
Performance Audit
Implementing producer responsibility for
packaging waste in Malta

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Background - the prevailing situation (1 of 2)

- Producer responsibility is an extension of the polluter pays principle.
- Consequently, it is ultimately producers themselves who have to shoulder their legally set waste related responsibilities.
- Implementation of packaging waste obligations in accordance to EU directives.
- Recycling of packaging waste is critical for Malta due to limited, expensive and negative externalities of landfilling.

Background - the prevailing situation (2 of 2)

- Efforts to establish the organisational, legal and infrastructural framework on going since 2001.
- In 2006, Malta received a pre-infringement letter querying why packaging waste targets were not met.
- Despite progress registered, the recycling of packaging waste by producers was still significantly below the legally set target of 50 percent of packaging placed on the market.
- Environmental, social and financial costs of producer non-compliance are borne nationally.

Audit Focus

Audit aim and objectives

The audit sought to evaluate the extent to which Malta was being effective in implementing packaging waste producer responsibility through the following:

- Management of the implementation process.
- Regulation and enforcement of producer responsibility.
- Economic instruments used to incentivise producer responsibility.

Methodology

In order to attain the above objectives, the NAO:

- reviewed the legislative framework;
- examined the relative records and data, maintained by various organisations; and
- conducted interviews with key officials at various entities.

The implementation process (1 of 2)

The implementation process was significantly behind schedule and only started gathering momentum in 2009:

- Recycling to date falls significantly short of the 50 percent target set for 2009.
- Producers have started to operate their own packaging waste schemes.
- Packaging waste recycled rose from a negligible quantity in 2006 to around 15 percent of packaging put on the market in 2009.
- Producers are gradually taking financial responsibility for the packaging waste put on the market.
- Producer declarations about the amount of packaging waste placed on the market and recycled have not yet been certified by MEPA (the competent authority) as at end 2010.

The implementation process (2 of 2)

This state of affairs resulted in the following:

- Between 2005 and 2009 producers' low recycling resulted in the resource loss of about 5.5 percent of landfill space (54,000 cubic metres).
- During the same period, low packaging waste recycling by producers resulted in Government incurring financial costs of over €9 million, which were eventually recovered through the Eco-Contribution system.
- Additionally, low packaging waste recycling makes it difficult for Malta to reach the relative EU and national targets.

The role of economic instruments in producer responsibility (1 of 3)

Various difficulties hamper the implementation of producer responsibility for packaging waste:

- Removal of subsidies on landfill delayed to prevent inflationary backlash and to ensure stakeholder buy-in.
- Plans drafted in 2001 to remove landfill subsidies over three years are still not fully implemented.
- The landfill – recycling price differential is sub-optimal even though it has been improved gradually by reducing landfill price subsidy.
- In October 2009 landfill fees were raised from €0.77 to €20, but this is still around €10 per tonne short of landfilling costs.
- High costs potentially deter producers from recycling.

The role of economic instruments in producer responsibility (2 of 3)

- Producers encountered practical difficulties to implement packaging waste regulations:
 - Difficulties in estimating packaging placed on the market
 - Complex regulations
 - Small producers not having the capacity to comply
 - Increases in the cost of compliance

- In the interest of competitiveness, producers had to balance between the extent of absorbing or passing on costs to consumers.

- Protracted discussions between producers and Government stress producers' difficulties to comply with relative regulations.

The role of economic instruments in producer responsibility (3 of 3)

Government sought to incentivise producers to recycle more through the Eco-Contribution system. The incentives entailed exemptions / refunds if recycling targets are attained.

As an economic tool, the Eco-Contribution had mixed results:

- Packaging producers subject to Eco-Contribution reported significant increase in recycling (from 50 to nearly 8000 tonnes over three years).
- Eco-contribution payers reported 60 percent of total declared packaging waste recycled.
- Significant non-compliance to packaging waste regulations by Eco-Contribution payers prevail.
- The Eco-Contribution's full potential was circumscribed since the legal and administrative links between exemptions and packaging waste recycled was not crystallized until 2010.

The regulation and enforcement role in producer responsibility implementation (1 of 2)

MEPA, the Competent Authority, has been unable to fully regulate and enforce packaging waste legislation:

- Number of producers registered with MEPA declined from 66 percent to 49 percent between 2006 and 2008.
- There is significant non-compliance by producers with obligation to declare packaging put on the market and quantity recycled.
- In 2008, only a minority (14.5 percent) of producers had undertaken packaging waste recycling.
- To date, MEPA has not initiated any legal action against non-compliant producers.

The regulation and enforcement role in producer responsibility implementation (2 of 2)

Human resources constraints and complex administrative processes inhibited effective regulation and enforcement:

- MEPA lacks the human resources needed to regulate.
- Regulator operates an annual reapplication systems which potentially magnify the work load unnecessarily – MEPA has recently launched on-line registration to encourage further producer compliance.
- MEPA can only initiate legal action against non-compliant producers.
- Fragmentation of data does not facilitate regulation and enforcement.

Overall conclusions

- The implementation of producer responsibility is gathering momentum.
- Despite progress attained the amount of packaging waste recycled is still below EU and national targets.
- Implementation is hindered through various administrative capacity constraints.
- Economic instruments used to boost recycling by producers have been marked by slow implementation.

Thank you for your attention.

Contact details

www.nao.gov.mt

william.peplow@gov.mt