



“Following the adoption of the 2020 circular economy bill, there are now more than 20 Extended Producers Responsibility (EPR) schemes in France. They are related to various types of waste from textile to packaging, electric equipment to gardening articles and even chewing gums, etc. Newly created Producers Responsibility Organizations (PROs) are encouraged to drive stakeholders towards more circularity, an example of hybrid public-private regulation.”

-Helen MICHEAUX

Image Source: Renaissance Textile's new industrial site in 2021. Renaissance Textile in Changé, near the medium-sized city of Laval (Mayenne district, France), is France's first industrial-scale textile recycling platform. It will start operations in 2021-22 based on the new circular economy law adopted in 2020. It is a purpose-driven enterprise that aims to create “the industrial base for a competitive, more inclusive, more sustainable and more humane French circular textile industry.” The initial investment of €25 million is also an interesting example of relocation of industries. Editor's comment.

Photo Credit: renaissance-textile.fr



Helen MICHEAUX
AgroParisTech
PSL University
France

The role of the extended producer responsibility principle in the circular economy policy in France

The EPR system: A European principle

The emergence of the consumerist society and the consequent huge increase in the volume of waste has put municipalities in great difficulty and affected their capability to deal with this phenomenon. In Europe, reflections began around 1990 to find avenues to finance waste management and encourage prevention through cleaner production systems. Thomas Lindhqvist proposed, at the behest of the Swedish Ministry, the concept of Extended Producer Responsibility (EPR) based on the “polluter-pays” principle (Lindhqvist 2000). The concept was introduced in the directives of the European Union (EU) related to waste management, first concerning used batteries (1991) and then packaging (1994). The aim was to integrate the cost of waste disposal into the cost of the product, with the expectation that producers will improve the waste profiles of their products, thus reducing

waste and increasing ways to reuse and recycle. In parallel, recycling targets were implemented for the first time in Europe.

EPR systems and the creation of PROs

To fulfill their obligations, producers can either opt for individual action – where they have to set up a specific scheme to collect and treat waste – or choose a collective scheme based on the delegation of operations and responsibilities to intermediaries known as Producer Responsibility Organizations (PROs). Producers usually pick the second option to pool logistics and waste treatments to achieve economies of scale. EU’s regulations also allow its Member States to decide the constitution of the PROs, which can be from the private or public sectors. In France, PROs are public-private hybrid organizations and have become key actors with significant influence on the waste sector operations and dynamics.

The French hybrid regulation model

In France, PROs have specific legal and governance status as non-profit private companies with a public mission statement and a multi-stakeholder governance. Their role is to assume their members’ EPR obligations and achieve the targets negotiated with the State. Besides recycling targets, the State also defines the rules to guide the PROs’ actions after participative decision-making with stakeholders (i.e. NGOs, consumer associations, producer and recycling organizations, and public authorities).

The regulation is distinctly hybrid, with public and private actors operating via tailor-made governance and organizational mechanisms, with reciprocal commitments. Operational regulation is led by private actors, usually the PROs, which have crucial coordination roles. Public authorities have supervisory and framing roles and can activate various levers. The PROs' activities are formally approved for a fixed time period and are scrutinized by public authorities. These approvals can be removed if the results are unsatisfactory. The authorities can also introduce additional targets and specifications, and define or alter incentives or regulations if specific problems are encountered.

The role of PROs in the circular economy

EPR systems in France have been widely adopted and are at the heart of its circular economy policy. The French Anti-Waste Law for a Circular Economy n°2020-105, published in February 2020, also known as the AGECL law (Anti-Gaspillage pour une Economie Circulaire), reinforces the system and creates new schemes. There are more than 20 EPR schemes related to various types of waste (packaging, batteries, Waste from Electrical and Electronic Equipment (WEEE), chewing gum, cigarette butts, sports, gardening articles, etc.). Using these specifications, the PROs are encouraged to drive stakeholders towards more circularity. For instance, they are obliged to use 1% of their turnover to fund research, thereby stimulating innovation. PROs also often develop tools for their members. An example is the online

REEECYC'LAB tool developed by the ecosystem to help producers (i.e. their members) assess the recyclability of their products. Members enter data about materials, components, and assemblies into the REEECYC'LAB tool, which then assesses the product's recyclability and summarizes the results in a customized report. It identifies modifications to improve recyclability, proposes alternative design options such as using more recyclable materials or fewer complex joints to facilitate recovery, and suggests using recycled plastic wherever possible. For some sectors like e-waste, the responsibility of PROs goes beyond financial aspects to whole operations. This encourages them to influence treatment choices and support recovery partners by adopting innovative solutions. The AGECL law furthers the responsibilities of the PROs from contributing only to the management of the end-of-life products, to also preventing waste by financially supporting repair activities to extend the life of products.

Eco-design: The critical limit of EPR collective schemes

There are some major limitations of the EPR principle, especially in terms of eco-design (Micheaux and Aggeri, 2021), which was one of its main objectives. This collective system reduces the direct financial incentive for the producer to engage in eco-design to reduce treatment costs of its products because waste is collected and treated as a whole. The eco-modulation mechanism is designed to counter this lack of incentive by offering differentiated fees based on eco-design efforts. This would allow producers to benefit from fee

reductions or be penalized according to their efforts. However, the amounts of these bonuses and maluses are usually far too low to incentivize producers. The AGECL law reinforces this incentive; we have to wait and see if this will have a positive effect in the future.

Summary

French PROs are collective organizations and key coordinators between public authorities and the various actors of the waste economy (producers, recyclers, collectors, consumers, etc.). The missions and responsibilities of PROs are negotiated with the State for a contractual timeframe, and they are considered intermediaries which also participate in policymaking (Abbott et al. 2016). The French model is a hybrid of coexisting and complementary public and private regulations (Levi-Faur, 2011). While unilateral public action (command and control) can often be inefficient and also illegitimate, private action is frequently criticized for letting opportunistic behaviors and externalities lead to failures, especially in environmental and social matters. A hybrid form of regulation is thus a government technique and governance method to make private actors responsible (creating accountability) while equipping them with new capabilities (creating empowerment). However, there are still limits, as we have pointed out, with the lack of incentives for eco-design. This is common in complex and uncertain issues for which direct public intervention is difficult to design, implement, monitor and sanction.

The French case shows a way to ensure that actors maintain a virtuous trajectory that is aligned with the revisable and adaptable nature of the system. The French system is constantly evolving, and the condition for this is the existence of a collective comity that manages the various EPR schemes in which all stakeholders are represented. It is stated that “the [French] collective governance is seen as a critical element of success, and all stakeholders consider that the dialogue created and sustained through the scheme per se has a tremendous influence on its overall performance” (OECD 2016, 249-256).

References:

Abbott, K. W., Levi-Faur, D., & Snidal, D. (2016). Regulatory Intermediaries in the Age of Governance [Special issue]. *The Annals of the American Academy of Political and Social Science*, forthcoming.

Levi-Faur, D. (2011). Regulation and regulatory governance. *Handbook on the Politics of Regulation*, 1-25.

Lindhqvist, T. (May 2000). “Extended producer responsibility in cleaner production policy principle to promote environmental improvements of product systems.” *The International Institute for Industrial Environmental Economics*.

Micheaux, H., & Aggeri, F. (2021). Eco-modulation as a driver for eco-design: A dynamic view of the French collective EPR scheme. *Journal of Cleaner Production*, 289, 125714.

OECD. 2016. *Extended Producer Responsibility: Updated guidance for efficient waste management*. OECD Publishing.