

20 years of EPR in France: achievements, lessons learned and challenges ahead

This note was drafted in preparation of the OECD “Global Forum on Environment: Promoting Sustainable Materials Management through Extended Producer Responsibility (EPR)”, Tokyo, Japan, 17-19 June 2014. It does not intend to give a full description of French EPR schemes, but rather aims to highlight a number of key design elements for EPR schemes, specific features worth considering, as well as attention points, drawing on the French experience to date.

For further information on EPR schemes in France, you can download the extensive reference document “Extended producer responsibility chains in France” from the ADEME website. For more detailed descriptions of some of the French EPR schemes, please refer to the case studies set up by the European Commission.

1. **Overview of French EPR schemes**

- 14 schemes, covering a significant part of household waste

For the first time in 1992, French authorities decided to apply the EPR model to tackle household packaging waste. This was the first large-scale EPR scheme to be designed in France. Twenty years later, it remains the largest French scheme, channeling over 600M€ yearly towards packaging waste management.

Since then, many more schemes (14 in total) have become operational, mainly in the 2000s. Some of them stem from EU directives – sometimes EPR is directly required by the directives (WEEE, batteries, ELV), and sometimes France decided to set up EPR schemes where EU directives did not explicitly ask for it (e.g. packaging). There is also a variety of purely domestic schemes – including tyres, graphic papers, and textiles. The latest generation of schemes (furniture, infectious healthcare, dispersed hazardous waste) is just starting operations. While most schemes focus on household waste, some also deal with professional waste (e.g. WEEE, furniture).



14 EPR schemes are currently operational in France

Box 1 – a recent, innovative EPR scheme for furniture waste

The furniture scheme is one of the latest-born (2012) of French EPR schemes. Covering both household and professional furniture waste, it is intended to generate over 300M€ a year to help develop furniture reuse and recycling, and help create jobs and structure industrial activities around furniture waste management – leading to the creation of many new companies, including in relation to mattress and wood recycling, which were not profitable enough to generate sustainable activities before the scheme. The scheme also strongly promotes furniture reuse, closely involving social economy structures in its organization model.

- Producers must organise or finance waste management operations

All schemes are based on making marketers responsible to manage the end-of-life of their products. Marketers can decide to manage waste in an individual way (which can be an appropriate solution for very vertical distribution systems with robust reverse logistics), but most producers decide to go for collective organisations – these **collective PROs, called “éco-organismes”**, are always not-for-profit entities, and can be organized in two general models:

- In **‘organisational’ schemes** (e.g. WEEE), PROs are directly in charge of organizing waste management operations. To do so, they collect fees from producers and use the gathered finance to contract with waste management operators.



- In **‘financial’ schemes** (e.g. packaging, graphic papers), PROs are not directly in charge of waste management operations. They use fees collected from producers to support municipalities, who remain in charge of waste management.



- Open choice between one or several PROs, but typically producers choose a single one

French legislation leaves the door open for producers to establish as many collective PROs as they want, or to go for the individual option. We find in practice that in most schemes, producers de facto decide to act collectively in a single collective PRO, and that individual compliance schemes are an exception. In only 3 schemes, we find a plurality of PROs working on the same perimeter – WEEE (3 PROs), batteries and accumulators (2 PROs), tyres (2 PROs).

This allows for some comparison between the two models. The 'single PRO' model is often easier to operate for public authorities and easier to understand for all stakeholders, with a more straightforward policy line, as there is only one interlocutor to discuss with on the PRO side. On the other hand, the 'monopolistic' situation means that questioning the orientations taken by the PRO can be more difficult. In the 'multiple PRO' model, the organisation is more complex (especially, we needed to set up a 'coordinating entity' for the WEEE scheme to organise studies of common interest to all 3 PROs, and to secure the distribution of municipalities between the PROs in order to avoid multiple contracts for local authorities), and competition between the schemes, while it can have

some positive effects by avoiding the abovementioned 'monopolistic' risk, can also mean that PROs will be tempted to reduce their fees, at the expense of environmental quality.

Overall, while some stakeholders clearly claim that only one collective PRO should be allowed per scheme, we find that this ability to organise themselves freely is an important element of the responsibility of the producers and should remain as such.

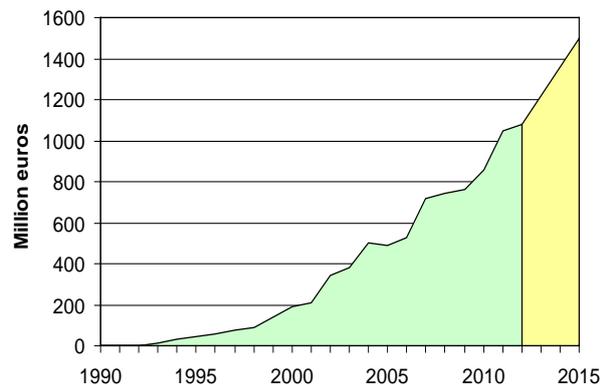
- An inclusive governance model

All schemes feature an **inclusive governance model associating all stakeholders** – producers, municipalities, waste management operators, environmental NGOs, consumer organizations, public authorities. All have a chance to participate in decision-making on the design and ambition of the scheme.

PROs need to be 'approved' by public authorities every 6 years. All schemes are based on a 6-year cycle, with an in-depth stakeholder consultation process during the last year of the approval period, to draft updated '**terms of reference**' for the upcoming period, including performance objectives as well as financial and operational modalities. PROs commit to abide by these 'terms of reference' and ask for an official approval, which can also lead to specific negotiations with stakeholders – once approved, however, PROs enjoy a good level of flexibility as regards how they will organize day-to-day operations, as long as they do not stray away from the objectives specified in the 'terms of reference'.

- Significant financial flows mobilized

All schemes are expected to generate a total of around 1.4bn€/yr by 2015, of which around 700M€ will be redistributed to municipalities. This accounts for a significant part of the total costs of national household waste management (9.4bn€/yr).



2. Focus on specific design features and attention points

In general, French stakeholders acclaim the EPR model as positive and consider it helped structure large-scale industrial waste management activities, and deliver good performance in terms of collection and recycling in many areas. Over the years, management of the schemes has grown more mature, we have learned a number of lessons and experienced a variety of significant design features, some of which are detailed below, alongside with the identified areas for possible progress.

- Producers in the driving seat... but under scrutiny

One significant element that is at the very root of the EPR system is the fact that producers must be made responsible for waste management activities – but in a context where many other stakeholders also play a role at all stages of the waste management process (consumers, municipalities, waste treatment operators...). This raises the question of **how to strike the right balance between making producers responsible and associating other stakeholders.**

Over the years, the French answer has been to consistently put producers in the driving seat – this means that not only are they responsible for paying for waste management activities, but also **producers need to set up PROs themselves and organize the governance of these PROs**. Thus, PROs cannot be seen as 'service providers' for producers – it would be more correct to say that they 'embody' the producers' community. In this context, producers are responsible for all the operational decisions taken regarding the way the scheme is run.

In parallel, **public authorities need to be able to pilot the system**, by giving clear orientations at critical moments in the life of the scheme, and other stakeholders need to be associated to the governance of the whole scheme, in order to remain informed, and to actively provide their guidance and input on the way the scheme is handled. This collective governance is seen as a critical element of success, and all stakeholders consider that the dialogue created and sustained through the scheme per se has a tremendous influence on its overall performance.

Nevertheless, we strive to ensure that **while all stakeholders must participate in defining general orientations, especially in intense periods of (re-)approval of the schemes, they must not end up micro-managing PROs**. For instance, defining quantified recycling objectives, or obligations that must be met by the PRO (e.g. ensuring that a percentage of the furniture waste can be set aside for social economy in order to enable its reuse) is part of the negotiated 'terms of reference'; but the way these objectives will be met should be left to the discretion of the PRO, who should inform all stakeholders of how it intends to do it, and be open to discussion, but have the final word, as long as it allows the objectives to be met.

The same goes for public authorities who need to keep their distance in a '**command and control**' manner – their role is to ensure that ambitious yet realistic objectives are assigned to PROs, that appropriate indicators are in place (typically separate collection rate, recycling rate, sometimes reuse rate), and to follow and take sanctions when necessary.

- Performance requires stability and some degree of harmonisation

With 4 recently-created schemes (2009) still in the process of starting operations, most stakeholders consider that the priority is not to create additional schemes, but rather to **focus on existing schemes to improve their performance and/or address critical design issues**.

With 15 schemes running in parallel, **harmonization** is also an important task – reproducing good practice from one scheme to the next, finding common solutions is an essential element of credibility for all schemes, as well as for the public authorities managing them.

For instance, recently addressed cross-cutting questions include:

- addressing potential **free-riders** by proposing and implementing appropriate control operations – a harmonized approach across schemes allows for wider communication and awareness raising;
- developing a **credible system to control PROs** themselves – for a long time, 'un-approving' was the only possibility for public authorities facing a 'rogue' PRO, but this proved an empty threat as it meant risking to put down the whole waste management system. We put in place a more progressive, and therefore more credible, toolbox of warnings and sanctions across all schemes. For instance, such sanctions include the possibility of progressive fines for PROs that would not abide by some of the provisions contained in their 'terms of reference'. Such 'yellow cards' could be a useful solution to show that there is a problem and that public authorities can react;
- **organizing relationships between stakeholders** – for instance, we developed guidelines and safeguards to ensure that sound competition rules are respected between

PROs (often 'single buyer' by construction in the waste management market) and their waste management operator clients;

Box 2 – the 'Triman' (or 'sorting-man') marking for recyclable products, an example of cross-cutting measure



In order to improve sorting performance, French law requires that a common marking be set up, applicable to all recyclable products covered by an EPR scheme, indicating to consumers that said product needs to be sorted. To that end, the 'Triman' logo (see left) should be generalized by 2015.

The benefit of a trans-scheme approach is that it makes it possible to communicate more widely to a large audience based on one marking than on a variety of markings for each type of product. A single marking applying to various types of product can also help consumers to see that there is a consistent public policy in the field of recycling, applying across product types.

A balance needs to be struck, however, between the request for a common marking system and the need to avoid disproportionate costs for marketers – this led, for instance, to the idea that the 'crossed-out bin' symbol already present on EEE and batteries was sufficient to guide consumers and avoid their disposing of WEEE or batteries waste as part of residual waste.

- **tackling new challenges including internet sales** – where some producers can avoid national regulations through fully dematerialized business models. Dialogue is underway with representatives of online-selling producers, although it remains clear that such models will continue to create difficulties in the future and could benefit from international cooperation;
- etc.
- EPR schemes as a driver for 'circular economy'

In times of economic downturn, mobilizing political momentum around environmental issues can be a challenge. However, recent high-level stakeholder consultations ('Environmental Conference', September 2013) highlighted the **broad enthusiasm across French stakeholders to develop new production and consumption models focusing on the concept of 'circular economy'** – moving away from a 'linear' model of extraction, consumption and dumping.

EPR schemes have an important part to play in developing such 'circular' models. They allow for an **inclusive approach covering all stages of a product's lifecycle**, from its (eco-)design to its multiple phases of reuse and recycling.

They also provide a **very attractive political narrative** by actively linking environmental ambitions and benefits to enhanced economic and social conditions – feeding a virtuous circle of job creation with environmental benefits.

Box 3 – creating jobs through WEEE recycling

In France, over 5 years, WEEE recycling activities have created at least 30 new plants and more than 3,000 jobs (of which over 1,500 qualify as 'social economy' jobs) directly related to the sorting, depollution and recovery of metals and plastics from WEEE. The biggest of these plants employs 180 people, ensuring treatment of about 50,000 tons of WEEE per year, including fine-sorting of plastics.

Indeed, among the economic advantages of EPR schemes we have experienced, the pre-financing of recycling activities that could otherwise not be self-sufficient stands out. We have found that EPR schemes **channel steady financial flows to make recycling chains more financially sustainable** and

less dependent upon the great variability of commodity prices. With contracts between PROs and operators established for periods of 3 to 6 years, operators are fully in position to invest in the required infrastructures. This visibility and the continuous, sustained financial flow associated with the EPR scheme creates the right conditions for investors to kickstart recycling activities that will eventually become self-sustained.

- Setting the right conditions for sound competition

The obligation imposed on producers through the EPR model, and the fact that most schemes are organised using a nearly 'monopolistic' model, entails a specific need for attention to avoid single PROs 'crushing' the market of service providers downstream. Since 1994, the French Competition Authority has investigated several cases in this respect, which helped to introduce best practices:

- For instance, PROs are now required to organise tenders in a way that is very similar to the procedure of public tender.
- A PRO cannot set rules on the allocation of recovered materials that would harm competition and innovation in the downstream product market or close downstream recycling markets to new competitors. They need to perform regular tenders with sufficiently small allocation of markets to that end.
- If PROs want to sell some tools or products based on their know-how, they can do so but have to make the information public and to create a specific subsidiary body to sell their consultancy services or software.

- Using social economy to catalyse waste management operations

Several French EPR schemes have historically involved stakeholders from social economy networks, including charities or social economy companies. This was very much the case in the textiles scheme, but also prominent in WEEE or furniture schemes, especially for repairing and reuse activities.

While social economy cannot be involved at all stages of all schemes, **French regulations will soon require negotiations within each EPR scheme to address to what extent social economy can be involved in their operations** and to decide facilitative measures to that end.

While such measures are applauded by social economy-related NGOs and companies, they raise concerns among more 'classic' waste operators, who do not want to see the market 'reserved' to a certain type of competitors. This raises the question of the extent to which EPR schemes should contribute to social economy models – while it can be interesting to develop local, low-qualified workforce through EPR systems, a balance needs to be struck with the need to keep costs low, and to ensure that truly professional recycling activities can develop overtime.

- Exploring possible ways to promote a full lifecycle approach (prevention, eco-design)

The principle of EPR schemes is to ensure that producers are made responsible for the end-of-life of their products. The intention is to drive producers towards internalizing end-of-life costs in their business models, as well as moving towards a **full lifecycle perspective** on their products. In particular, robust eco-design at the very beginning of the cycle can be identified as an efficient way of avoiding significant costs when the product is eventually discarded.

To implement this 'full lifecycle' approach in practice, we have proposed a number of concrete tools:

- **all PROs need to promote prevention actions and eco-design among producers**
 - some schemes even define quantified prevention targets, e.g. an objective to reduce packaging volumes by 100,000 tonnes over 5 years for the packaging scheme – an objective that has now been met, as the packaging PRO needed to get mobilised and to mobilise its producers in order to justify that new and additional actions had been taken to deviate waste production from BAU up to these 100,000 tonnes, which led to calls for actions and progress in eco-design among the producers community.
- **all EPR schemes must define ‘differentiated fees’ rewarding pioneers** (producers abiding by eco-design criteria will pay a lesser fee) **or punishing laggards** (greater fees for e.g. products disturbing sorting processes). Stakeholders generally find these ‘differentiated fees’ attractive, especially as they help create dialogue between producers and waste management operators. Some also point out that such criteria would be more efficient if developed at a European, or greater, scale. In theory, the additional amount should faithfully reflect the extra end-of-life cost associated with the difference in design (e.g. an extra cost if the product will be more costly to recycle), in order to provide a direct price signal to marketers. In practice however, we find that it is often difficult to establish the specific value of such an extra cost, and that a balance needs to be struck between the extra amount and the fee that is already paid to the PRO, which can lead to a 'negotiated' price rather than to an exact price.
- **each scheme features specific quantified objectives**, tailored to its specific waste management model (e.g. reuse targets for textiles, standards for downstream recycled materials for packaging).

Box 4 – promoting paper recycling with differentiated fees

Our ‘graphic papers’ scheme was re-approved at the end of 2012. Extensive consultations took place on how to promote eco-design, including via the use of differentiated fees. It was finally decided that producers whose papers incorporate more than 50% of recycled materials would benefit from a 10% bonus (i.e. pay 10% less on their fee). This helps encourage producers to undertake concrete eco-design actions.

3. **To conclude – EPR as a versatile tool, relevant for future challenges**

While EPR schemes cannot be considered a silver bullet to address waste management – especially as they focus on specific products and cannot provide a solution for e.g. residual waste, and remain very oriented towards household waste – we have found that from a government perspective, they can be a **powerful tool to develop robust waste policies**.

An important question is the cost-efficiency of EPR schemes. In this respect, we find that it is challenging to compare results with other countries, especially as the contents of our 'terms of reference' can be quite different from the requirements that may be given to a scheme in another country. For instance, the requirements that we have set up in relation with social economy come at a cost, although they have more long-term benefits. In general, we find that there are still insufficient studies regarding the cost-efficiency of EPR models. From the French experience, we can however say that **stakeholders generally consider that our schemes allow us to reach ambitious results at relatively affordable costs**. With the level of ambition set in the 'terms of reference' of the schemes, the advantage of making producers responsible is that they will strive to reduce the financial burden on themselves, and therefore find the most efficient solutions to reach the required level of ambition, which induces a built-in optimisation of the cost-efficiency.

One element that can be appreciated is the versatile nature of the EPR tool. With regular revisions of collective expectations towards each scheme (in our case every 6 years), it is **possible to channel activities in the right direction and to adjust trajectories in a dynamic manner whenever needed**. This needs, of course, to be balanced with the need to leave sufficient visibility to economic stakeholders, especially producers, and not putting too heavy a burden on their shoulders.

Of course, **EPR schemes are only one instrument in the toolbox**, and they should be combined with other types of tools – from regulatory frameworks to fiscal tools (pay-as-you-throw schemes, landfill taxes), standards, public procurement policies, etc.

As new challenges appear, we see that EPR schemes can continue to be used to be part of the solution:

- We are currently exploring how EPR schemes could contribute to incentivize producers to find operational answers to the need for new prospects regarding **strategic metals / rare earths recycling**.
- Pressure is growing to relocate industries close to where waste is produced. While this cannot be achieved all the time, especially in a globalised context, we find that EPR schemes can be a promising tool to **foster a 'principle of proximity' approach** and maximize local waste treatment. This also relates to the need to develop and maintain industrial networks and recycling know-how domestically, and to reduce transport-related GHG emissions. A possibility that could be explored would be to differentiate the support granted by PROs depending on how far waste is treated. The idea that waste needs to be treated as close as possible from its point of production is already present in the EU waste framework directive, but implementing it in practice is a challenge, in a context of free circulation of goods and competition rules. We find that the geographical scale to understand 'proximity' should also be different for different types of waste – depending on where the demand is, of what treatment can be done (e.g. it may be better to reuse waste far away than to dispose of it close by).
- More generally, we find that EPR schemes can be a robust tool to consistently and methodically **organize the exploitation of 'urban mines'** (resource flows in big cities, resources accumulated in infrastructures such as housing and transport) in the future. French EPR schemes, through information gathered via producer registries, have provided us with extremely valuable knowledge and databases that help us understand and anticipate potential resource flows, predictable waste quantities, nature, and matter contents – the strategic interest of which is self-evident in a long term perspective. In a globalised market economy, the collective effort organized in a given territory through an EPR approach can and should be a way for this territory to strengthen its capacity to be more resilient and self-sufficient, in a sustainable manner.