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Advancing the Implementation of the Regulation No. 75/2019 of the Ministry for Environment & Forestry Regarding the Roadmap on Waste Reduction by Producers in Indonesia

Policy Paper

POLICY PAPER

ADVANCING THE IMPLEMENTATION OF THE REGULATION NO. 75/2019 OF THE MINISTRY FOR ENVIRONMENT & FORESTRY REGARDING THE ROADMAP ON WASTE REDUCTION BY PRODUCERS¹

A. PURPOSE OF THIS POLICY PAPER

This policy paper aims to summarise several identified challenges and opportunities within EPR for packaging in Indonesia and provides recommendations in order to strengthen the implementation of the relevant EPR legal framework, the Roadmap on Waste Reduction by Producers (P.75/2019), and increase private sector participation. Due to the wide scope of the law, this paper will focus on EPR for plastic packaging, produced by local manufacturers as well as imported from abroad.

The policy paper starts with the current legal framework relevant for EPR in Indonesia. It outlines the positive prerequisites of the Roadmap and addresses the weaknesses where work is needed to further develop the waste management system and setup circular economy solutions. The policy paper describes what possible intervention can be done in advancing the implementation of the Roadmap until 2029, and what can be done beyond 2030 to embark an EPR for packaging system.

The analysis conducted for this paper is developed based on result from desk studies and consultancy reports composed by formal and informal discussions with producers (i.e. manufacturers, brand owners) as well as waste management actors, civil society and academia in Indonesia. As a result, several aspects were identified that offer room for improvement to increase private sector participation and refine the EPR design in Indonesia now and beyond 2030.

B. EPR FOR PACKAGING: NATIONAL LEGAL FRAMEWORK

The Extended Producer Responsibility (EPR) is outlined and mandated for producers under the Waste Management Act (18/2008), which among others requests the producers to manage the waste of its produced packaging products that cannot or are difficult to be naturally decomposed and to provide information on packaging waste reduction and treatment on the product labels.²

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² Waste Management Act No 18/2008 on Waste Management; Article 14 and 15;

Relating to the responsibilities of producers outlined in this Act, the derivative legislation (Government Regulation (PP) No 81/2012) defines the term “producers”, which includes importers and their general responsibilities in managing the waste from their packaging product. Producers are obliged to limit the potential generation of waste from their packaging products by utilising packaging made of materials that are easy to be naturally decomposed and/or recycled, as well as by reusing the packaging product and setting up take-back (collection) systems for the packaging products. The implementation of the producer obligations shall be carried out in stages, where the MoEF is required to provide a 10-year framework as the guiding mechanism.³

Seven years after the enactment of the PP 81/2012, in December 2019 the Ministry of Environment and Forestry (MoEF) issued a Minister Regulation on Waste Reduction by Producers (P.75/2019). The regulation is a 10-year Roadmap that came into effect in 2020 and ends in 2029. The regulation includes, among others:

- relevant packaging materials (plastic, tin can, glass, and cardboard/paper)
- scope of ‘producers’. Despite the PP 81/2012 outlines that importer also bears the responsibility of producer; the P.75/2019 has not included it as one of entity under scope of producers that are responsible to reduce the packaging waste.
- responsibilities of producers in implementing the roadmap
- instruments for the waste reduction that follow the 3R principle: reduce (by limiting or phasing out certain material), recycle and reuse.
- a template to be used as part of the mandatory planning and reporting processes.

In general, the P.75/2019 is aligned with many EPR principles as elaborated in the [EPR Toolbox](#) published by the PREVENT Waste Alliance: It lays a foundation towards the implementation of a mandatory EPR for packaging scheme that is feasible for producers as well as transparent and measurable. The EPR system in Indonesia is open to individual as well as collective solutions and allows producers to consider different packaging options, such as packaging that will not generate waste or can be recycled or reused.

However, there is room for improvement that should be considered by the regulator in order to encourage the producers to participate in the EPR system and assume their responsibilities in managing the post-consumer packaging products as outlined in P.75/2019.

C. IMPROVING EPR DESIGN AND IMPLEMENTATION

The P.75/2019 applies for all producers⁴ without any exceptions but does not provide a very strict mechanism for producers to reduce their packaging waste generation on the Indonesian market as It provides room for producers to decide, which mechanism is most suitable for their individual company. Based on rather general features and flexible mechanisms, it can be assumed that the Roadmap largely intended to invoke the producers to start taking action for the prevention of plastic packaging waste by redesigning their packaging to enhance its

³ PP 81/2012 on The Management of Household Waste and the Likes Articles 12-15.

⁴ Categories of producers as per the P.75/2019: manufacturer, retail, and food & beverage vendors. Meanwhile for the manufacturer, the scope includes: consumer goods, personal care and cosmetics, and food & beverage.

recyclability, including recycled materials in their products, creating reusable packaging, and enhancing plastic waste collection for higher recycling rates. Yet, despite the flexibility of the Roadmap and the efforts of the Ministry to disseminate the information to the producers both under the Ministry's national initiatives and with the support of development organisations, the participation of local companies is low. According to the data of the Ministry as of September 2022, only 39 companies (29 manufacturers and 10 retailers) operating in Indonesia submitted their planning document and commitment to implement the Roadmap to KLHK.

There are several general features that were identified, among others:

- a. multinational or nationwide companies are the prime priority to implement the Roadmap;
- b. the Roadmap gives liberty for producer to determine their baseline volume and reduction target volume. However, it is expected within 10 years the proportion of reduction is 30% compared to the baseline. The reduction instrument can be through limitation of phasing-out material or redesigning packaging/business model, or recycling that involves take-back.
- c. The Roadmap is somewhat follows the approach Ministry's [Public Disclosure Program for Environmental Compliance \(PROPER\)](#) mechanism. An individual company will be rated based on its performance rating for the reduction of packaging waste as guided by the P.75/2019. Under the PROPER mechanism, the company that is rated as a non-compliance shall be penalised with various sanctions including cancellation of the company's operational license.
- d. In the context of the implementation, the company can exercise various approaches, such as: undertaking collective mechanism to implement their responsibilities, or the implementation run under corporate social responsibility (CSR) agenda whereas in the advanced system, an EPR for packaging should be part of operational/production cost.
- e. Naming and shaming as the incentive and disincentive scheme for the compliance/non-compliance companies. The Ministry is now exploring the integration of the companies' compliance over the Roadmap as one of the element for PROPER rating.

The low participation of manufacturers is most likely caused by:

- **lack of awareness** that producers have the liability when their packaging products end-up in the environment. Companies still see that packaging waste as part of household waste is a part of public service and public and government should be the one who address the problem. Leaving the plastic waste to the public sector is the most common gesture used by a few of producers who are reluctant to participate. That incentivising public's waste collection, recycling through providing adequate financing, infrastructure and technology, and community awareness is the solution. At the same time, producer still come up with innovative packaging that are getting difficult to be collected and recycled hence the materials are not feasible in the recycling market.
- **Hesitation/lack of willingness to implement the regulation.** This might be caused by various aspects, the most identified factors are: (a) level of understanding on how to implement the regulation, (b) the cost consideration in relation to the detailed responsibilities; (c) complexities of the administrative mechanism that companies have to fulfil; and (d) the demand for equal level of playing field among manufactures. Some companies demand including SMEs to ensure fair price competition among obliged companies.

Cost Factor

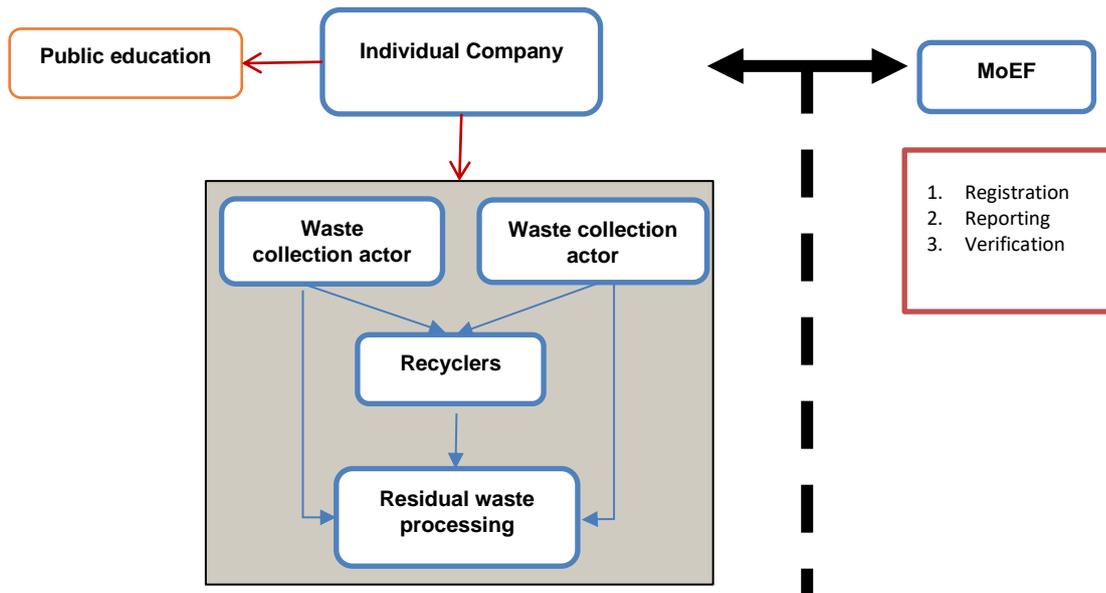
The regulation intends for companies, especially manufacturers, to implement their respective waste reduction. Some companies feel that the obligation of the companies in order to implement responsibilities outlined in the regulation is too costly, since they have to among other allocation resource for the following:

- planning; assigning dedicated person to be in charge for the Roadmap implementation; prepare planning documents and submission. The planning document also incorporate the packaging take-back/collection mechanism.
- implementation in order to achieve the planned target.
- monitoring in order to keep track the progress of the reduction measure.
- public communication, education and information, aims to make sure consumers understand the treatment of the packaging waste.
- Evaluation, to evaluate the performance of the reduction compares to planned target.
- Reporting. Producers shall submit report as part of the Report for Environment Permit. The Report informs the performance of the waste reduction, the outputs/residues, required corrective action, challenges faced, take-back mechanism, etc. The Report shall be submitted to the Minister for Environment and Forestry.

Readiness of Waste Collection Actor as Take Back Partner

Relevant to the cost factor, it is a fact that many waste collection actors, such as: community waste sorting facility (TPS3R), waste bank, and center for recycling (PDU) still have low capacity to cooperate as manufacture's take-back partner. As partner the waste collection actor is not only required to comply the administrative requirements set by the company; but also must be capable to meet its take-back targeted volume of packaging from the post-consumer stage. Given the fact of this low institutional and human capacity environment, the companies may also have to allocate additional resources to cooperate with several waste collection actors and train them so they can comply with the company's requirements. For several companies, the investment for these tasks is too burdensome.

The Picture 1 shows a potential model for a manufacture in implementing of waste reduction through recycling instrument that shall involve a take-back mechanism. An individual company may have to tie contracts with numbers of waste collection actors in order to meet the target for take-back, facilitate the linkage of the waste collection to recycling and/or to residual process; and coach the actors in order to be able to comply with the requirements for the monitoring and verification; let alone that company is still needed to conduct public education on how to properly handle the packaging waste.



Picture 1. Projected model for producers' individual approach for packaging take-back.

RECOMMENDATIONS

The Roadmap needs to be seen as a binding instrument for producers to materialise its concern over plastic waste issues by contributing in shared responsibilities to reduce potential packaging waste generated from the post-consumer stage. It lays a foundation towards a systematic EPR system that may include an advance governance to ensure more ambitious and mandatory target transparency and uphold fairness (in relation to competitiveness). Some principles from the “ideal” EPR, such as: the need for redesigning of packaging for recycling has been addressed where the Roadmap gradually aims to prohibit any type and design of packaging that are difficult to be recycled by 1 January 2030. Another principle that is producers/manufactures that will participate must include take-back/collection of the packaging working together with the existing waste collection actors. As such, there is strong potential that an effective EPR system can be explored and set-up later, based on the evaluation and lesson learnt of the implementation of the Roadmap.

The recommendations focus on how to enhance the participation of companies especially manufacturers to implement their waste reduction responsibilities as outlined in the P.75/2019, that covers to aspects: providing clarity and mechanism that are feasible for all.

Enhancing Participation of the Manufactures to Implement the Roadmap

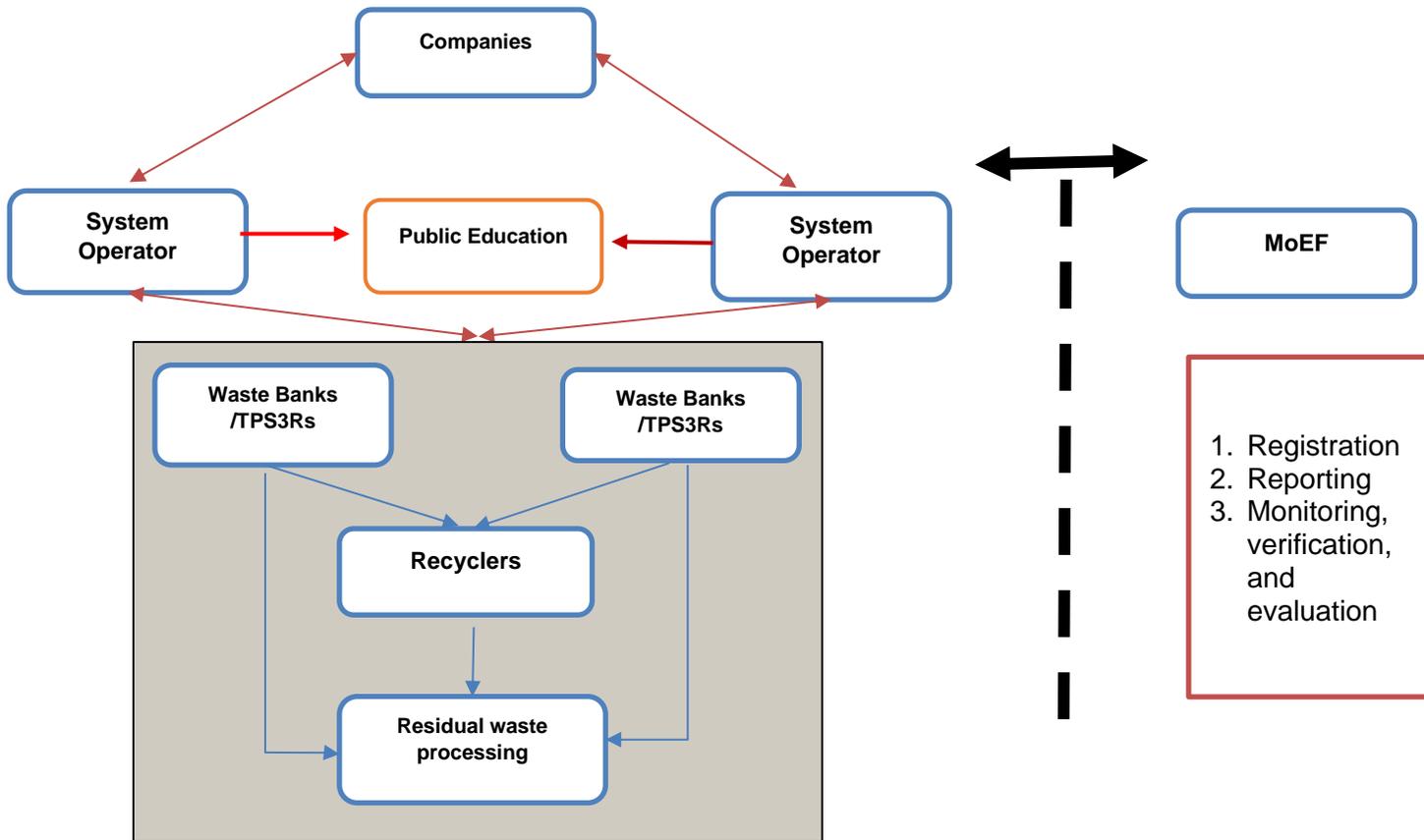
In order to enhance the participation of the producers/manufactures, the regulator must provide a clear and perhaps more detailed information/guideline regarding the elaboration of the regulation, as well as to allow and provide avenue for mechanism that is feasible or efficient for producers to carry out.

Clarity

Issue	Recommendations
<p>Detailed scope of manufacturers, and prioritisation.</p>	<p><u>Whom bears the responsibility</u></p> <p>It is common that in the manufacturers sector especially for the packaging product involves various value-chain. There are companies with role as brand owner, filler or packaging converter. There are also brand owners who run their own packaging converter manufacture and filling.</p> <p>Nowadays, business model is more diverse. Retail industry such as: supermarket/convenient chain store, and food and beverage service industry such as: chain restaurant or café; have expanded their market to the retail, by selling product packaging with their own brands. The regulation classifies producer into retail, food and beverage (F&B) service and manufactures, where retail and f&b service only oblige to phase-out utilisation of single-use plastic material.</p> <p>Consistent with the EPR principle, regardless the value-chain model, the authority must provide clear guidance that:</p> <ol style="list-style-type: none"> 1. the brand owner should be the one bears the responsibility as manufacture to implement the regulation. The brand owner should be the one to set-up and advise their supplier the criteria their packaging redesigning, if required, and plan the take-back for recycling and other responsibilities outlined in the regulation. 2. In the case that brand owner is a retail and/or F&B service; depending on the volume of their distributed product packaging in Indonesia market; the authority perhaps could exercise flexible options based input of the pertinent obliged company: (i) brand owners bear the responsibility to implement the manufacture obligations as outlined in the regulation; or (ii) the supplier of the brand owners whom manufacture the product is to implement the regulation on behalf of the brand owner.

	<p><u>Prioritisation</u></p> <p>Despite the regulation applies for all without exception; it is important for the authority to prioritise the companies who must implement the obligation. The authority perhaps needs to establish criteria companies who have the mandatory obligation to implementing the roadmap, such as:</p> <ul style="list-style-type: none"> • Multinational/international companies. • International or national companies that have been listed in stock exchange • Any companies where the market share of their packaging product (e.g. per brand and packaging material) are deemed significant and urgent to be addressed. The significancy and urgency can be determined by the authority based on the proportion of the market share and type of packaging and its material within specific particular area, e.g. province; including the status of collection and recycling in that region. <p><u>Communication</u></p> <p>It is very important for the authority to provide detailed elaboration in a written or audio/visual format as to give clear understanding to the stakeholder in particular the impacted private sectors i.e. producers, waste collection actors and recyclers, and that is accessible for public.</p>
<p>Establish feasible mechanism for the relevant private actors.</p>	<p><u>Simplifying the Administrative Procedure</u></p> <p>In order to reduce the hesitance of the companies to participate, the administrative mechanism (registration, monitoring and reporting) perhaps needs to be simplified and accommodative considering the different business approach of each company. Series of consultation with the companies to explore various approaches that are deemed efficient for the company perhaps need to be done in order to come up with the model.</p> <p>The simplification of procedure should also take into consideration the potential workload and the existing as well as potential resources allocation that are needed by the authority in providing the service as outlined by the regulation.</p>

	<p><u>Promoting Collective Action</u></p> <p>The regulation requires that an individual obliged company has to implement all the outlined obligations including ensuring that the reduction performance is measured and verified. In doing so, however, is rather costly. The authority gives liberty to the obliged companies to assess the most feasible way to implement the obligations, either through individual or collective approach.</p> <p>In order to increase the participation of the obliged companies, the authority could encourage them to implement the obligation collectively via intermediary body or producer responsibility organisation (PRO) as a system operator. This means that the operator will implement most of the obligations including managing the take back mechanism on behalf of the manufacturing companies (see Picture 2)</p> <p>A number of initiatives that can be exercised by the authority:</p> <ol style="list-style-type: none"> 1. Set-up criteria for the system operator to establish and run. It is important for the operator has the strong background and linkage to the waste collection actors, recyclers, and d other off-takers. 2. Set-up a registration, monitoring and reporting system for the operator who shall act on behalf of its member producers <p>At this current stage, perhaps it may not yet be relevant and urgent to determine whether single or multi PRO is more suitable for Indonesia to apply. In the context of EPR for packaging system, there is no single model that suits for all, each country needs to explore the most suitable EPR model taking into account its governance and other characteristics.</p>
<p>Strengthening the capacity and awareness of other stakeholders</p>	<p>The implementation of the take-back mechanism especially for the recycling purpose requires waste collection actor to have adequate capacity technical, administrative and institution. Parallel with the implementation of the roadmap, it is also important to improve the governance of waste handling where the local government plays a pivotal role in transitioning into this change.</p> <p>Awareness of the consumer on how to properly treat the household waste, and the participation of retails in educating consumers on proper handling of packaging waste should also be encouraged during this period.</p>



Picture 2. Projected model for the producers' collective approach for packaging take-back run by the system operator

D. OUTLOOK – BEYOND 2030

It is expected that by 1 January 2030, all the types of packaging material that are being phased out will be significantly reduced, and the recyclability and the recycled content of packaging will have significantly increased.

In order to continue advancing the role of manufacturers in the EPR for packaging system that has been built upon the Roadmap on Waste Reduction by Producers, it is necessary for the MoEF to consider issuing a new or revised legislation. While the current roadmap is based on a “voluntary” approach, it is recommended to prepare a more compelling regulatory framework to ensure a functioning EPR system in Indonesia beyond 2030.

Only a mandatory framework will create the conditions for an effective and fully enforceable EPR in a level playing field for all actors. The 2030 framework should be based on the following principles:

- Mandatory EPR obligation for all designated producers
- Mandatory targets for producers, PROs and recyclers for collection, recycling, recovery, reuse and use of recycled materials as applicable
- Define a legal framework for PROs as a collective EPR solution for producers - setting minimum requirements to PROs and defining a clearing mechanism among those
- Evaluate the merit of mandating membership of PROs to concentrate the operations on specialized players
- Setup enforcement procedures (Who checks whom based on what & when?) incl. enforced incentives and penalties to support compliance.

Imprint

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©2021/Rethinking Plastics/Dwi Chandra: Waste bins and three-wheeled waste collector in Jakarta, Indonesia

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