
Total, general		866.40	530.12	61.18	*

No targets are set for recycling rates. In the specific case of the resolution on the treatment of used computers and peripherals however, a preparation for reuse objective is included that is set permanently at 30% of the total collected year on year. In addition, the requirement in the resolutions on used bulbs and batteries can be interpreted as a 100% reuse from 2016, since it requires that as from January 2016 it

³ Act 1333 of 2008 indicates that "Preventive measures are immediately executed, are pre-emptive and temporary, take immediate effect, cannot be appealed against, and are applied without prejudice to the fines imposed.

would only be possible to manage waste through reuse and recovery activities designed to recycle the used products.

b) Design-for-Environment (DfE)

Colombia does not currently use any measurements or estimates of the Separate Collection Schemes' impact on prevention or minimisation of waste, or on design including environmental improvements. However, certain regulations in Colombia provide that the government must encourage producers to increase product quality and environmental friendliness but the instruments needed to fulfil these obligations still need to be put in place.

3. Economic efficiency (including competition aspects)

a) Cost efficiency

The Ministry does not regulate financial aspects relating to the collection and use of funds raised by individual or collective schemes. However, producers must give assurances that they finance the schemes through their own contributions. The administrative costs incurred by ANLA for implementing the regulations include the assessment and inspection fees paid to external contractors and the costs for performing overhead and legal functions.

b) Leakages and free riders

The first version of the resolutions included a provision requiring importers of covered products to request prior approval from the Ministry of Environment in order to control the issue of free-riders and compliance with EPR requirements. However, this obligation was removed at the request of the Ministry of Trade, Industry and Tourism based on the argument that the Ministry of Environment was not authorized to obtain prior approval for imports. Currently, ANLA uses information from an international trade database (BACEX) in order to identify producers and importers that have to comply with obligations laid down in the EPR resolutions. In order to reinforce monitoring and enforcement of compliance with EPR measures, the Ministry of Trade is required under Act 1672 of 2013 to establish a national register of permanent and occasional producers and retailers. However, ANLA does not have an overview of products put on the market other than imports, and cannot currently verify product declarations. This is expected to be resolved through the establishment of a National Register of Equipment Producers and Retailers foreseen in Act 1672.

c) Trade and competition

Tendering procedures and discrimination concerns are not regulated by the Ministry of Environment. However, transparency requirements and approval of the schemes by ANLA are expected to reduce those concerns.

Over the last five years, the increasing demand for waste management services in Colombia has led a large number of hazardous waste management companies to enter the market and obtain environmental licences. There are currently more than a hundred authorised management companies. An issue with these waste management companies is that certain (especially those working with WEEE that can be more easily reused and recovered) use their own transportation and collection system without partnering with producers under a regulated EPR scheme. Even though these companies may comply with environmental requirements, this undermines the sustainability of EPR schemes and their funding. It also encourages the business of “waste auction”, whereby waste management companies auction off the waste collected by them to separate collection schemes that need the waste to meet their collection targets.

4. Key issues and possible reforms

Compliance

EPR needs to be enforced on producers that have not presented schemes, including where possible through monitoring and enforcement actions prior to import or production and measures aimed at raising awareness and prioritising compliant producers in public or private procurement processes. No significant progress has been achieved in imposing sanctions for breaching obligations, especially for producers who have not submitted a separate collection scheme for approval by ANLA. This situation undermines fair competition for companies in the regulated sector and encourages non-compliance. Act 1672 is intended to provide the means through which informal channels can begin actively participating in the schemes' collection mechanisms in an organized manner.

Informal sector

As explained above, an issue for the sustainability of EPR schemes in Colombia is that certain waste management companies that comply with environmental requirements do not participate in the regulated EPR schemes. Therefore, work is under way to develop the technical means to designate waste management companies that participate in schemes as preferred suppliers or give them higher scores in tender processes (or even to establish EPR participation as required criteria into green public procurement).