

## Delivering Scotland's Circular Economy - Proposed Circular Economy Bill

The Consultation paper is available on [GOV.SCOT](https://www.gov.scot).

### Strategic Interventions

1. Do you agree there should be a duty on Scottish Ministers to publish a Circular Economy Strategy every 5 years?

A) Yes

B) No

C) Neither agree nor disagree

2. Do you have any further thoughts on a statutory duty to produce a Circular Economy Strategy?

CTPA agrees that publishing and regularly reviewing a Circular Economy Strategy, would be beneficial to bring together policies beyond legislation and provide an indication of priority sectors. This would be consistent with the need to transition from a linear economy to a circular economy. However, any strategy should consider the needs of the UK internal market as well as synergies with existing legislative provisions, such as the transposed Packaging and Packaging Waste Directive and the Waste Framework Directive. It is recommended that any strategy should also be mindful of new developments in the EU, because many UK businesses operate in both markets.

With regards to cosmetics and personal care products, the UK Cosmetics Regulation requires all such products undergo a safety assessment before being placed on the market. The safety assessor looks at the individual ingredients, how they are used in the final product and whether the finished product is safe. This evaluation includes the relevant characteristics of packaging material, in particular purity and stability and any potential interaction between packaging and product during the proposed life of the product. Any circular economy measures need to be compatible with the existing regulatory framework for cosmetic product safety.

When considering post-consumer recycled (PCR) plastic in cosmetic packaging, there are significant safety considerations regarding migration of unknown contaminants into cosmetic products. Any obligations to incorporate PCR plastic in product packaging needs to be accompanied by a corresponding framework to address and ensure safe use of recyclates. Any such obligations should also be shared along the plastic value chain, rather than being imposed solely on manufacturers of packaged goods that have no control over the market in respect of price, quality and quantity of recyclates. Furthermore, not all cosmetic products are suitable for refill/reuse options, owing to hygiene concerns.

The cosmetics and personal care industry recognises the need to transition to a circular economy, and it has been working to improve the circularity of small packaging formats that cannot be recycled kerbside, by setting up take-back schemes. Already, take-back schemes are accessible to more than 75% of the UK population through a number of retail outlets, and it is expected that the use of take-back schemes will continue to grow.

CTPA would welcome engagement with the Scottish Government to discuss the role of take-back schemes in achieving a more circular economy.

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3. Do you think we should take enabling powers to set statutory targets in relation to the circular economy?

A) Yes

B) No

C) Neither agree nor disagree

4. Do you have any comments in relation to proposals to set statutory targets?

Whilst CTPA recognises that aligning with EU targets is beneficial for businesses that supply products across the EU, CTPA would like to emphasise the need for harmonised requirements across the UK with the Devolved Nations, including Northern Ireland, so that businesses may operate freely without excessive administrative burden, and are able to transport products to maximise efficiency and to help reduce the cost of the supply chain. Any enabling powers should consider the needs of the UK internal market and also be informed by developments in the EU in order to try and reduce measures that fragment markets.

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Specifically, in regard to reuse targets, in the EU there are restrictions on whether a product is considered reusable based on the end-of-life fate of the product. For example, if a lipstick can have multiple uses, but at the end of its life it cannot be recycled owing to its small size, it is not considered reusable in the EU. CTPA is working with industry in the UK to provide solutions to small packaging formats that cannot be recycled kerbside, through its work on take-back schemes, and whilst it agrees that all packaging should be designed to be recycled at the end of its life, where other factors such as small sizes create barriers to this, CTPA would like to emphasise that reusability should focus on whether the product has the capacity to be reused, rather than recycled.

Furthermore, CTPA would like to emphasise that any reporting requirements that may be imposed should take into consideration the administrative burdens already placed on businesses, for example those imposed by the UK Plastic Packaging Tax (PPT) and upcoming Extended Producer Responsibility. The reporting requirements required for the UK PPT has been cumbersome and will continue to be time

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consuming for businesses moving forward. Businesses are required to collect data on packaging imported to the UK and then, in many cases, claim credits for what is subsequently exported. This process would be better served by reporting what is ultimately sold in the region. This learning could be applied when considering statutory targets and any potential reporting requirements that may also come as a result.

5. Should a dedicated Circular Economy public body be established?

A) Yes

B) No

C) Neither agree nor disagree

6. Please provide evidence to support your answer to Q5?

CTPA cannot comment on whether a Circular Economy public body should be established; a response is not possible without further details on what such a body might be. There needs to be more detail on scope, duties, powers etc. to permit a more considered response. However, any duplication in functions with other Scottish or national bodies should be avoided.

7. If a Circular Economy public body were to be established, what statutory functions should it fulfil?

CTPA cannot comment without greater clarity in respect of the comments to Q6. Clarity of function and avoiding overlap with other bodies is critical.

### Reduce and Reuse

8. Do you agree that the Scottish Government should have powers to ban the destruction of unsold durable goods?

A) Yes

B) No

C) Neither agree nor disagree

9. Do you have any comments in relation to proposals to ban the destruction of unsold durable goods?

CTPA supports the Scottish Government's proposal to adopt a phased approach when considering a ban on the destruction of unsold durable goods; however, in order to support this, there must be clear legal definitions to terms such as 'unsold' and 'durable goods'. In the EU, this does not include products that have exceeded their 'use by' date or are non-compliant with regulatory requirements and therefore cannot legally be placed on the market for the intended use.

CTPA also suggests implementing a requirement to report on the destruction of unsold durable goods as a first step. This can then be used by the Scottish Government to inform its strategy and targets for implementing such a ban. However, CTPA would like to emphasise that businesses already have huge administrative burdens to undertake, such as those imposed by the UK PPT, and any reporting requirements must not impose a disproportionate administrative burden.

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CTPA would also request clarity regarding whether there would be any restrictions on the diversion of products after they have moved through the supply chain, to avoid destruction. For example, if products have been sold to a retailer who is unable to then sell them, would it be acceptable for the products to be taken back and sold through a different channel?

Another factor to consider, is whether this would apply only to consumer-facing goods, or more widely to include business-to-business sales of goods through supply chains.

Finally, the Scottish Government must take into consideration that many businesses are working to adhere to the legal requirements of both the UK internal market as well as the EU single market.

**10. Are there particular product categories that you think should be prioritised?**

CTPA cannot comment on product categories without greater clarity on the nature of the provisions. However, if the practical elements of the policy become available, then any prioritisation could be based on objective criteria around relative contributions to waste etc.

**11. Are there product categories that should be excluded from such a ban?**

CTPA would like to emphasise that products that pose a risk to human and/or environmental health must be taken into consideration when implementing such a ban. For example, products that have exceeded their 'use by' date, or products that are not compliant with regulatory requirements, and therefore cannot legally be placed on the market for the intended use, must be excluded from any such ban.

**12. The previous consultation showed broad support for the proposal that Scottish Ministers should have the power to set charges for environmentally harmful items, for example single-use disposable beverage cups. Is there any new context or evidence that should be taken into account in relation to this proposal?**

CTPA would like to emphasise the need for harmonised requirements across the UK and Devolved Nations, including Northern Ireland, so that businesses may operate freely without excessive administrative burden, and are able to transport products to maximise efficiency and to help reduce the cost of the supply chain. If any actions are introduced, sufficient implementation times must accompany any new measures, and products already placed on the market should not be required to be withdrawn. This adds extra costs to companies already dealing with the requirements of Brexit and the effects of COVID, as well as having negative environmental impacts associated with unnecessary disposal.

If charges are set for environmentally harmful items, they must be proportionate to the likelihood of them being littered and harming the environment. CTPA has contributed to a Scottish Call for Evidence referencing sachets. Evidence of a problem with sachets used for personal care and cosmetic products in the UK is not clear. CTPA therefore requested that evidence is compiled on the contribution of sachets to plastic waste versus the benefits of their use, and that a consultation is conducted when such evidence is available. CTPA urges that any future legislative action must be based on robust science. Within the cosmetics sector, cosmetic products presented in sachets are designed for use in a

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domestic, mainly bathroom, setting rather than being used outside where they might more likely be littered.

13. Do you have any further comments on how a charge on environmentally harmful items should be implemented?

Businesses and consumers are facing huge costs as a result of the rise in inflation and the cost-of-living crisis. CTPA urges that this is taken into consideration when deciding whether to implement a charge on environmentally harmful items.

CTPA would also like to reiterate that potential charges must be proportionate to the likelihood of them leaking into the environment and any resultant impacts.

14. The previous consultation showed broad support for the proposal that Scottish Ministers should have the power to require mandatory public reporting of unwanted surplus stock and waste. Is there any new context or evidence that should be taken into account in relation this proposal?

CTPA supports a requirement to report on unwanted surplus stock and waste; this should be used to inform the ban of unsold durable goods. However, CTPA would like to emphasise that businesses already have huge administrative burdens to undertake, such as those imposed by the UK PPT, so it is important that any new reporting requirements are done in a way that aligns with existing measures of reporting and does not place an unnecessary administrative burden on businesses.

16. Are there other waste streams that should be prioritised?

CTPA cannot comment on other waste streams that should be prioritised; however, any such decisions should be proportionate to the likelihood of identified waste streams leaking into the environment and the nature of any resultant impacts.