



Environmental Protection Agency submission to the
Department of the Environment, Community & Local
Government in relation to Corporate Governance aspects of
the Producer Responsibility Initiative review

July 2013

Review of the PRI model in Ireland

EPA comments on *Corporate Governance Report*

31 July 2013

The EPA welcomes the opportunity to participate in the consultation on the Corporate Governance Report, circulated via email on 19th July 2013. With the understanding that further waste stream-specific reports will later be published for separate consultation, the EPA makes the following comments on the Corporate Governance Report. The comments should be read in conjunction with the original EPA written Submission on the PRI Review (October 2012), which are attached.

1. The EPA agrees in general with the broad recommendations with respect to service level agreements between the Schemes and the DECLG and the implementation of a standard Code of Corporate Governance.
2. Section 3.1.1: the obligations on the schemes presented in this section makes no reference to the need for such schemes to provide data to the EPA on an annual basis at least, for the purpose of fulfilling national and European reporting requirements under the various stream-specific legislation. In this regard, your attention is drawn to page 6 of the written EPA Submission on the PRI Review with respect to Data and Informational Requirement and in particular our request that provisions be made to ensure the timeliness and quality of the data to be provided by the compliance schemes.
3. Section 3.1.1: the obligations on the schemes presented in this section makes little specific reference to awareness measures to be undertaken by the Schemes, apart from where a failure to achieve a target occurs. In its written Submission on the PRI Review, the EPA sought specific provision for the Schemes to be made responsible for awareness raising to effectively promote resource efficient behaviours with respect to PRIs. Note also our proposal that a single platform for the development and dissemination of PRI awareness messages and promotion of responsible management of PRI wastes be made available. Your attention is drawn to page 9 of our submission in this regard.
4. The report makes no reference to the branding or other identification and marks of the respective schemes and the management of such. In its written Submission on the PRI Review, the EPA proposed that the merits of a single brand for all PRIs should be considered in order to increase public awareness of PRI schemes and build brand value. Your attention is drawn to page 9 of our submission in this regard.
5. The report makes no specific reference to prevention and reuse in terms of the obligations on the schemes. Considering that prevention and reuse are at the uppermost part of the waste hierarchy, the EPA views this as a significant omission from the Corporate Governance Report. Your attention is drawn to page 10 of the EPA written Submission on the PRI Review with respect to the Schemes incentivising their members to consider prevention through long-life

products, eco-design etc. and the development and finding of reuse networks. In addition, the 2012 waste policy document “A Resource Opportunity” makes specific reference on pages 9 and 10 to prevention and reuse in the context of PRI schemes and their approvals.

6. Section 3.1.1 paragraph “Achievement of targets”: provision should be made for the potential revision of interim targets, to ensure they remain ambitious in the event of achieving such interim targets ahead of time.
7. Reference is made at the end of page 11 to “Encouraging PRO Performance in Section 4.4 of the main report”. The EPA has not had sight of the report referred to.
8. At the top of page 12, reference is made to enforcing statutory fines. What body is envisaged to carry out this enforcement?
9. Section 3.1.1 paragraph “Contingency fund”: there is considerable discussion around the movement of monies where a producer moves schemes or changes from scheme-membership to self-compliance. Any such fund should make provisions for the management of orphan WEEE, including that which may arise from self-compliers.
10. Section 3.1.3: with respect to the ability of the DECLG to terminate an SLA, consideration should be given also to the concept of “fit and proper legal persons” where for an example conviction of serious offences would preclude approval in the first instance or renewal of approval of a Scheme. Similarly, provisions should be made that Schemes give the same consideration before entering into contracts with waste management companies. Your attention is drawn to page 2 of our written Submission in this regard.
11. Page 17, first bullet point: should this read “... including but **not** limited to...”
12. Section 4.3.1.1: in proposing optimum membership and representation on the Board, consideration should be given to advocating a gender balance where possible in light of the Evershed’s report findings as referenced in this section but also in view of reaching and influencing all sections of society .
13. On page 21, in relation to rotation of Board directors (second paragraph), consideration could be given to providing for the situation where a director may wish to move between one scheme and another at the end of a tenure and whether this should be allowed or restricted.
14. Section 4.3.2: refer to our comments above in relation data reporting to the EPA.
15. Section 4.3.4: in relation to membership of the scheme, there is mention that membership should be open to all producers. As it currently stands, scheme membership is not available for B2B WEEE producers. The EPA supports the view the scheme membership should be available to all producers, including those WEEE producers operating on a B2B basis. In this regard, your attention is drawn to pages 3 and 4 of the EPA written Submission on the PRI Review, with respect to Self-Compliance.

16. Section 4.3.3: in relation to cooperation between Schemes, the EPA made the point in its written Submission that in relation to collection activity in particular, improvements in efficiency of transportation could be leverage by cooperation at a geographic level and co-collection of various PRI waste streams. In relation to cooperation, refer also to our comments above with respect to branding.
17. In the second bullet point on page 23, reference is made to termination events for membership of the scheme. Is it envisaged that the schemes would communicate such termination to the EPA as enforcement authority? It is the experience of the EPA to date that termination of memberships for WEEE and batteries have not been communicated to the EPA or the national producer registration body.
18. Section 5.1: it has been the experience of the EPA that the membership fees for the Schemes is often disproportionate to the level of activity of the producer. Unlike the producer registration body, the Schemes do not offer a scaled fee structure. This is not conducive to promoting compliance, particularly amongst smaller producers, considering there is no *de minimis* for compliance.
19. In Annex 2, there is a reference to self-complying producers being subject to equivalent reporting requirements as compliance schemes. It is not clear to whom they should report. The EPA wishes to note that self-compliant producers in terms of WEEE and batteries are subject to equivalent reporting requirements, with respect to monthly WEEE Blackbox returns and annual returns to the EPA. Further, it is not clear what is meant by the reference to “certificate of compliance” and what body is expected to issue such a certificate.