



Submission to the Department of Environment, Community and Local Government

Towards a new National Waste Policy

S-11-010

September 2011



The Competition Authority
An tÚdarás Iomaíochta

Introduction

1. This submission is made in response to the Department of Environment, Community and Local Government's ("the Department") public consultation on *Towards a new National Waste Policy* ("the Consultation Document"). A comprehensive, consistent and well-designed waste policy is much needed for the Irish economy, especially the Irish waste industry. Therefore, the Competition Authority ("the Authority") welcomes the opportunity to make a submission to this consultation.
2. The Authority has made a number of submissions over the past 5 years to the Department regarding the waste sector (including the most recent one on *Altering the Structure of Household Waste Collection Markets*, S-11-09). Although most of the policy proposals outlined by the Consultation Document are purely environmental-related policy initiatives, some may impact on competition. This submission thus explores the follow areas:
 - Waste Management Planning,
 - Compliance Schemes,
 - Communicating Recycling Information,
 - Green Public Procurement,
 - Levies.

Waste Management Planning

3. The Consultation Document states that *"While it is not anticipated that there will be a requirement for a national waste management plan, regions will be guided in the development of future waste management plans by strong national policy and co-ordination arrangements"*.¹
4. As stressed in the Authority's submission S-11-009, we consider that there are substantial benefits in moving to a national waste management framework plan. This is particularly the case if the Government decides to implement competitive tendering for household waste collection services. A national waste management plan would offer greater consistency in terms of establishing what is required of waste collectors when tendering for or providing waste collection services in any region.
5. There are currently 10 different regional waste management plans with separate plans for Wicklow, Kildare and Donegal. Local authorities have different standards and requirements for waste management. Planning of waste management through a national framework plan would offer greater certainty in this area than a national policy, and make it easier for the waste industry, whether waste collectors, waste processors or exporters, to plan ahead and invest.
6. The Consultation Document states that *"The evaluation and review of waste management plans will benefit from appropriate guidance*

¹ Page 23.

through the work of a National Waste Management Coordinating Group, which will comprise representatives from the regions, from the EPA and the Department of the Environment, Community and Local Government."

7. Without a clear national waste management plan, it is difficult for the proposed National Waste Management Coordinating Group to provide adequate guidance to each regional waste management plan in a coherent or consistent manner. In the absence of a national waste management plan, it is challenging for local authorities to evaluate and review their own local area waste management plans in the context of the inter-regional or national waste management framework.
8. The Programme for Government foresees the importance of certain types of waste management tasks being carried out at national level. For example, for household waste collection services, it states "*Tender bids will be judged and awarded by the new utilities regulator*". As outlined in detail in our submission on household waste collection services (S-11-009), introducing competitive tendering would require more than guidance and co-ordination. There is a crucial role for a national framework plan and procurement unit.²

Competition among Compliance Schemes

9. The Consultation Document asks "*Is there a need for greater competition among compliance schemes?*".³
10. Currently there is very little competition among Producer Responsibility Schemes ("PRS") in Ireland. For example, Repak is the sole approved PRS in the packaging waste compliance market. There are two approved PRSs for Waste Electrical and Electronic Equipment and battery products in Ireland, WEEE Ireland and European Recycling Platform Ireland.
11. Effective competition supports our national competitiveness by keeping Irish-based companies' costs down and our exported goods and services cheaper. For a small open economy like Ireland, the key determinant of economic growth is international competitiveness. Waste compliance cost is one of the standard costs incurred by a huge number of businesses in Ireland. For example, it can amount to over a million euro per annum for some large retailers and brand holders to comply with the packaging PRS.⁴
12. More effective competition between PRSs would drive the cost of compliance down for businesses and ultimately increase our national competitiveness. Monopoly provision of services results in inefficiencies and poor standards since customers have no alternative source of supply.
13. It is not clear that Ireland's current regulatory system for PRSs is designed to allow effective competition. To achieve effective competition, the Department would be required to plan out a road map to effective competition among PRSs. The Department would have to play a bigger role in dealing with many of the social and environmental

² *Alternating the Structure of Household Waste Collection Markets*, S-2011-009, Competition Authority, 2011, Page 17.

³ Page 18.

⁴ Based on market enquiries by the Competition Authority.

issues involved. There would have to be some separation of operational and regulatory roles. None of the PRS operators in a competitive market should hold regulatory responsibilities. For example, in the packaging waste PRS market, Repak is responsible for achieving Ireland's targets. It is difficult to see how this responsibility could be shared among PRSs.

14. It is not obvious that local authority enforcement is an effective enforcement regime for a national PRS. Were the Government to introduce more competition in the PRS markets, it might be better to give the EPA this enforcement role, as is the case in other Member States. The Consultation Document proposes that *"the role of the EPA in waste regulations and enforcement will be examined in light of the relevant findings of the EPA review and particular focus will be placed on its role in terms of the prevention of breaches of waste management legislation through its licensing function."*⁵ In light of this, the Government might consider expanding the EPA's enforcement role to membership of PRSs.
15. To encourage effective competition among PRSs, it is important not to limit switching between PRSs. This includes producers being able to use multiple PRSs for different types of waste. For example, a producer should, if it wishes, be able to use one PRS for its Electrical and Electronic Equipment & batteries waste and a different one for its packaging waste.

Communicating Recycling Information

16. The Consultation Document asks *"What is the most effective method to communicate recycling information to the public and how can this activity be best coordinated across all waste streams?"*.⁶
17. For packaging waste, both Repak (the sole packaging waste PRS) and local authorities carry out activities associated with communicating recycling information to the public. In the UK, awareness raising activities around "reduce, reuse and recycle" regarding packaging waste are carried out by a state agency called WRAP (Waste and Resources Action Programme).
18. If such a state agency were set up to conduct awareness raising activities in Ireland, or an existing state agency given these functions, the cost of such an agency could be funded by a levy on a number of competing packaging PRSs. The remit of this agency could be extended to promote prevention, reuse and recycling across all waste streams. Levies could then be imposed on all PRSs and similar waste reduction initiatives. The synergies associated with a single awareness-raising state agency can be substantial. From a competition perspective, separating education and information functions associated with the public interests from the commercial activities of the PRSs would facilitate effective competition among PRSs.

⁵ Page 25.

⁶ Page 19.

Green Public Procurement

19. The Consultation Document states that *"A Green Public Procurement Action Plan, which it is proposed to finalise and publish later in 2011 will be an important tool in encouraging the green economy in Ireland, including the greater use of recycled materials in public contracts".*⁷
20. A Green Public Procurement Action Plan could certainly be a useful tool in encouraging the use of recycled, and reusable or recyclable products and packaging. Without seeing the Green Public Procurement Action Plan, it is difficult for the Authority to make any specific comments. However, there is one general point we would like to stress.
21. From our experience of dealing with competition and public procurement, we are aware that competition can be compromised if pre-qualification criteria are overly-specified. Therefore, it is better to specify the material's characters and functions rather than a brand or material type. For example, if the procurer requires the bidder to use green cement, it is important to describe the character of the cement rather than require a specific brand of cement.

Levies

22. The Consultation Document asks *"Should a levy be applied to all material sent to landfill, with the possibility of differentiated rates of levy being applied to different materials depending on their source and the extent to which they have been subjected to prior treatment, if any?"*⁸
23. There maybe environmental reasons the Authority is not aware of for exempting certain materials from the landfill levy. From a competition perspective, differentiated rates of levy for different materials, in line with environmental policy objectives, would be a practical and sensible policy for encouraging competitively priced recycling and waste treatment markets.
24. It is important to note that while competition is likely to reduce the overall cost of waste management in any particular market, it is largely the relative price between collection/disposal of different types of materials that determines industry and consumer behaviour.
25. We welcome that the Consultation Document recognises the potential benefit levies may bring in association with resource efficiency in the waste sectors. It states *"The use of economic instruments in a progressive manner to drive resource efficiency will be examined with a view to introducing levies at the appropriate time, and at the appropriate level..."*.⁹ This is consistent with the Authority's previous submissions.¹⁰

⁷ Page 18.

⁸ Page 22.

⁹ Page 14.

¹⁰ *Alternating the Structure of Household Waste Collection Markets*, S-2011-009, Competition Authority, 2011, Page 3 and Draft Statement of Waste Policy, S/10/005, Competition Authority 2010, Page 1.

Conclusion

26. In summary, we welcome the fact that the Department is taking steps towards an agreed coherent, comprehensive, and consistent waste policy, as this will ultimately provide certainty to the waste management industry. A few policy proposals have competition implications, especially in the compliance schemes and public procurement areas. However, if those policy proposals are carefully designed, they can be used to facilitate, and make good use of, effective competition.