Further Considerations to Textiles EPR and Complementary Measures

Executive Summary

May 2023
The EU consumed a total of 6.6 million tonnes of clothing, footwear & household textiles in 2020. Our systems to manage these materials at the end of their life are wholly inadequate for a circular economy. As such, the majority of these products being disposed of in residual waste.1,2

Extended Producer Responsibility (EPR), a cornerstone of the EU Strategy for Sustainable and Circular Textiles, has the potential to deliver transformative improvements in the collection and management of used and waste textiles.

The upcoming revision of the Waste Framework Directive should be a pivotal moment in designing and implementing an ambitious EU approach to textiles EPR – an EPR that aligns with other policy changes driving textiles sustainability.

Crucial to seizing this opportunity is the principle of harmonisation across the EU. A common framework pursued by all Member States will ensure a consistent and efficient approach to EPR, maximising both environmental benefit and economic opportunity. Strong consistent signals will enable responsible businesses to thrive across the EU.

The Necessity of Harmonisation in EPR

A core component of the EU Textiles Strategy is the proposal to develop EU-level minimum requirements for how Extended Producer Responsibility (EPR) for textiles should be implemented and operationalised through the Waste Framework Directive (WFD).

EPR is an essential aspect of a circular economy for textiles. Many European nations are already forging ahead with amending legislation around a current scheme (France) or developing and implementing of new textiles EPR schemes (the Netherlands, Sweden and several more). However, without harmonisation of requirements at EU level, there is a significant risk of divergence in the approaches taken by individual Member States. The resulting inconsistent approaches could significantly weaken the potential of textiles EPR to drive positive change by sending conflicting price signals to producers.

In contrast, a harmonised approach across all Member States will help to ensure the desired environmental outcomes, delivering high rates of reuse and recycling, and maximising the incentive through EPR for more sustainable design choices, in the most efficient and effective way. The European Commission needs to take the lead in requiring a harmonised approach in order to secure these benefits.

There are a number of critical areas in which harmonisation of EPR will be essential to realise the fullest benefits. This study focuses on providing concrete recommendations and insights for what a harmonised EU framework for textiles EPR would need to look like in four of these areas: the objectives & the principles of EPR, the producers that should be obligated to pay fees, the products in scope, and the principles on which reporting systems must be designed.

Overall, our recommendations in this study are designed to provide a clear pathway for policymakers, industry, and civil society as the EU commences serious consideration of changes to the Waste Framework Directive (WFD). The forthcoming revision of the WFD is a perfect opportunity to harmonise textiles EPR at EU level, either directly, or through subsequent Implementing Acts and associated guidance, to the benefit of both European businesses and citizens. Where appropriate we also highlight where there will be opportunities to align textiles EPR with other policies necessary for a circular economy for textiles, such as Digital Product Passports and eco-design standards.

1.1 The Objectives & Principles of EPR

EPR is fundamentally an instrument designed to address the systemic issues in end-of-life collection and management of textiles. A well-functioning EPR scheme will ensure that these objectives and national targets are met through appropriate cost coverage. Targets (and therefore costs) must be ambitious but from the perspective of producers, should not be economically unviable. How the EPR scheme is designed and operationalised will be equally significant. A wholly prescriptive approach to textiles EPR policy will not provide the means for Member States to deliver effective systems that take account of unique national circumstances. We therefore focus our discussion on harmonisation of key objectives for EPR, and the principles that all Member States must follow to deliver on these objectives – as summarised below.
## Objectives of EPR

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Description</th>
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<tr>
<td>1 Supporting Design Changes</td>
<td>Providing a mechanism by which design changes in support of circularity and reduced environmental impact can be incentivised.</td>
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<td>2 Optimising Separate Collection</td>
<td>Ensure separate collection systems are in place to divert material away from residual waste.</td>
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<td>3 Delivering Sorting &amp; Pre-Processing</td>
<td>Ensure sorting &amp; pre-processing systems &amp; technologies are developed and optimised to deliver quality, valuable products and materials for reuse &amp; recycling markets.</td>
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<td>4 Supporting Reuse</td>
<td>Support the reuse sector through the implementation of collection &amp; management systems that retain the quality of collected products &amp; materials.</td>
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<td>5 Supporting the Development of High-Quality Recycling</td>
<td>Supporting the development of the necessary recycling systems to deliver high-quality secondary raw materials.</td>
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<td>6 Accounting for the Costs of Disposal</td>
<td>Ensure the cost of disposal is included in EPR fees, thus reducing the cost burden on municipalities and citizens, in line with the polluter pays principle.</td>
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<td>7 Supporting Innovation</td>
<td>Support investigation of methods and technologies to optimise management of materials in support of circularity.</td>
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<td>8 Driving Consumer Behaviour Change</td>
<td>Incentivise consumers to change their behaviour in support of waste prevention, reuse and diversion of material from residual waste.</td>
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<td>9 Ensuring Appropriate Administration of the Scheme</td>
<td>Ensure the appropriate scheme governance &amp; due diligence systems are in place for the effective delivery of the scheme.</td>
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<td>Principles</td>
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| 1 Respect the Polluter Pays Principle | • Appropriate cost coverage (in line with polluter pays principle) for the textiles producers place on the market.  
• The magnitude of these costs should be sufficient to achieve the agreed targets for the EPR scheme. |
| 2 Ensure Only Necessary Costs | • Costs paid by producers should not exceed those necessary to provide waste management services in a cost-efficient way, in accordance with the Waste Framework Directive. |
| 3 Ensure Product Differences are Accounted for | • Fees payable to the EPR scheme should be differentiated to reflect the variable costs of end of life management for different product classes. |
| 4 Provide Mechanisms by Which Producers can be Incentivised to Design for Reduced Impact | • Producers can be incentivised to change design to support reduction in environmental impact through both differentiated fees and additional eco-modulation.  
• Where eco-modulation is used to achieve this, it should be aligned with other policy tools available under Eco-Design for Sustainable Products Regulation (ESPR). |
| 5 Enable Consumer Involvement | • Consumers should be enabled to play their part and correctly manage used textiles and textiles waste.  
• This should be delivered by providing easy opportunities to use collection systems, ensuring consumers know how to play their part effectively. |
| 6 Ensure Equal Treatment | • EPR policy should ensure producers, by way of their origin or size, are not disproportionately burdened by regulation in comparison to their peers.  
• Equally EPR policy should ensure that sales channel or geographical location does not enable producers to take less responsibility for their products. |
| 7 Facilitate Scheme Evolution | • Individual schemes need to be able to evolve, based on knowledge gained, improved capabilities to act, and greater evidence on what level of change is needed.  
• This should extend to an ability to raise product and end-of-life management standards over time. |
| 8 Ensure Appropriate Scheme Due Diligence & Enforcement | • Sufficient oversight and enforcement mechanisms must be in place to ensure compliance with scheme requirements.  
• This will ensure a level playing field, and ensure a strong incentive for producers live up to their obligations. It will also ensure that those entities receiving contributions from the EPR scheme to handle used and waste textiles are using the funding in an appropriate manner to deliver improvements in the management of end-of-life textiles. |
| 9 Deliver Harmonisation Across Textiles EPR Policy | • Harmonisation will be critical to amplify environmental benefit, ensure well-functioning reuse & secondary raw material markets, and reduce the burden on obligated entities. |
| 10 Focus on What EPR Does Best | • Recognise that EPR cannot solve all issues in the textiles sector and there is a key role for other policy instruments and actions by business to deliver a sustainable and circular textiles sector. |
| 11 Support Wider Textiles EPR Policy Ambition | • Member States should be able to go further than minimum requirements for EPR. However, as much as possible this should be coordinated at EU level to ensure that, where appropriate, this can be replicated and harmonised across Member States. |
1.2 Producers Obligated Under EPR

While EPR is clear that “producers” must take responsibility for the extended life cycle of their products – specifically the end-of-life costs of responsible waste and material management – the question of who should be considered as a “producer” is not always self-evident and can be highly context-dependent for a product type or specific EPR scheme in practice. From a moral and legal perspective when answering this question, the aim should be to ensure that the “polluter pays”, while from a practical implementation perspective the obligated producer needs to be an actor that can be effectively regulated and defined in a way that minimises risks of either overlap in obligations or gaps in coverage. We assume EPR schemes will be national, with Member States ultimately applying a common set of minimum requirements set by the EU.

Definition of an Obligated Producer

Proposed Definition: An economic operator that sells a new and finished textile product to a final consumer for the first time in a given EPR jurisdiction, whereby a final consumer is an individual or not. A business or public authority can be the final consumer: EPR obligations extend to economic operators providing Business-to-business (B2B) and public procurement. The intention of the definition would be to include online marketplaces. They enable the final act of sale and have the interaction with the final consumer, so should be deemed responsible over the seller. This aspect should be accounted for when exact legal definitions are drawn up.

The term “obligated producer” should be consistently defined (by the EU) as above, and applied (by national EPR schemes) across the Single Market, to both minimise administrative burdens for all value chain actors, and to maximise policy effectiveness for all. Producer Responsibility Organisations (PROs) or national governments should outline different sales routes and illustrate obligated producers in each, as part of their guidance to textiles industry actors about EPR obligations. Such guidance should try to align with existing national administrative systems, to help economic operators identify themselves as obligated producers (e.g. possibly aligning with VAT reporting to identify the last business to sell to the final consumer).

Examples of Obligated Producers

- Physical retailers and online retailers
  - Obligated for all textiles products sold through their platform (including their own), as they are the final point of retail selling a new and finished product to a final consumer.
- Online marketplaces
  - Should be obligated producers no matter their business model. They should also be treated the same in their obligations.
- Non-national sellers (a seller based outside an EPR scheme’s respective Member State)
  - Should be obligated when selling directly to a final consumer, and obligations should be the same as for other obligated producers.
  - Non-national sellers may be based in another Member State or outside the EU entirely.
- Small to medium sized enterprises (SMEs)
  - Should be deemed obligated producers if they sell new and finished products to a final consumer though they may benefit from lighter obligations.

At first, second-hand actors should not be deemed obligated producers, to encourage second-hand business models. However, research should be undertaken to see if such actors should take on a degree of EPR obligations over time, as their proportion of the textiles market grows.
1.3 Products in Scope

There is a significant variety of textile products placed on the EU market. To ensure that the polluter pays, eventually all textiles should fall within the scope of an EPR scheme. There is also an inconsistent approach to products in scope among existing EPR schemes and proposals. Without harmonisation, this risks an inconsistent approach that reduces the effectiveness of EPR, while increasing the burden placed on stakeholders due to different obligations. We therefore recommend a single, consistent scope for products obligated under EPR schemes for textiles.

It is necessary, therefore, to determine a common list of products in scope for a core EPR textiles scheme. Such a scheme would be built around clothing as a key waste stream, and the inclusion of other items is dependent on whether they are compatible with the collection, sorting, and recycling infrastructure needed. However, this does not have to be the case on day one of launching such a scheme. To facilitate the establishment of schemes, there can be merit in starting out with a more limited scope of products, and then, as understanding grows, the scope can be expanded. Some textile products may equally be better placed in different EPR regimes in any case, for example where they have distinctive properties for end-of-life management.

As such, we have classified textiles into three categories: 1) In scope of an initial textiles EPR scheme, that as a minimum includes clothing; 2) Appropriate to be included in category (1) in the future, but not at the outset; and 3) Out of scope of a textile clothing EPR scheme, but expected to be part of a separate EPR scheme or schemes as EPR becomes commonplace in future.

Recommendations for Scope

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<th>In / Out of Scope</th>
<th>Products in Scope</th>
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| **Included in scope of EPR at the commencement** | • Apparel (clothing, footwear and other accessories)  
• Household and commercial consumer 2D textile products (such as 2D bedding, bathroom & kitchen textiles)  
• Non-technical workwear (such as uniforms) |
| **Included in the scope of EPR in the future** | • Curtains, upholstery and other 2D textile furnishings  
• 3D bedding (such as pillows and duvets) |
| **Excluded from the scope of this scheme** | • Small non-textile accessories (e.g. jewellery, sunglasses etc)  
• Mattresses  
• Carpets  
• Furniture  
• Technical workwear that is appropriate for, or requires, bespoke recycling systems |
1.4 The Principles for Reporting

Producers that are obligated under EPR must report items placed on the market to PROs. However, reporting should strike a balance between ensuring sufficient information is available to enable an EPR scheme to allocate costs back to producers accurately and fairly, whilst ensuring that these requests are possible for producers of all sizes to avoid non-compliance. We assume that EPR schemes will be national, with Member States responsible for applying the common set of key principles, definitions and standards set by the EU. However, we also put forward an added level of harmonisation: an integrated reporting system for producers across the EU would significantly reduce administrative burdens for producers reporting what they have placed on market in different Member States, and effectively aid the functioning of the Single Market.

Fee modulation - imposing a bonus or malus over and above the basic fees for an item to drive design changes (often referred to as eco-modulation) – is not in scope of this study. However, we concede that any fee modulation would have an impact on reporting requirements (e.g., on level of granularity that could be sought out). Determining the role, nature and objectives of fee modulation (if any) will require extensive discussion, and such thinking should be prioritized elsewhere.

Recommended Principles

- **Precision within reason**: A textiles EPR scheme needs accurate information on the volume of textiles placed on the market. However, we propose that a textiles EPR scheme should strive to gain a precise representation of items placed on the market, but within the realms of what is possible for producers and truly necessary for the scheme’s success.

- **Granularity in reporting**: Granularity refers to the detailed breakdown of reporting categories. It is necessary to determine more accurate end-of-life treatment costs and fairer distribution thereof, but again there is a balance to be struck.

- **Reporting requirements must evolve carefully over time**, with suitable warning to producers and software that can easily accommodate changes.

- **Harmonisation is fundamental to successful textiles EPR systems in the EU**. It will remove unnecessary burden for producers and provide a consistent and comprehensive understanding of textiles flows at an EU level. This includes:
  - **Harmonisation of the content of reporting requirements**, which involves harmonisation of product categories (for example by adopting existing categorisation such as Harmonised System codes), harmonisation of terminology and reporting unit of measure.
  - **Harmonisation of reporting processes**, such as annual reporting, format and database.

- **Alignment with other reporting requirements**: Alignment with other non-EPR regulatory reporting requirements will maximise overall efficiency for producers and regulators alike, fostering higher levels of compliance. Alignment opportunities include:
  - **Alignment with the Digital Product Passport**.
  - **Assuming weight as the reporting unit of measure**.
  - **Alignment with Packaging EPR reporting requirements where possible** (for units of measure, processes and lessons learnt).

- **Efficiency in reporting**: This entails asking for information that is truly necessary, aligned with external requirements, and that fulfils several obligations if possible. This will lend legitimacy to the scheme and reduce the burden on producers.

- **Minimising the burden at a systems design level** for obligated producers.
  - Specific attention to minimising reporting requirements for small obligated producers.
– Non-national sellers selling directly to a local consumer will become obligated producers under the revised definition, but should not receive reduced reporting obligations. Their EPR obligations also remove the need for “authorised representatives”.

• **Inclusion of stakeholders in the reporting systems:** Impacted stakeholders must be involved in the development and evolution of reporting requirements at an EU then national scale.

• **Data Security is critical to a trustworthy and therefore effective EPR system:** Measures must be in place to prevent reported data breaches, ensure that data remains confidential and that it is used only for set-out purposes.

## 1.5 Looking Beyond EPR

It is important to acknowledge that EPR alone cannot address all the sustainability challenges the textiles sector faces, or all of those needed to build a circular textiles economy. The EU Textile Strategy envisages a broader policy framework to address wider sustainability issues in the textiles value chain. These include powers and policies such as the Eco-Design for Sustainable Products Regulation (ESPR), and proposal for Digital Product Passports.

These offer scope to drive significant improvements in areas where EPR may be a less appropriate tool – and will complement EPR to drive faster, more effective, and more efficient changes overall. It is important to highlight that the requirement for harmonisation identified for EPR will be equally relevant and necessary across wider textiles policy. In addition, alignment between policy instruments will be key to reaping the full benefits offered by the transformation of the EU textiles policy framework over the next few years. When it comes to implementation the same is likely to apply. Rather than focusing solely on EPR for textiles in the WFD revision, there is thus a strong case that harmonised textiles EPR could be addressed in a textiles specific regulation, providing scope to provide more detail and to present an integrated policy instrument - an approach seen with some other material streams.

There is significant scope for the EU to show leadership in determining a regulatory framework that will deliver a sustainable textiles system. Given the globalised textile supply chain, choices by regulators, businesses, and individuals in the EU are certain to have significant impacts in third countries. Now is a chance for industry, policymakers, and NGOs to come together to identify how best to deliver a circular textiles economy and the environmental benefits that would entail. Done well, harmonised textiles policy in the EU is a huge opportunity to drive a systemic transition to a more circular, sustainable textiles industry in both Europe and around the world. We hope this report identifies one of the key pathways to doing so.