

Net Zero, Energy and Transport Committee

27th Meeting, 2023 (Session 6)

Tuesday, 26 September 2023

Circular Economy (Scotland) Bill

Introduction

1. [The Circular Economy \(Scotland\) Bill](#) was introduced on 13 June 2023 and was referred to the Net Zero, Energy and Transport Committee for Stage 1 scrutiny. The deadline for Stage 1 of the Bill’s legislative process has been set for 26 January 2024.

- [Circular Economy \(Scotland\) Bill – as introduced](#)
- [Policy Memorandum](#)
- [Explanatory Notes](#)
- [Delegated Powers Memorandum](#)
- [Financial Memorandum](#)
- [Statement on Legislative Competence](#)

2. According to policy memorandum accompanying the Bill, a circular economy—

- “cuts waste, carbon emissions and pressures on the natural environment;
- opens up new market opportunities, improves productivity, increases self sufficiency and resilience by reducing reliance on international supply chains and global shocks; and
- strengthens communities by providing local employment opportunities and lower cost options to access the goods Scotland needs.”

3. The Bill as introduced contains 20 sections, proposing a number of statutory measures to help deliver a circular economy. The policy memorandum highlights a number of specific provisions in the Bill relating to—

- **Circular economy strategy:** establishes a responsibility for the Scottish Government to publish a circular economy strategy at least every 5 years. The policy memorandum says this aims to “direct national policy on the circular economy”.

- **Circular economy targets:** provides regulation-making powers for the Scottish Ministers to impose statutory targets on itself for making progress towards delivering a circular economy.
- **Restrictions on the disposal of unsold consumer goods:** introduces new powers for the Scottish Government to limit the disposal or destruction of unsold goods. The policy memorandum says this measure aims to support a reduction “in wasteful practice and unsustainable behaviour” for items such as clothing material and electrical appliances.
- **Charges for single-use items:** creates new regulation-making powers for the Scottish Government to introduce a minimum charge for certain single-use items. The policy memorandum says the purpose of this measure is to reduce consumption of these items. The Scottish Government has said that intends to utilise this new power to introduce a minimum charge for disposable beverage cups.
- **Householder’s duty of care in relation to waste:** includes provisions creating a criminal offence for householders breaking their obligations around waste as set out in the Environmental Protection Act 1990. The Bill also creates a new regime of fixed penalties for local authorities to enforce this offence.
- **Household waste:** introduces new obligations for local authorities to comply with a code of practice on recycling. The Bill also provides powers for the Scottish Government to set statutory recycling targets for local authorities. The Scottish Government has said these targets would apply from 2030.
- **Littering from vehicles:** the Bill establishes a new civil penalty regime that will make the owner of a vehicle liable to pay a penalty charge for offences committed regarding littering from that vehicle.
- **Enforcement powers in respect of certain environmental offences:** the Bill provides a new enforcement power for SEPA and local authorities to seize vehicles involved in waste crime.
- **Reporting of waste data:** the Bill places new requirements for businesses to publicly report information relating to waste and surplus.

4. A Briefing on the Bill is produced by the Scottish Parliament Information Centre (SPICe) and will be available at the following link—

- [SPICe Research Briefings Hub](#)

NZET Committee scrutiny of the Bill

5. The Committee first considered its approach to scrutiny [at its meeting on 27 June](#). It agreed to undertake a dual approach to its consultation on the Bill. The Committee hosted an online discussion on the themes arising in the Bill in addition to

seeking detailed views on the intended operation of the specific provisions. The Committee also agreed initial panels of witnesses it wished to hear from.

6. At its meeting on 12 September, the Committee also agreed to undertake fact-finding visits to further explore the issues arising from the Bill.

Call for Views

7. [The call for views](#) was launched on 29 June and closed on 1 September. Responses can be found on the Committee's website—

- [Read responses to the online discussion](#)

NZET Committee meeting – 26 September

8. On 26 September, the Committee will hear from a panel of representatives from Scotland's business community to discuss their views on the Bill.

9. It will hear from—

- Cat Hay, Head of Policy, Food and Drink Federation Scotland;
- Ewan MacDonald-Russell, Deputy Head, Scottish Retail Consortium; and
- Colin Smith, Chief Executive, Scottish Wholesale Association.

10. Written submissions have been received from—

- Scottish Retail Consortium (**Annexe A**);
- Food and Drink Federation Scotland (**Annexe B**);
- Scottish Wholesale Association (**Annexe C**).

Next steps

11. The Committee will finalise its programme of meetings on the Bill and continue to take evidence from stakeholders throughout the autumn. It will also undertake visits and an engagement event.

Clerks
Net Zero, Energy and Transport Committee

Annexe A

Written submission from the Scottish Retail Consortium to the Net Zero, Energy and Transport Committee call for evidence on the Circular Economy (Scotland) Bill

Introduction

1. The Scottish Retail Consortium's purpose is to make a positive difference to the retail industry and the customers it serves, today and in the future. Retail is an exciting, dynamic, and diverse industry which is going through a period of profound change. Technology is transforming how people shop; costs are increasing; and growth in consumer spending is slow.
2. The SRC is committed to ensuring the industry thrives through this period of transformation. We tell the story of retail, work with our members to drive positive change and use our expertise and influence to create an economic and policy environment that enables retail businesses to thrive and consumers to benefit. Our membership here in Scotland and across the UK comprises businesses delivering £180bn of retail sales and employing over one and half million employees.
3. In addition to publishing leading indicators on Scottish retail sales, footfall and shop vacancies, our policy positions are informed by our membership and determined by the SRC's Board.
4. The SRC appreciates the opportunity to respond to the Committee's consultation.

General Comments

5. Retail is amongst the most climate-conscious industries and a leader in reducing the environmental impacts of its operations. Retailers have already significantly reduced carbon emissions, water usage, and the portion of waste which goes to landfill alongside a veritable gamut of sustainability initiatives.
6. Whilst this legislation was rightly delayed due to the Covid pandemic, retailers have not stopped their efforts to deliver a more circular economy, for example through the immense investment expended on implementing the now delayed Scottish deposit return scheme. With retailers also facing higher costs due to the plastics tax and extended producer responsibility government needs to take a realistic view of what further burdens should be passed onto consumers at a time when inflation is spiralling.
7. Government must also ensure the public sector is fully playing its part, starting with shifting to a Scotland, or indeed ideally UK-wide, harmonised household recycling system which could allow nationwide public information campaigns and

- transform recycling rates across the nation. As an industry we have sought to support consistent messaging on recycling through on-pack recycling labelling.
8. The Scottish Retail Industry is committed to the journey towards environmental sustainability and to net zero by 2040. Retail is a leader in reducing the environmental impacts of its own direct operations, but just as crucially driving environmental improvements across the globe through the supply chain. Retailers have already significantly reduced carbon emissions, water usage, and the portion of waste which goes to landfill. The SRC published a detailed report on this in 2015 which provides significant detail on the work we've already accomplished¹.
 9. We will continue to move forwards on this agenda, particularly through voluntary collective action by our Members. Our net zero by 2040 roadmap published three years ago and previous Better Retail Better World² is mobilising the retail industry to meet some of the biggest global challenges of the coming decades highlighted by the UN, including modern slavery and decent work, sustainable economic growth, inequalities, climate change and responsible consumption and production. Retail was the first industry to take collective action in this way using the UN's SDGs. The programme has been backed by several NGO's, including WWF, as a model for industry sustainability.
 10. Using the widely recognised United Nations Sustainable Development Goals as a framework, clear, transparent, and measurable goals developed with businesses and campaigners are at the heart of the initiative.
 11. Put simply, this action will mean further safeguards against people falling into the modern slavery trap by paying to get a job, reductions in greenhouse gas emissions, deforestation and waste sent to landfill and more support for people from underrepresented demographics to progress in employment.
 12. Results published in 2019 showed that leading SRC members have reduced their carbon emissions by 36% since 2005 and are on track to achieving less than 1% of waste going to landfill by 2020. In addition, millions of tonnes of food and packaging waste has been prevented through the WRAP Courtauld Commitments, and the carbon and water impacts of clothing have been reduced by 10% through the Sustainable Clothing Action Plan.
 13. Many SRC members are also committed to the UK Plastic Pact to:
 - a. eliminating problematic or unnecessary single-use plastics (such as polystyrene packaging and plastic cutlery by end of 2020),
 - b. ensuring all plastic packaging is 100% reusable, recyclable or compostable
 - c. achieving 30% average recycled content across all plastic packaging
 - d. ensuring that at least 70% of plastic packaging is effectively recycled or composted
 14. This work takes place alongside our work to reduce unnecessary plastic waste, and to work with Government and stakeholders on further producer responsibility reform.

15. Therefore, we welcome the Scottish Government's commitment to create a legislative framework to deliver a cohesive and strategic approach to the circular economy. This policy area has been bedevilled with a plethora of ad hoc piecemeal and ill-thought through initiatives which distract businesses from focusing on the areas where we can make a substantial difference. We hope this consultation will lead to a long-term strategic vision which will reward businesses who take a similar strategic commitment to sustainability.
16. We would note however there are several areas where we believe market and industry responses don't require Government intervention and we would urge policymakers to focus on the areas which truly require intervention rather than responding to the latest campaigning fad.
17. We have some concerns about the risks of unintended consequences of some of the proposals outlined in the legislation. Our experience with the deposit return scheme means we are very conscious framework legislation can enable policy measures which are more complex and challenging than anticipated. We believe both the proposals to outlaw the disposal of consumer goods and introduce charges will need to be written carefully to prevent inadvertently worsening the situation. We hope the Committee will look closely at the best way to ensure there is appropriate consultation and scrutiny of any measures which are enabled by this legislation.
18. The SRC welcomes the opportunity to respond to this consultation on the Stage One Legislation

Responses to the Consultation

Circular economy strategy

Is a statutory requirement needed for a circular economy strategy?

Is there anything else you would like to say about a circular economy strategy?

(Section 1 – 5)

How should circular economy strategies be aligned with climate change plans and other environmental targets (including biodiversity goals)?

19. There is a clear need for Scottish Ministers to make a long-term commitment to delivering the Circular Economy. The necessary infrastructure commitments require Ministers to make commitments and then to honour them. Whether there needs to be a distinct timeframe is an issue we don't take a view on. We would also note that any strategy should take account, and where possible align, with strategies developed and delivered in the other home nations.

Circular economy targets

Are statutory circular economy targets needed?

Is there anything else you would like to say about powers to introduce circular economy targets? (Sections 6 and 7)

20. There is a clear need to ensure the commitments already made by government are delivered. We believe statutory targets have a role to play in this, but there

needs to be caution about ensuring targets are realistic, and deliverable by government.

21. We would also note that setting targets which require Scotland-specific reporting conditions for businesses could well be onerous. Where possible Government should look to set targets based on existing metrics, both to allow reasonable comparatives with historic conditions and to avoid these challenges.

Restrictions on the disposal of unsold consumer goods

Do you think there is a need for additional regulation restricting the disposal of unsold consumer goods?

Is there anything else you would like to say about the disposal of unsold consumer goods? (Section 8)

22. The SRC supports the Scottish Government's desire to explore the best solutions for the afterlife of used or returned products. This is something retailers are already keenly committed to, both for sustainability reasons but also due to the economic incentives in taking the value out of returned materials. Indeed, we recently published guidelines for the retailing of second hand and pre-loved items. However, we are concerned that rather than focus on enhancing the recycling and reuse infrastructures in Scotland these regulations may be seen as an alternative which will not deliver the sustainable outcomes desired.
23. Firstly, we are concerned at the broad definition of unsold 'consumer goods'. Our understanding is this could cover any item sold in Scotland. That is a very broad definition which could affect everything from textiles, electricals, and even food products. Many of these items already have existing return and disposal approaches and we therefore question why this legislation is being brought forward.
24. In most cases retailers look to resell, reuse, or recycle unsold products, with many stores offering return points. However, there are some products which are returned to retailers which are not suitable for even recycling. Clothing which is found with mould is an example of a material which cannot be reused in any manner; and is exactly the type of product we anticipate would be covered by potential restrictions.
25. For the small number of products which are currently destroyed there is no realistic alternative option. There is currently no infrastructure in Scotland which can recycle many of these materials. Therefore, the consequence of any legislation in this area would be to displace the products elsewhere. That will not prevent the disposal of the materials but will instead merely add transport miles with the concurrent carbon emissions on top of the inevitable disposal.
26. We don't believe there has been clear evidence there is a significant issue at the moment, and our concern is these framework regulations could inadvertently create more problems than currently exist.
27. However, if these regulations are taken forwards, we hope Parliamentarians will closely look at the scope of these new rules and put in place safeguards to

ensure any secondary regulations are targeted where there is clear evidence of specific harms, and this would be a proportional intervention.

Charges for single-use items

Should Scottish Ministers have powers to make regulations that require suppliers of goods to apply charges to single-use items?

Is there anything else you would like to say about charges for the supply of single-use items? (Section 9)

How do you think Scottish Ministers should use their powers to have the greatest impact in transitioning to a circular economy?

28. The SRC believes the use of externality charges is potentially a valuable tool for Government to change consumer behaviour and change the perception of value of materials currently considered by customers as waste.
29. Nonetheless, it's important to avoid unintended consequences. Therefore single-use charges should only be adopted when the re-usable option is demonstrated to have a lower climate impact than the single-use option and while this may often be the case, a robust life cycle assessment should support any decision-making.
30. This is crucial to consider with the upcoming introduction of new rules under the extended producer responsibility for packaging. All packaging products will already have new charges imposed based on their environmental impact (modulated fees). Any potential charges will need to interact with that pre-existing system to avoid generating unintended incentives amongst materials.
31. It's important any regulations provide assurance there would be no duplication or double accounting of existing charges for environmentally harmful items (i.e., EPR).
 - Consideration should also be given to what steps can be taken to encourage businesses to drive innovation in product development, and to adopt or use available products that reduce environmental impact. Application of any further charges should also be consistent across sectors, physical retail, and online marketplaces.
 - It's also important if charges are brought in that Scottish Government takes ownership of branding, marketing, and promotion of the charge. Charges can be unpopular with consumers and it's unfair to make shop floor staff justify government-mandated levies at a time when we are seeing elevated levels of abuse towards shop workers.
32. If charges are to be brought forwards, we believe there are several considerations which should be made in advance:
 - a. There needs to be a detailed evidence base brought forwards on each item to consider both the environmental, but crucially the consumer, impact of a policy measure. We would want to see a clear policy development and assessment process developed to ensure any charges are proportionate, evidence-based, and fulfil a need not already covered by existing producer responsibility measures.

- b. We think the lessons of the Single Use Carrier Bag Charge should be considered. That measure has succeeded because it was perceived by consumers as reasonable, focused, and alternatives were available – so customers felt it was fair. Similarly, it was brought in with collaboration from retailers so established incentives which worked with, rather than against industry.
- c. We strongly oppose the proposal to hypothecate the proceeds of charges to environmental causes. The proceeds from the Single Carrier Bag Charge were allowed to be donated by retailers to ‘good causes’. That approach saw health and children’s charities, along with local community groups, receive millions of pounds in revenue; and there appears to be scant evidence this approach was problematic. The mooted approach by government would instead remove that autonomy from businesses and instead create a narrow and presumably delineated complex system. We believe if Government wants to support environmental charities and community groups it should do so directly, it should not attempt to fund these groups by proxy through charges which can have volatile revenue streams.
- d. We would like to see a proportionality test brought forwards in this area to allow evidence to assess whether the societal cost of a charge (which by its nature is a regressive measure since it impacts consumers regardless of incomes) is offset by a clear societal benefit.
- e. It’s also reasonable to expect Government to consider any potential charges in the wider context of measures designed to impact on consumer behaviour. This is to ensure measures don’t contradict policy measures in this, or other spheres of public policy. It also should ensure the overall cost to consumers is considered holistically rather than by department or policy by policy.
- f. We also believe Scottish Government needs to develop a consistent approach to these charges which is acceptable to consumers. The approach in the Single Use Carrier Bag Charge works well – it means the responsibility and cost of collection falls on retailers, but they can capture reasonable costs and then pass on any proceeds to good causes in Scotland. We’d note SRC Members have passed on over £12 million to Scottish Charities³ because of the charge. We think this model works well and helps both good causes and the businesses affected.
- g. However, we would note over time the carrier bag charge has become less relevant as businesses have moved away from single use plastic bags. That is a welcome policy development, but it’s plausible other charges could create unanticipated incentives, for example using less sustainable materials, which may not necessarily be in the interests of the circular economy. Policymakers should have a clear sense of the desired outcome and how the charge interacts with the realities of the market rather than the hopes of campaigners.
- h. Any measures in this space will require reasonable implementation time once the regulations and guidance are published, which chimes with the thrust of the recent New Deal for Business. This is necessary to allow businesses to put processes in place for the change and to source relevant materials or products in line with the desired material shift. Supply chains remain under significant stress and huge demand for recycled content for example or alternatives to plastics. Large-scale industry shifts with short leads in time

cause spikes in demand for some products/materials, raising the costs of materials and in some cases leading to shortages. It should be noted some retailers have long-standing commercial agreements in place with suppliers and that rapid policy changes can lead to contractual penalties whilst retailers are also facing the risk of regulatory non-compliance. As a starting premise, implementation periods should at least ensure businesses can remain compliant with the grocery supply code of practice.

- i. We also believe there should be a clear review period established in any regulations, as we have seen with Minimum Unit Pricing of Alcohol.
- j. The retail industry is currently the subject of a very significant number and variety of fiscal and regulatory interventions. The Scottish Government's priority should be ensuring there is coherence across all fiscal interventions and that we avoid multiple competing charges all targeting similar items e.g., EPR, plastic tax.

Household waste

Should it be a criminal offence for a householder to breach their duty of care in relation to waste under the Environmental Protection Act 1990 (e.g., to fail to ensure that waste is disposed of to an authorised person)?

Is there anything else you would like to say about household waste and enforcement of household waste requirements? (Sections 10 & 11)

Is further action needed, either within or outwith the Bill, to tackle fly tipping effectively? If so, what action is needed?

33. We do not take a view on this question.

Household waste recycling – Code of Practice and local targets

Should the Code of Practice on household waste recycling (currently a voluntary code) be put on a statutory footing?

Is there anything else you would like to say about a Code of Practice on household waste recycling? (Section 12)

Should Scottish Ministers have powers to set targets for local authorities relating to household waste recycling?

Is there anything else you would like to say about targets for local authorities relating to household waste recycling? (Section 13)

Is further action needed, either within or outwith the Bill, to support local authorities to achieve higher household recycling rates? If so, what action is needed?

34. The SRC believes the current Scottish household recycling system requires urgent reform. It is highly concerning the eight-year-old Scottish Charter for Household Recycling has not delivered a single harmonised and cohesive system. That hampers the efforts of the supply chain to drive increases in customer behaviour – for example retailers (and public information campaigns) can't tell consumers which colour of wheelie bin to use for a product if there are 32 approaches in different local authorities across Scotland.

35. So, we support a mandatory approach – with one caveat. Extended Producer Responsibility Reforms are designed to enshrine the polluter pays principle, with the very significant revenues of the scheme used to financially support recycling and waste management. We believe these reforms will only be successful if they

-are underpinned by a standardised approach to household recycling across the whole of the UK. As businesses we operate on that scale, and our labels, marketing, and communications are based on a UK audience. For us to support recycling systems properly we need an aligned consistent approach. Therefore, we support Scottish Ministers taking a mandatory approach – as long as that approach is to align recycling systems across the four nations. However, even in that instance, any changes must follow the introduction of Extended Producer Responsibility to ensure adequate funding and improved collection and recycling infrastructure before any other policy interventions are considered.

Littering from vehicles

Should civil penalties for littering from vehicles be introduced?

Is there anything else you would like to say about civil penalties for littering from vehicles? (Section 14)

Enforcement powers in respect of certain environmental offences

Should enforcement authorities in Scotland be given powers to seize vehicles linked to waste crime?

Is there anything else you would like to say about enforcement powers? (Sections 15 and 16)

36. We do not take a view on this question.

Reporting on waste and surpluses

Should Scottish Ministers have powers to require persons to publish information on anything they store or dispose of (except in relation to domestic activities)?

Is there anything else you would like to say on reporting? (Section 17)

How should Scottish Ministers go about identifying which types of waste and surpluses should be subject to mandatory public reporting?

37. Grocery Retailers already report on a wide number of waste issues, including significant reporting on food waste. However, currently much of this is done at a UK level because most of our larger members operate at that scale. Scottish specific reporting would be complex and onerous, and we believe there is a duty to demonstrate this is required, rather than working with existing models which would also allow better comparison across the four nations. We believe a cohesive approach to data collection will also make it easier for there to be aligned approaches across the four nations which makes it more feasible to deliver a successful circular economy at scale.

Net zero

The Scottish Government is committed to reaching an interim target of reducing greenhouse gas emissions by 75% (from a 1990 baseline) by 2030 and of making Scotland a “net-zero nation” in emissions by 2045.

Do you think the Bill will play a significant role in achieving these net zero targets? Please give your reasons.

There is a Policy Memorandum accompanying the Bill. This aims to set out the underlying reasons why the Scottish Government thinks the Bill is necessary. Did you find the discussion under “Sustainable Development” in the Policy Memorandum helpful or unhelpful in terms of understanding what impact the Bill would have in terms of reaching these net zero targets?

38. The retail industry has an important role to play in rapidly decarbonising the global economy. As well as providing goods and services for UK customers and supporting livelihoods for millions around the world – for many of whom the impact of weather extremes is already tangible - the industry also contributes significantly to the underlying drivers of climate change, with value chain emissions of approximately 215 MtCO₂e (million tonnes CO₂-equivalent) per year. The retail industry recognises it has a key part to play in tackling climate change. This is why retailers have come together through the SRC to develop a decarbonisation plan. The Climate Action Roadmap, developed in partnership with twenty leading retailers, is designed to guide British retail along the steps necessary to achieve a Net Zero UK by 2040, ahead of the Government's 2050 target⁴.
39. Delivering a successful Circular Economy strategy is a prerequisite to achieving our 2040 Net Zero target, and the Scottish Government's targets. Moving towards greater reuse and recycling is essential. However, policy choices within this space need to be done with a Net Zero lens. Scottish Ministers have sometimes failed to recognise that the unintended consequence of some policy choices can be to increase carbon emissions (the specific proposals to mandate an online takeback system as part of the deposit return scheme, or incentivising product material shifts at scale). Similarly, the Circular Economy strategy needs to dovetail with a clear infrastructure strategy to ensure the goals are aligned to the practical measures taking place.

General/aspects not in the Bill

Are there any areas not addressed (for example on waste reduction and reuse) by the Bill that you believe should be included? If so, what are they?

Are there international examples of best practice in legislation supporting the transition to a circular economy?

40. Generally, we believe framework legislation should be tightly focused on tangible regulations. One challenge our Members have faced is when legislation allows sweeping measures through secondary legislation which does not receive the same detailed scrutiny from stakeholders and the Parliamentary process. If anything, this legislation is already very broad, and we therefore don't believe it needs to enable anything further. If other regulatory measures are required, they should be brought forward through primary legislation so they can be appropriately scrutinised.
41. One area where retailers would like to encourage further reuse is through increasing donations to good causes. At a UK level we are campaigning for the UK Government to extend the VAT relief on product donations to charities for onward sale to direct product donations to individuals and households. We hope the Committee, and indeed Scottish Government, would explicitly support such a change.
42. We would also note this is a space in which retailers are already taking very significant action outwith their regulatory requirements. Its important Governments don't seek to intervene where that isn't necessary in many of these

areas as a regulatory approach can often act as a limiting factor on the very significant innovation which is already taking place.

Resources and Waste Common Framework

The Committee is also seeking your views around how the Bill sits within a wider context of:

a mixture of devolved and reserved powers in relation to tackling consumption and areas such as product standards existing UK-wide schemes such as developments with Extended Producer Responsibility

how circular economy and waste policy is influenced by the UK Internal Market Act 2020 and relevant Common Frameworks.

Do you have comments on how this wider framework should function to support Scotland's transition to a circular economy, in particular on the provisional Resources and Waste Common Framework?

43. The SRC has consistently been supportive of the Common Frameworks as a mechanism to ensure policy measures across the four nations can be appropriately aligned through a collaborative approach between the different administrations. Similarly, we believe the requirement for all government to ensure policy measures are non-discriminatory for businesses in all four nations. As we have expressed elsewhere, we believe in many instances a four nations approach is essential to effectively delivering a truly circular economy and to aid consumer understanding. Our long-standing policy asks of UK Government(s) have been, and still are, the ones the Framework aspires to address e.g., avoiding policy divergence, misaligned policy scopes, and diverging timelines for implementation.

Annexe B

Written submission from the Food and Drink Federation Scotland to the Net Zero, Energy and Transport Committee call for evidence on the Circular Economy (Scotland) Bill

This submission is made by the Food and Drink Federation – the member organisation representing food and drink manufacturers. We welcome the opportunity to comment on the Circular Economy bill. We responded to the initial consultations on the Circular Economy Bill and Roadmap – our responses to the original consultations are appended.

Circular economy strategy

- **Is a statutory requirement needed for a circular economy strategy?**
- **Is there anything else you would like to say about a circular economy strategy? (Section 1 – 5)**
- **How should circular economy strategies be aligned with climate change plans and other environmental targets (including biodiversity goals)?**

Whilst we welcome and can understand the value of a circular economy strategy, we would query the rationale to make this a statutory requirement. We would hope that the Scottish Parliament would embed circular principles within relevant policy and regulation.

Circular economy-related policies should consider the global good – recognising that materials and resources flow in and out of Scotland – this is fundamental to the running of the Scottish economy.

A move towards a more circular economy will take decades to achieve. A long-term strategy to 2045 in line with the Scottish Government's net zero commitments is sensible, with a refresh every 5 years to allow for advances in technology and changing consumer habits to be considered.

Scotland needs a single long-term strategy that enables food and drink businesses to take investment decisions that will improve sustainability, circularity and escalate our move to net zero emissions. The Scottish Government has produced a Climate Change Plan, Litter Strategy, a Net Zero commitment and now a Circular Economy Route map. There is a lot of overlap between these strategies making it complicated for businesses to navigate.

In addition, there will be interactions with the UK Waste and Resources Common Framework so there is a need to work closely with the other 3 UK nations to ensure that friction on circular policy is minimised.

Circular economy targets

- **Are statutory circular economy targets needed?**
- **Is there anything else you would like to say about powers to introduce circular economy targets? (Sections 6 and 7)**

As above, it would be useful to understand why the Scottish Government feels statutory targets are required.

Research published by Zero Waste Scotland in 2022 concluded that “*No consumption reduction targets [from other countries] were found to have legal backing.*”

In the circularity gap report for Scotland, material flows relating to food and drink production would show that we are reliant on many raw materials and ingredients to be imported and we are a sector that has ambitions to continue to grow our exports. Indeed, the Scottish Government’s own export strategy, A Trading Nation, states:

*“Why exporting's important - Countries that export have stronger economies. Exporting helps Scotland’s economy to grow and creates jobs. It helps the Scottish Government collect more tax to: improve living standards, improve public services
Exporting also helps Scotland build good relationships with other countries. This can help Scotland to have a positive influence on the world.”*

Understanding how the Scottish Government would expect consumption reduction targets to intersect with the ambitions in its own export strategy would be welcome.

Restrictions on the disposal of unsold consumer goods

- **Do you think there is a need for additional regulation restricting the disposal of unsold consumer goods?**
- **Is there anything else you would like to say about the disposal of unsold consumer goods? (Section 8)**

The term “consumer goods” is very broad and we understand from Scottish Government officials that this could include food and drink products. The bill does not state at this stage what these regulations would/could be - making it difficult to comment further at this stage.

In broad terms we would ask the Scottish Government to consider regulation as a last resort, looking at other levers that could encourage donation or reuse of unsold goods.

Charges for single-use items

- **Should Scottish Ministers have powers to make regulations that require suppliers of goods to apply charges to single-use items?**
- **Is there anything else you would like to say about charges for the supply of single-use items? (Section 9)**

- **How do you think Scottish Ministers should use their powers to have the greatest impact in transitioning to a circular economy?**

The Scottish Government has already regulated to restrict the sale of single use items made of plastic. FDF was broadly supportive of restricting certain items including banning oxy-degradable plastics. An exemption to the UK Internal Market Act was approved for this.

In relation to food and drink production, single use items are currently vital to ensure the highest standards of food hygiene and safety. It is therefore important to state that there should be exemptions for single use items that protect the integrity and safety of our food in Scotland.

Household waste recycling – Code of Practice and local targets

- **Should the Code of Practice on household waste recycling (currently a voluntary code) be put on a statutory footing?**
- **Is there anything else you would like to say about a Code of Practice on household waste recycling? (Section 12)**
- **Should Scottish Ministers have powers to set targets for local authorities relating to household waste recycling?**
- **Is there anything else you would like to say about targets for local authorities relating to household waste recycling? (Section 13)**
- **Is further action needed, either within or outwith the Bill, to support local authorities to achieve higher household recycling rates? If so, what action is needed?**

The food and drink industry is working closely with the Scottish and UK governments on transforming the household recycling landscape for our nation through re-designing the Extended Producer Responsibility obligations. FDF members are wholeheartedly supportive of EPR if done correctly. Currently, our industry cannot access enough recycled food-grade materials for packaging – in part because the collection and recycling rates are not high enough.

For a successful EPR scheme to work, collections of materials must be consistent across Scotland with households knowing what they should be recycling and sorting their refuse correctly. Good communications nationally will help to eliminate confusion – which we see today across different recycling practices in different local authority areas – e.g. ‘can I recycle the lid of my yoghurt pot as well as the pot itself’ – must be eliminated.

Without consistent collections, EPR won’t drive higher recycling rates; nor incentivise investment in new, efficient sorting and recycling infrastructure at scale. The current voluntary approach by local authorities appears to have made some progress towards consistency of materials collected but more needs to be done.

We understand from Zero Waste Scotland who administer the £70m Recycling Improvement Fund to Scottish Local Authorities that this money will not be enough for the transformation required. We suggest that this fund could be increased and ring-fenced with a focus on consistency. Analysis of funded projects through this

fund include; purchase of Transformative Data Gathering chips, Radio Frequency ID tags for communal bins and technology to target contamination and improve route efficiency for bin lorries.

There is potential within this bill to mandate collection of specific materials which would create a circular loop for e.g. flexible plastics, for example – bread bags, or the bags that frozen vegetables and oven chips come in. We don't currently recycle these in Scotland and unfortunately a pilot project to collect and recycle flexible plastics in Scotland was unsuccessful due to cashflow and lack of consumer communications.

Reporting on waste and surpluses

- **Should Scottish Ministers have powers to require persons to publish information on anything they store or dispose of (except in relation to domestic activities)?**
- **Is there anything else you would like to say on reporting? (Section 17)**
- **How should Scottish Ministers go about identifying which types of waste and surpluses should be subject to mandatory public reporting?**

As per our response in previous questions, it would be good to understand the rationale for these powers. Specifically, what is the expected outcome of mandating businesses publish information on anything they dispose of which is unclear from the accompanying policy memorandum.

We do not support Scottish Ministers having the power to require persons to publish "anything they store". This would be completely impractical for food and drink manufacturers, and we query the purpose of this. For example, a food manufacturer will receive multiple ingredients daily which will be stored and then used to make products which may also be stored awaiting orders or shipped to customers.

Net zero

The Scottish Government is committed to reaching an interim target of reducing greenhouse gas emissions by 75% (from a 1990 baseline) by 2030 and of making Scotland a "net-zero nation" in emissions by 2045.

- **Do you think the Bill will play a significant role in achieving these net zero targets? Please give your reasons.**

The Bill is unlikely to have a significant impact on reducing GHG or shifting Scotland towards net zero. The bill focuses on creating powers and targets. We are aware of the circular economy roadmap that will be developed, this has the potential to include enablers and de-risking policies that will help businesses to reduce GHG faster.

There is a Policy Memorandum accompanying the Bill. This aims to set out the underlying reasons why the Scottish Government thinks the Bill is necessary. Did you find the discussion under "Sustainable Development" in the Policy Memorandum helpful or unhelpful in terms of understanding what impact the Bill would have in terms of reaching these net zero targets?

No. Although we add that the policy memorandum is useful for context and understanding of the rationale for some of the measures proposed within the Bill.

Resources and Waste Common Framework

The Committee is also seeking your views around how the Bill sits within a wider context of:

- **a mixture of devolved and reserved powers in relation to tackling consumption and areas such as product standards**
- **existing UK-wide schemes such as developments with Extended Producer Responsibility**
- **how circular economy and waste policy is influenced by the UK Internal Market Act 2020 and relevant Common Frameworks.**

Do you have comments on how this wider framework should function to support Scotland's transition to a circular economy, in particular on the provisional Resources and Waste Common Framework?

It's critical that we all understand that Extended Producer Responsibility, Deposit Return Schemes and Consistent Collections are not separate policies. They are interlinked and interdependent. They must be looked at holistically. Government must adopt a whole-systems approach if we're really to establish a circular economy in Scotland and adopt a "for the global good" approach.

We appreciate that policies relating to the circular economy are complex involving a very wide range of actors across different parts of government and the economy, and that at their core lies significant systems change.

We append our response to the UK EFRA committee on the waste and resources common framework which sets out our views on the Resources and Waste Common Framework in more detail.

We would very much welcome the opportunity to discuss any of the issues raised above in more detail with the committee.

Annexe C

Written submission from the Scottish Wholesale Association to the Net Zero, Energy and Transport Committee call for evidence on the Circular Economy (Scotland) Bill

Circular economy strategy

1. Is a statutory requirement needed for a circular economy strategy?

The Scottish Wholesale Association (SWA) is the official trade body for Scotland's food and drink wholesaling sector. The sector represents a significant part of the Scottish food and drink supply chain which, prior to the pandemic, was worth £2.9bn and employed over 6,500 people. 90% of the sector is made up of Scottish family run SMEs.

SWA members are 'the wheels to Scotland's food and drink industry' supplying products to 1/5 of the retail sector through 5,000 independent convenience stores as well as 30,000 catering, hospitality, tourism and leisure businesses and public sector establishments including schools, hospitals, and prisons.

SWA have over 70 wholesale members, and an equal number of supplier members, ranging from family run single depot businesses to large household names. Our members supply customers the length and breadth of Scotland from over 120 depots, located from Orkney to the Borders.

Modern wholesale businesses play a diverse central role - in the middle of the food and drink supply chain, sitting between the retailer and producer or supplier - which includes an educational role for fascia group retailers, local producers and national suppliers.

It's vital that the complex wholesale food and drink supply chain is fully understood and invested in if Scotland is to achieve a food system based around quality local production and short, circular sustainable supply chains.

The Scottish wholesale sector remains under severe economic impact caused by Brexit, Covid, Ukraine conflict and labour shortages which have been compounded by the rising costs of fuel and energy, and availability and cost of products and packaging from suppliers. Managing the extreme cumulative burden of these impacts has been damaging to our sector which operates on low net margins of 1.3%.

SWA have already undertaken groundbreaking work to decarbonise the wholesale sector. With the right Government support and investment, the Scottish Wholesale Association has set out ambitious plans to reach net zero by 2040, in time for Scotland's net zero target of 2045, in our report, 'Decarbonising the Scottish

Wholesale Sector', which explores the sector's carbon emissions and attitudes to climate action. <https://www.scottishwholesale.co.uk/media/2927/swa-decarbonising-the-scottish-wholesale-sector.pdf>

We understand that we, and our members, have a role to play, and are committed to driving a just transition to net zero that can benefit Scotland's wholesale sector and our partners in the food and drink supply chain. SWA have always sought to play an active part in the Scottish Government's Circular Economy plans, engaging as members of the Single Use Disposable Cups Charge Advisory Group.

SWA have been actively engaged on DRS for the past six years, as a member of CSL and , now, as a participant in cross border DEFRA discussions on inter-operability. We are concerned that elements of the Circular Economy Bill enabling legislation such as the enabling power to charge for single -use items may be about to follow the same route as the development of the DRS policy. We expand on this in more detail in response to questions on the potential charge.

SWA accept that a statutory requirement is needed to progress the Circular Economy Strategy as effectively as possible and that such a strategy would, as outlined in the Policy memorandum, "give a clear indication of priority sectors and direction of travel for businesses and wider stakeholders."

2. Is there anything else you would like to say about a circular economy strategy? (Section 1 – 5)

SWA welcome the proposal for the Scottish Government to publish or refresh a circular economy strategy every five years and for Ministers across government to have regard to the Strategy when making policy or legislative proposals. The Strategy could drive greater collaboration across government departments, authorities, and stakeholders.

It's important that the Scottish Government engage collaboratively with businesses on the Circular Economy Strategy and the Route Map. We support the need for Ministers to have regard to the development of a circular economy in priority sectors such as the food and drink sector.

SWA welcome the progress of the New Deal for Business Group which recognises the need for better and earlier collaboration and partnership between government and Scottish business in the development of policy. This circular economy legislation is an early opportunity for the Scottish Government to show it is genuine about a reset of its relationship with Scottish business.

There is an urgent need for coherent engagement and education communications around the strategy. It's important that there is clarity about what the Circular Economy strategy is and what the enclosed targets would mean for businesses, large and small. There is very low awareness of the need for such a strategy but there's even less awareness about the opportunities relating to a circular economy and how businesses can translate a national strategy into actions within their own business and sector. Critically there remains a lack of knowledge about where businesses can and should go for support.

We also note that while the Bill gives the Ministers powers to set statutory targets in secondary legislation, ZWS acknowledges that there's no consistent international approach to measuring consumption and the Policy Memorandum states that the “target should be set on the basis of a developed monitoring and indicator framework that considers a range of circular economy measures. This should be underpinned by rigorous stakeholder engagement to ensure there are no unintended consequences of target setting”.

While the SWA share the Scottish Government's Circular Economy aspirations we would wish to highlight our concerns at the cumulative impact of additional business costs including those arising from Scottish and UK Government legislation and regulation. This includes a range of areas including the Deposit Return Scheme, EPR and the wide-ranging sector implications of the road to Net Zero.

While we would argue there is a need for financial and practical support for wholesale businesses facing significant change, for example in the need to modernise and de-carbonise fleet and buildings, we would also highlight that businesses require clarity of direction from both governments.

3. How should circular economy strategies be aligned with climate change plans and other environmental targets (including biodiversity goals)?

SWA support proposals that the circular economy strategy should be consistent with the Climate Change Plan, the environmental policy strategy and other strategies or plans which the Scottish Ministers consider to be relevant. SWA believe it's important that this should include the National Strategy for Economic Transformation and Just Transition plans.

It's important that CE strategies are aligned overtly with climate change plans and other environmental targets. Members of the public and businesses must understand how CE strategies contribute to climate change emissions reduction through the use of fewer resources, the optimising and extending of the life of resources and products, and the closing of products' lifecycle loops.

Objectives and target dates should align, and should be linked to global targets e.g. UN Sustainable Development Goals directly benefitting from CE practices – in particular SDG 12 – Sustainable Consumption and Production, but also others such as SDG 15 – Life on Land - protecting biodiversity, improving terrestrial ecosystems, including improving soils.

However, while it is important to have close alignment across all the different strategies, it is even more important that monitoring of progress is actively and regularly undertaken. With multiple strategies and policies all aligning with one another, it needs only one area to fall behind it's intended timeline, for all the others to come crashing down on top. Again, as seen in the implementation and eventual demise of Scotland's DRS.

With so many variables and interdependencies across the different policies and strategies, a robust monitoring system to measure progress must be put in place and communicated across all policy areas giving transparency and allowing adjustments to be made on the transition to a greener, more sustainable circular economy.

Circular economy targets

1. Are statutory circular economy targets needed?

SWA agree that statutory circular economy targets would encourage the Scottish Government to set out and maintain a clear direction of travel which would be strengthened by cross party and cross border working where possible. This would send an important planning message to businesses and other organisations that the policy direction in terms of the Circular Economy would be maintained in the medium term.

We expect targets to be evidence based; proportionate and achievable and taking into account relevant targets across the UK and within the EU. Any enabling powers taken by the Scottish Government to set statutory circular economy targets through secondary regulations at this stage would by necessity be extremely high level. SWA would suggest any such secondary legislation should follow affirmative or super affirmative process to allow sufficient Parliamentary scrutiny. SWA welcome the provisions that require circular economy targets to be consulted upon prior to being laid before Parliament.

2. Is there anything else you would like to say about powers to introduce circular economy targets? (Sections 6 and 7)

SWA shares Scottish Government aspirations to make the Scottish economy more self sufficient and to reduce raw material consumption and increase re-use. While we note European Commission targets to measure resource consumption we're currently unclear how this would be achieved within Scotland and how it would impact on food and drink wholesale. SWA would welcome concrete examples and business support from the Scottish Government on this issue.

SWA welcomes provisions in the Circular Economy Bill to give the Scottish Ministers powers to set statutory science based circular economy targets through secondary regulations in a number of areas which will maintain alignment with the direction of EU policy (section 6(3)).

Restrictions on the disposal of unsold consumer goods

1. Do you think there is a need for additional regulation restricting the disposal of unsold consumer goods?

Commercial and industrial waste accounted for 28% of Scotland's waste in 2018. SWA are supportive of efforts to give businesses the information, tools and support they need to reduce waste and maximise recycling, with clear incentives in place to ensure that the most sustainable choices are the easiest choices.

2. Is there anything else you would like to say about the disposal of unsold consumer goods? (Section 8)

No response provided.

Charges for single-use items

1. Should Scottish Ministers have powers to make regulations that require suppliers of goods to apply charges to single-use items?

SWA are generally supportive of efforts to reduce litter and the single use of resources. SWA agree that enabling powers allow Ministers to act on these important matters however, we would question whether or not some issues might be better dealt with through targeted primary legislation to allow sufficient scrutiny.

Wholesalers are committed to playing their part in the circular economy and the decarbonisation of the sector. This requires early and genuine engagement with the Scottish Government, Zero Waste Scotland, UK Government and other relevant bodies so that the sector has early sight of proposals and knowledge of the challenges and any opportunities associated with any potential measures. It's essential that there are robust BRIAs which examine the true business impact and costs of these proposals.

Given the cost of living and economic difficulties being faced by businesses and consumers currently we would urge the Scottish Government to consider the implications of additional charges on consumers and to seek other approaches where possible.

SWA note that on 1st May 2023 Vancouver repealed its' \$0.25 single use cup charge which was introduced in January 2022. The charge was repealed partly because businesses, which were able to keep the full levy, were still finding it difficult to operate. The charge had already been amended to exempt free drinks given in single use cups due to the negative impact on homeless people.

Ireland are about to introduce a 20c charge however there is widespread concern about the impact on businesses of a fall in sales as well as the cost of replacements cups and increased spending on dishwashing and drying equipment, adding to energy and staff costs.

<https://www.irishtimes.com/business/2023/07/17/latte-levy-will-hit-thousands-of-jobs-and-may-close-businesses-industry-says/>

The potential charge on single-use disposable cups will impact on the 90% of SWA members who sell cups and relevant drinks supplies to their customers in retail, hospitality and the public sector. We understand this would be a charge on consumers at point of sale and there should be no additional charge on the sale of single use beverage cups between businesses.

SWA are currently members of the Scottish Government's 'Single Use Cup - Industry Advisory Group' which is looking at, and advising on, the SG regulatory proposal for the introduction of a 'Single-Use Disposable Beverage Cups Charge' in 2025. Two

SWA members have also supplied information to assist Zero Waste Scotland understanding of the number and type of single use cups (hot and cold) being placed on the market in Scotland and the supply chains involved in this.

Given the present cost of living challenges for consumers and businesses SWA are concerned that an additional charge will add to those costs and challenges.

SWA would welcome the provision of workable cost neutral approaches and solutions however, it seems the case that the imposition of a cup charge is likely to increase costs to businesses. If this is the case it's important that these businesses can recover those costs by retaining the charge. This would be similar to the way in which retailers can recover reasonable costs of administering the plastic bag charge.

It's essential that the Scottish Government undertakes cost analysis on the real costs involved for businesses in this proposal and backs up the proposal with a strong evidence base that washable re-useable cups are actually better for the environment than single use cups. The Scottish Government plan to complete provisional impact assessments so they can form part of public consultation on the secondary legislation. SWA would prefer the Scottish Government to supply the Committee with some indication of likely business costs at this stage prior to decisions being taken on the principle of such a charge.

SWA would highlight the need for ZWS to actively work with business to find alternatives to single-use and environmentally harmful items. This type of business support is particularly necessary for SME wholesalers who are less likely to employ dedicated sustainability professionals. It's also important that Scottish Government and Zero Waste Scotland work with product manufacturers to understand their potential route maps and how this fits in with Government aspirations.

Members have also raised health and safety concerns around re-use approaches; how to ensure re-usable containers brought in by members of the public are clean. Clear guidance is required from Food Standards Scotland and businesses would need information and support.

Clearly, there will also be venues where the use of re-usable cups or other items would be problematic e.g sports and other stadia where there are potentially thousands of customers requiring multiple refills and vendors may not have washing/storage facilities to allow for re-use. There will also be a hierarchy of concerns in terms of public safety; food hygiene and security.

As we outlined above it's important that the Scottish Government and the Scottish Parliament learn some lessons from the DRS episode by undertaking enhanced scrutiny at this early stage to establish if a levy is the best way forward and, if so, how can any charge be as simple, proportionate and effective as possible for businesses to administer.

SWA have been actively engaged on DRS for the past six years , as a member of CSL and, now, as a participant in cross border DEFRA discussions on inter-

operability. We are concerned that elements of the Circular Economy Bill enabling legislation such as the enabling power to charge for single-use items may be about to follow the same route as the development of the DRS policy. It's critical that problems inherent in a cup charge are not dismissed in the quest for a "simple" solution to a complex problem.

The power to introduce a DRS was originally agreed as part of the Climate Change (Scotland) Act 2009 Act and the concept enjoyed cross party support. Having researched the historic Parliamentary scrutiny of DRS, SWA note that, partly as a result of confirmation bias and partly as a result of a protocol that primary legislation shouldn't look at the detail of such a proposal, the policy was not scrutinised in any depth by the relevant Parliamentary committee during the passage of the primary legislation. By the time the The Deposit and Return Scheme for Scotland Regulations 2020 were presented a decade later, cross party support for the policy was in place without many of the unintended consequences or practical realities having been fully explored. During the passage of the secondary regulations there was only one oral evidence Committee session despite the complexity of a policy which has now had significant negative economic impacts on SWA members and other businesses as well as CSL, the SNIB and the Scottish Government. The events around the Scottish DRS have also damaged the DRS concept leading to lack of confidence in future UK based schemes. It's critical that these policy development lessons are learned.

There are also several lessons to be learnt from DRS in respect of inter-governmental working. Despite requests for clarity from businesses and the Scottish Government of the UK Government's position on a range of DRS issues over many years there remained a lack of a clear Westminster position until the final months. These issues included VAT treatment and the advertising of the pricing presentation of the deposit/charge to consumers as well as, latterly, the implications of the Internal Market Act. Crucially, all three of these issues impact on the proposed charge on single-use disposable cups.

So, while this is Scottish Government legislation, we would urge the Committee to approach UK Government Ministers for their input at this stage. This would allow Committee members to gain a better understanding of the UK Government's thinking around IMA but also an understanding of how several of the proposals sit within the wider UK policy landscape, including the issue of Extended Producer Responsibility.

Therefore, SWA suggest the Committee might invest some time in greater scrutiny of the Single use Disposable Cups Charge at this stage to help shape development of these proposals.

As members of the Scottish Government's Single-use Disposable Cups Charge Advisory Group SWA are aware of a number of practical challenges involved in the implementation of such a Charge.

These include, but are not limited to

- Whether the charge should be dealt with separately on top of the cost of the drink or "built in" on a cost neutral basis into the price
- What the charge should be

- What should happen to funds raised and what this might mean in terms of administration for businesses
- Whether all locations should be treated the same or whether there should be potential exemptions on different grounds including proportionality and logistical difficulty. We would urge the Committee to consider potential exemptions for small convenience stores/cafes or healthcare settings or large entertainment stadia/hospitality or drive throughs
- Should the charge apply to vending machines which often dispense free drinks or other situations where free drinks are supplied e.g as part of free school meals.
- How the single-use charge will work alongside the mandatory takeback requirements of EPR

Communication to consumers needs to be clear on the scope of any charge and the reasons why all single use beverage cups are included. We note recent ZWS research suggests there are currently no plastic free single use cups placed on the Scottish market. Any charges on single -use products will require clear and understandable definitions of what constitutes a "single-use" item. We would suggest using the same definition as that used elsewhere in Scottish Government policy e.g "plastic" and "single-use" in the Environmental Protection (Single Use Plastic Products)(Scotland) Regulations 2021.

SWA would urge MSPs to scrutinise whether or not a cup charge is the most effective means to achieve reduction in the use of single use beverage cups. SWA remain concerned that a charge, coupled with the current cost of living crisis, would lead to less drinks sales for customers served by our members. We are also concerned that a charge might reduce independent efforts by large coffee chains to fund recycling initiatives.

It's critical that any levy is delivered via a workable scheme which is proportionate and doesn't impose significant additional costs and administrative obligations on Scottish businesses which are already dealing with cumulative economic and legislative challenges.

While we focus on the single use cup, which the Scottish Government confirm will be their first action using these powers, our comments regarding scrutiny and implications exist for any other single use item being considered for a levy in the future.

2. Is there anything else you would like to say about charges for the supply of single-use items? (Section 9)

SWA members also have concerns about the need for health and safety guidance on the re-use of containers and the practical issues around re-use e.g access to washing and storing facilities for some customers.

While the single use charge is likely to lead to greater use of re-useable alternatives, there will continue to be several customers and locations where single-use items are required. Feedback from our members highlight a need for guidance in relation to which "single use" items are the most environmentally friendly. There is a risk that,

with packaging companies promoting their 'recyclable' or 'compostable' products, these will in fact create new environmental and/or waste management problems. The SWA would welcome an accessible guide to purchasing these products, based on lifecycle analysis insights. It's important that the global impacts of any shift to more sustainable alternatives is explored to ensure there is the required resources and capacity within manufacturing.

As we are currently witnessing, short supply and increased demand lead to rising prices. This may hinder businesses moving to more sustainable alternatives and restrict business sales, but it may also mean a further cost burden on consumers in the form of higher pricing. Support around these issues is particularly needed by SME wholesalers.

3. How do you think Scottish Ministers should use their powers to have the greatest impact in transitioning to a circular economy?

It's important that the Scottish and UK Governments give businesses a clear timetable and a prioritised approach to charges and bans on environmentally damaging products so businesses can adjust in a timely manner. SWA would also welcome government efforts to expand business models that prolong product lifespan and support for wholesale businesses which are making efforts to decarbonise. Government must empower businesses, including SMEs, to transition to a circular economy by providing funding, cross-sector cooperation opportunities and education support. SWA would also support Scottish Government national communications campaigns focused on sustainable consumption and litter.

SWA notes Scottish Government efforts to keep pace with the EU Single Use Plastics Directive, which requires the taking of measures to achieve reduction in consumption of single use beverage containers, and the EU Sustainable Product Initiative which aims at building in sustainability throughout the entire product lifecycle, starting at the design phase. We are particularly supportive that the SPI should also foresee the introduction of digital product passports, which will contain information on each product's composition, including material and chemical properties, as well as information on their circularity, such as guidance for reuse and repair operators.

Household waste

1. Should it be a criminal offence for a householder to breach their duty of care in relation to waste under the Environmental Protection Act 1990 (e.g. to fail to ensure that waste is disposed of to an authorised person)?

Almost one million tonnes of food and drink is thrown away every year in Scotland costing Scottish households an average of £440 per year and impacting on our carbon footprint. SWA would welcome Scottish Government communications campaigns to assist both consumers and businesses to tackle food waste and to improve understanding of how to re-cycle and re-use.

2. Is there anything else you would like to say about household waste and enforcement of household waste requirements? (Sections 10 & 11)

No response provided.

3. Is further action needed, either within or outwith the Bill, to tackle flytipping effectively? If so, what action is needed?

No response provided.

Household waste recycling – Code of Practice and local targets

1. Should the Code of Practice on household waste recycling (currently a voluntary code) be put on a statutory footing?

Given only around one-third of local authorities have fully aligned their services to reflect Code of Practice standards and local authority household recycling rates vary significantly across Scotland, SWA believe it would be useful if the voluntary Scottish Household Recycling Charter and Code of Practice were to be put on a statutory footing. SWA agree that power for Scottish Ministers to set local authority targets on a regular basis for recycling performance, should apply from 2030 onwards.

Similar to the approach taken in Wales, allowing householders equal access to local authority recycling and waste resources across the country would make it easier for households to recycle and easier for the Scottish Government to communicate national recycling and waste campaigns to consumers and reach national targets. This could also be particularly important if the Scottish DRS is delayed even further beyond October 2025 or, doesn't happen at all.

SWA agree that this approach would require additional funding and investment to support local authorities and that targets must be achievable and fair as local authorities are at different starting points, with varied geographies and demographics. SWA also agree that Ministers should have power to levy financial penalties on local authorities as a last resort.

2. Is there anything else you would like to say about a Code of practice on household waste recycling? (Section 12)

No response provided.

3. Should Scottish Ministers have powers to set targets for local authorities relating to household waste recycling?

Scottish Ministers should be able to set recycling targets for local authorities. This should lead to more consistent local services. We note the Scottish Government sees these reforms as being "closely linked to forthcoming changes in Packaging EPR and its funding model"

4. Is there anything else you would like to say about targets for local authorities relating to household waste recycling? (Section 13)

No response provided.

5. Is further action needed, either within or outwith the Bill, to support local authorities to achieve higher household recycling rates? If so, what action is needed?

No response provided.

Lifting from vehicles

1. Should civil penalties for littering from vehicles be introduced?

SWA agree with this proposal.

SWA supports Scottish Government and SEPA efforts to track waste and resource flows in order to tackle waste crime such as illegal exports and fly-tipping. As part of this change, we encourage any new reporting system that is easy-to-use and accessible, as many of our SME members in particular highlight the need for simple processes and straightforward and easily accessible information and support to allow them to participate effectively.

Consideration should be given to the future widespread uptake, by manufacturers and producers, of digital 2D/QR codes and RFID (radio frequency identification) chips attached to products and that will supersede barcodes used today.

These codes can be unique to every single item and could be tracked from point of manufacture/production all the way through to its' end-of-life waste collection whether that is at the home kerbside, other refuse collection point or even as litter.

This technology is likely to have a significant impact on many of the other issues covered in this consultation and will be critical in assisting in the tracking of waste and the identification of those individuals and businesses who are not adhering to waste regulations.

2. Is there anything else you would like to say about civil penalties for littering from vehicles? (Section 14)

No response provided.

Enforcement powers in respect of certain environmental offences

1. Should enforcement authorities in Scotland be given powers to seize vehicles linked to waste crime?

SWA support this proposal.

2. Is there anything else you would like to say about enforcement powers? (Sections 15 and 16)

No response provided.

Reporting on waste and surpluses

1. Should Scottish Ministers have powers to require persons to publish information on anything they store or dispose of (except in relation to domestic activities)?

Publish info on anything public store or dispose of:

SWA accept the need to explore proposals for waste measurement and reporting if we are to achieve the Scottish Government's target of reducing food waste by 33% by 2025 as set out in the Food Waste Reduction Action Plan ("FWRAP")

SWA appreciate that the requirement to publish information on waste and resources is a powerful tool in understanding what waste and surplus is out there. This is essential in developing a circular economy, as knowing the food (or other) resource available (type and quantity), makes it possible for potential collaborators to explore how a partnership or a new innovation could ensure those resources aren't wasted and how they might potentially have another life as part of a new product or service. The requirement to publish is also a powerful motivation for businesses to act on food waste.

There remains a requirement for clarity from the Scottish Government about how those measurements should be made.

The calculation of food surplus and waste can prove difficult. While some of our larger members produce and publish Food Waste reports the work involved would represent a major drain on resources for SME wholesalers. Any mandatory public reporting of food surplus and waste would require government business support to assist those businesses. In general, SWA members have told us they need support with skills relating to measuring and monitoring their carbon footprint. The range of measuring tools available are confusing and there may well be significant benefits in the Scottish Food and Drink sector working together on this matter. The Scottish Government must make reporting support accessible given the overall knowledge and capacity gap.

As a result SWA would suggest that mandatory public reporting must be phased in proportionately beginning with public sector and larger businesses; allowing de minimis exemptions for micro and smaller businesses if they wish and providing support to Scottish businesses, prior to implementation, to assist them in measurement and reporting as well as investigation of different options to reduce their food waste levels.

The Scottish Government must ensure any requirements made of businesses, including SMEs, takes into account the other demands being made of them at a time of great economic difficulty for businesses and their customers. Therefore, any public reporting must be proportionate and must include active support and assistance as well as phasing and exemptions for smaller businesses.

2. Is there anything else you would like to say on reporting? (Section 17)

SWA are currently undertaking a member case study, in conjunction with ZWS, to examine and measure food waste. Results will be reported and shared with other SWA members to reduce food waste within the sector.

Many members already have arrangements in place with local food banks and national food redistribution organisations. We know from our experiences during the Covid pandemic that there may often be a mis-match between type of food, package size and location of wholesale food waste and the requirements of redistribution charities. Despite this, between June and August 2022, donated surplus stock and unsold food from wholesalers across Scotland, England and Northern Ireland have allowed the equivalent of 570,000 school meals to be given to children during the school summer holidays. [Data source: Fareshare]

SWA would welcome investigation into the feasibility of food waste reduction plans and further work on waste measurement guidance. There's a need for understandable guidance to ensure all obligated businesses are calculating food surplus and waste to the same standard. Yet again, there is a need for the correct balance of encouragement and enforcement from relevant enforcement agencies. It's essential that local authorities, Trading Standards, ZWS and Food Standards Scotland are funded sufficiently to provide the required support and enforcement.

Given the considerable economic difficulties experienced by many in the wholesale sector over the past three years SWA would urge the Scottish Government, Fare Share and others to make further funding and incentives available to wholesalers to assist in the reduction of food waste. This might involve an extension to the Fare Share Surplus for Purpose Fund to offset any costs which arise from diverting edible surplus food to human consumption as and when surplus occurs. For example costs of additional activities like sorting, packing and picking edible surplus food as well as any associated costs required to keep product or raw materials in usable format for charities; costs of blast freezing short dated chilled foods and any associated relabelling storage and transport costs. SWA would encourage the Scottish Government to investigate these options as well as whether a small contribution towards the actual cost of the food, in relation to micro and SME businesses potentially, would lead to a reduction in food waste. SWA will continue to work with Fare Share and undertake case studies amongst our membership.

SWA would also welcome opportunities to work with Community Food Hubs to investigate ways in which the wholesale sector might provide warehouse storage/distribution. Given the current commercial reality for the wholesale food sector we would suggest there is a need to provide business incentives, particularly, to SMEs, to encourage collaboration and delivery of food distribution networks, local product sourcing and reduced local food waste.

3. How should Scottish Ministers go about identifying which types of waste and surpluses should be subject to mandatory public reporting?

Identifying waste and surplus for mand reporting:

SWA would suggest the Scottish Government should identify those materials with the greatest carbon impact as well as those with the greatest opportunities for these materials to transition to circular economy business models.

Net zero

1. Do you think the Bill will play a significant role in achieving these net zero targets? Please give your reasons.

Yes. The Bill has the potential to play a significant role by using fewer resources, optimising and extending the life of resources and products, and closing products' lifecycle loops. Transitioning to a circular economy will be an essential prerequisite to reaching net zero.

Scottish Wholesale Association has set out ambitious plans to reach net zero by 2040, in time for Scotland's net zero target of 2045, in our report, 'Decarbonising the Scottish Wholesale Sector', which explores the sector's carbon emissions and attitudes to climate action.

<https://www.scottishwholesale.co.uk/media/2927/swa-decarbonising-the-scottish-wholesale-sector.pdf>

We understand that we, and our members, have a role to play, and are committed to driving a just transition to net zero that can benefit all of Scotland's wholesale sector.

It's crucial that implementation support is given. This must involve awareness-raising and support for businesses to understand the reasons for, commercial opportunities within a circular economy, and 'how to' aspects of how they are expected to contribute to its implementation.

Skills for a circular economy must be prioritised, and all aspects of the food supply chain must be engaged in how they can play their part.

Circular economy solutions should form part of just transition work to ensure that SMEs, and businesses in rural areas especially, have support to explore circular economy solutions for their business, and potential partnerships to close lifecycle loops.

2. There is a Policy Memorandum accompanying the Bill. This aims to set out the underlying reasons why the Scottish Government thinks the Bill is necessary. Did you find the discussion under "Sustainable Development" in the Policy Memorandum helpful or unhelpful in terms of understanding what impact the Bill would have in terms of reaching these net zero targets?

SWA found it helpful however the real challenge is for the Scottish Government, Zero Waste Scotland and others to communicate with wider non-specialist audiences. SWA would like to see communication expand on the link between adapting circular economy principles and carbon reduction. It's important that the Scottish Government invest in business support as well as communications campaigns aimed at the general public. These campaigns should encourage more

sustainable behaviour and should cover the potential benefits for consumers, businesses and the environment generally if these actions are taken.

General comments or aspects not in the Bill

1. Are there any areas not addressed by the Bill that you believe should be included? If so, what are they?

SWA would wish to see the Skills agenda linked explicitly to Circular Economy legislation.

2. Are there international examples of best practice in legislation supporting the transition to a circular economy?

No response provided.

Resource and Waste Common Framework

1. Do you have comments on how this wider framework should function to support Scotland's transition to a circular economy, in particular on the provisional Resources and Waste Common Framework?

The recent DRS developments have had many impacts on the drink supply chain but one is the potential for lack of confidence in future environmental policies, particularly those which require cross-border co-operation.

As a result, businesses need clarity and understanding from both the Scottish and UK Governments about how the Resource and Waste Common Framework will work in practice. The advent of the Internal Market Act has already led to two different approaches being taken by Westminster in respect of an exclusion from IMA for the Single Use Plastic Regulations and a conditional temporary exclusion to the Scottish Deposit Return Scheme.

SWA would welcome closer genuine partnership working between both governments on environmental policy, including elements of the Circular Economy Strategy. This would be beneficial for businesses operating within the UK wide market. SWA are actively working with Scottish, UK and Welsh Government officials on the inter-operability of the DRS systems