



## Factsheet 04 | How can a register of obliged companies be established?

This factsheet sets out the role of a register for producers and how it should be organised. It covers aspects including how to collect, store and process data, such as information provided by companies on the amount of packaging they introduce to the market. The factsheet outlines who manages such data, what level of public transparency is required and how to avoid free-riding by companies not participating in the scheme.

The OECD's guidance on EPR (2016) describes the purpose of a register as follows:

“Registers provide PROs with the means to compile information needed to set fees and to identify free riders. Accreditation provides governments with a means to ensure that PROs meet specified performance criteria and to monitor their activities....Since 2001, registers of producers and accreditation of PROs have become important means of promoting compliance with EPR obligations.”<sup>1</sup>

The Basel Convention's practical manual on EPR (2019) states that:

“Enforcement [bodies] should ensure a public register of producers is available and maintained in order to identify all producers including internet sellers and free-riders. All producers should be identified and required to take up their responsibility individually or through a PRO.”<sup>2</sup>

### *Purposes and types of registers*

**In a mandatory EPR scheme, being able to identify and monitor the obliged companies and the Producer Responsibility Organisation (PRO) is crucial.** > See Factsheet 01 and 03 It reduces the risk of free-riding and ensures that the cost of funding the system is shared by a sufficiently high number of companies. This factsheet focuses on the **register for producers and importers** as the most important register for an EPR scheme. It is an essential tool for clearly identifying the obliged

<sup>1</sup> OECD: “Extended Producer Responsibility: Updated Guidance for Efficient Waste Management”, 2016

<sup>2</sup> UNEP/CHW.14/5/Add1: “Development of guidelines for environmentally sound management” 20 February 2019, Revised draft practical manual on Extended Producer Responsibility. Adopted by COP-14 in May 2019.



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companies (i.e. producers and importers) and ensuring they are compliant with their obligations under the EPR scheme.

Where it is possible to organise the EPR system in multiple different ways, the register is also very important for registering and authorising the entities responsible for operating the system. This is particularly the case where companies are allowed to choose between the various options available. Such options may include:

- Participating in a collective PRO
- Organising an IPR (Individual Producer Responsibility) system
- Choosing between several competing PROs

A **register of PROs** helps to ensure transparency where there is more than one way of fulfilling requirements under the EPR system (where multiple PROs are in competition and/or other bespoke solutions are available). Similarly, a **register of the auditors/experts** monitoring PROs or certifying facilities, for instance, helps to ensure that these experts can also be held accountable.

In addition, a separate **register of approved waste management facilities** (primarily covering collectors, sorting plants and recycling plants) helps to monitor and maintain standards of treatment and recycling for packaging waste. Such a register can also help to identify the waste management companies within the EPR, show which entities hold accreditation for specific tasks, monitor certification and inspect waste management activities. Waste management tasks carried out under an EPR system must be completed in accordance with certain regulations, including compliance with environmental and workplace health and safety standards. A register of approved facilities can also create transparency and provide a more solid basis on which to select suitable/recognised recycling technologies. An agreed standard for certification can be helpful in this regard for a clear categorisation. As a minimum, the register should contain information about the company being registered (name, address), the activity it is responsible for carrying out and the technologies it uses to do so (i.e. the type of processing or recovery activity in which the company is involved).

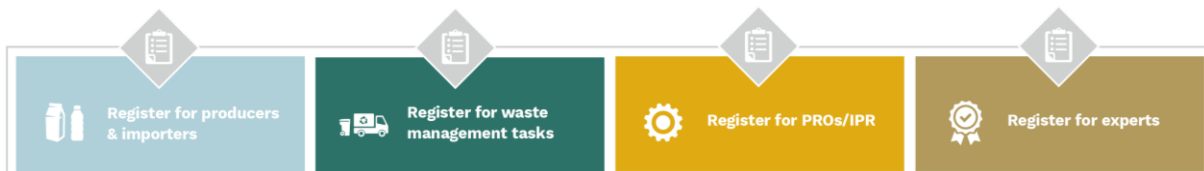


Figure 1: Different types of registers

The operator of the register should be granted the right to check this data and the right to remove companies from the register in case of violation. Imposing an obligation to register can also be an important step towards formalising the activities of companies or individuals working in the informal sector and integrating them into the EPR system. Different registers can be run by different bodies. In this factsheet we will focus on the register for producers & importers.

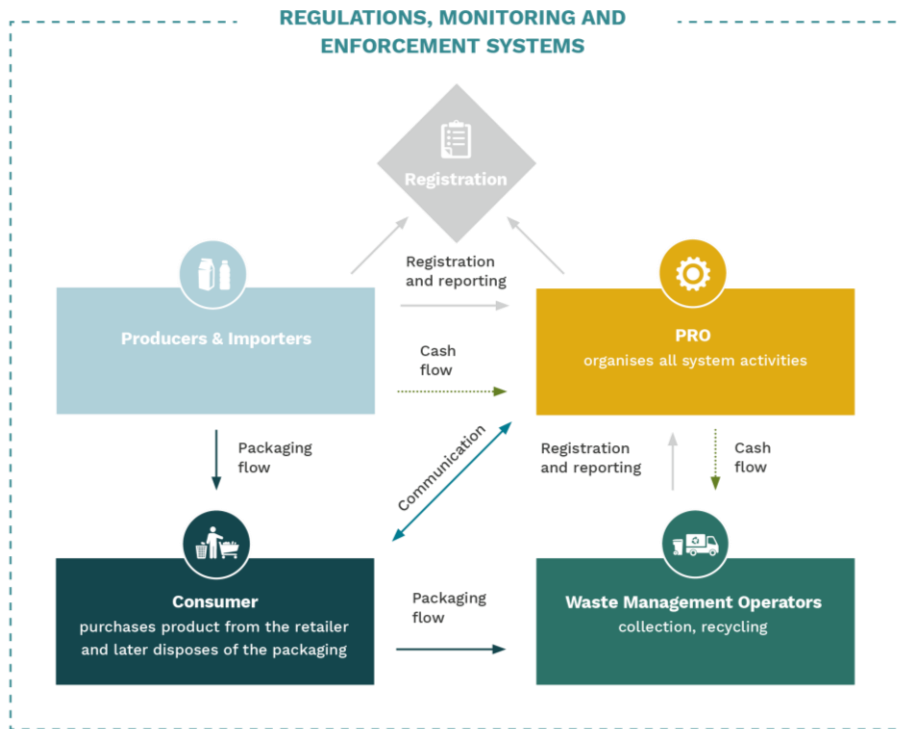


Figure 2: Registration for producers and importers

**Main objectives and responsibilities of the register for producers and importers**



1. Identifying producers and importers
2. Reporting data
3. Monitoring compliance and, depending on its competences, enforcement

*Organising the register*

A register for producers and importers can be run by a government agency or by an organisation of the obliged companies. A privately-organised register can be part of the PRO or a separate organisation set up by obliged companies. Where there is competition between PROs, it is essential that the register is managed by a separate organisation that is not affiliated to any PRO. If there is only one PRO, on the other hand, the PRO can administer registers itself, in which case it should be obliged to report information to relevant authorities as appropriate.

The following table compares key features of registers run by government agencies and registers run by obliged companies.

Table 1: Registers run by government agencies vs registers run by obliged companies

Criteria	Government agency	Obliged companies <sup>3</sup>
Financial aspects	<p>The register can be financed by registration fees paid by the producers and importers, or from general public funds.</p> <p>Government structures are often less flexible than private bodies. It is therefore possible that if the budget has to be adjusted, this may result in work being delayed. Reliable financing needs to be secured.</p>	<p>The register is set up and financed by the obliged companies. The financial risk lies entirely with the producers and importers, meaning that it is very much in the common interest for all obliged companies to contribute funding.</p>
Organisational aspects	<p>An effective register must have a sufficient number of appropriately qualified staff.</p> <p>To make sure the register is relevant to the practical work being carried out, producers and importers and other relevant stakeholders should be involved in setting the rules for EPR.</p> <p>An authority not directly in competition with the stakeholders in the system can be tasked with ensuring the confidentiality of the data on the register.</p>	<p>The register contains confidential data belonging to competing companies, which must be handled accordingly. With this in mind, administrative activities regarding the register should not be carried out by the producers and importers themselves.</p>
Monitoring	<p>The government agency must remain neutral at all times to reduce the risk of conflicts of interest.</p> <p>The agency may itself be supervised by the relevant government ministry (e.g. environment ministry).</p>	<p>A privately-organised register must be effectively monitored by a supervisory authority, which should have the right to carry out inspections, the right to demand information and the right to participate in the register's rule-making processes. The precise nature of the supervisory authority's involvement should be set out in binding regulations. In particular, it must be made clear whether the register will have enforcement responsibilities (i.e. the authority to impose fines or sanctions) or whether this responsibility will be assumed by government authorities.</p>

As a general principle, all the tasks, powers, committees and supervisory bodies associated with the register should be clearly described in the relevant legal framework. The illustration below shows a register run by a government agency, and to which the producers and importers report directly.

<sup>3</sup> Where there is a single PRO for all the obliged companies, the PRO can run the register itself. This structure is covered in the 'obliged companies' column. In such cases the PRO must be effectively supervised by an appropriate authority.

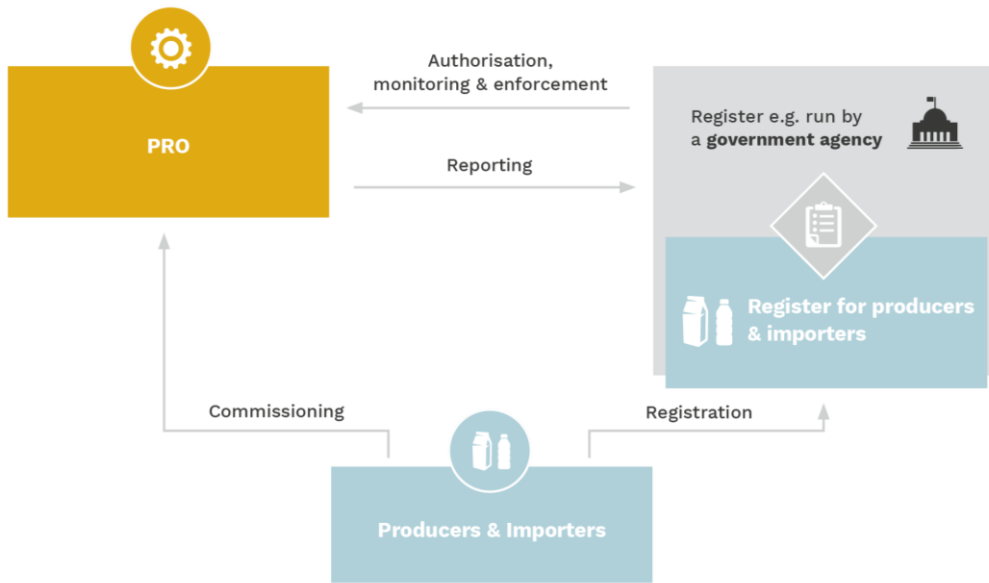


Figure 3: A register managed by a government agency, producers/importers registering directly

The next diagram shows another relatively common structure. Here the producers' and importers' data is reported directly to the PRO, and the PRO reports it in turn to the government agency.

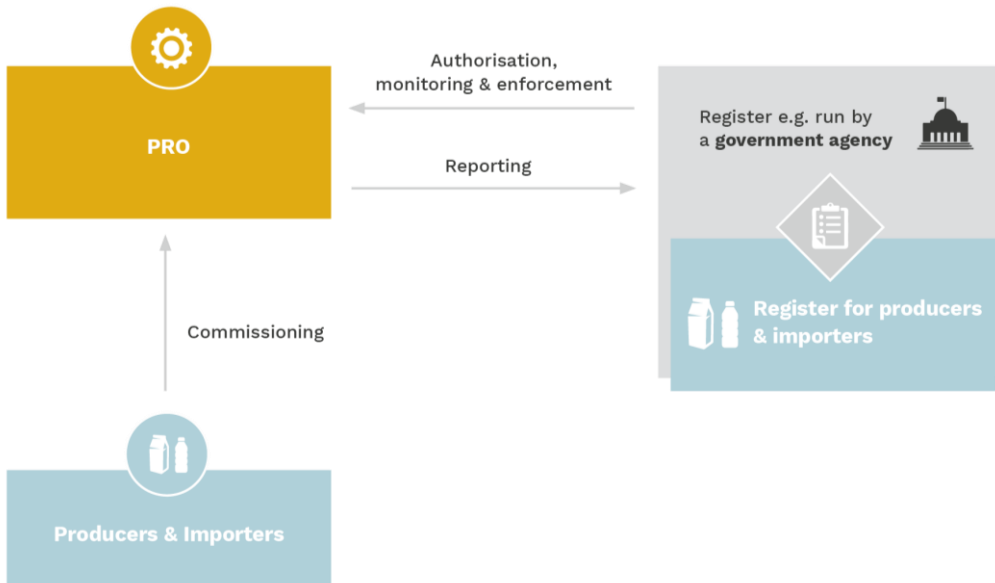


Figure 4: A register managed by a government agency, with producers' and importers' data being reported to the government via the PRO

Figure 5 shows the PRO managing the register. The government agency is still responsible for monitoring the system, but is not responsible for managing it.

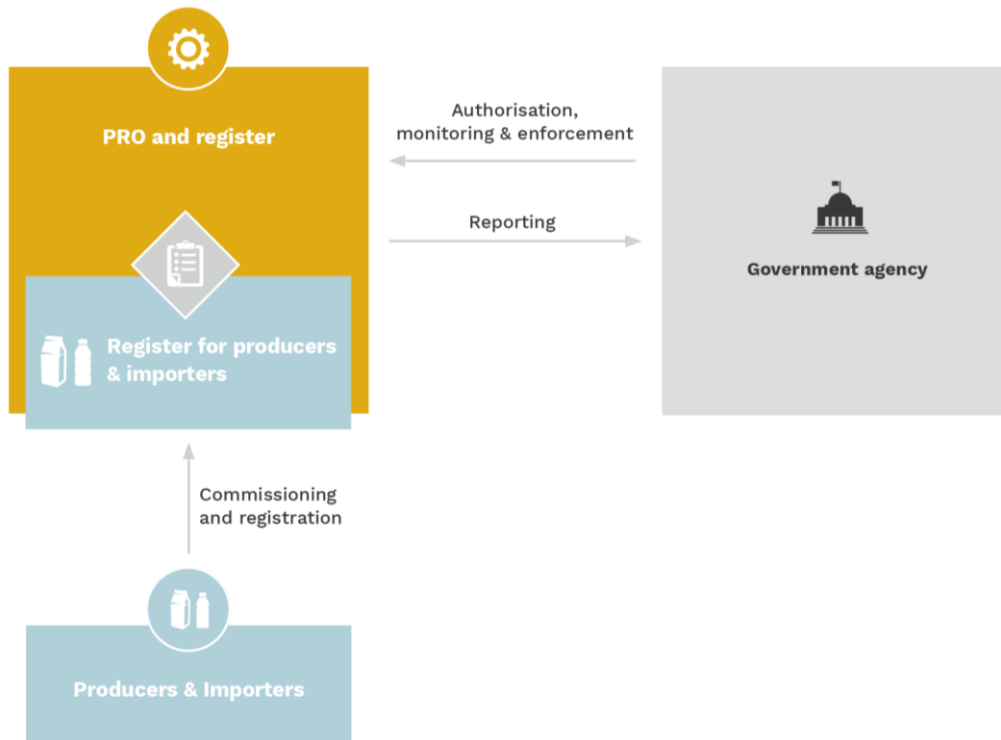


Figure 5: A register managed by the PRO

### *Collecting, storing and processing data belonging to the obliged companies*

A database is required in order to process and assess data belonging to the companies introducing packaged products into the market, and to determine the exact quantity of material concerned. Obligated companies should generally be able to submit reports online. The most efficient way of registering companies and reporting data is to do so online. However, if small enterprises are also subject to registration requirements, they should not be assumed to have access to the technical equipment needed to use an online system. It may therefore be necessary to allow paper-based registration in certain exceptional circumstances.

The database and the system for transferring data must be set up such that they guarantee the **confidentiality of the data**. Only highly aggregated data is and should be published on the register, such as the data used to calculate collection and recycling quotas.

### **Registering companies – basic registration requirements**

All obliged companies, as defined by the applicable regulations, must be registered. As a minimum, the following data should be required for registration purposes:

- The company's tax ID, or another unique national identity number belonging to the company.
- The company's name and address.
- The company's staff members responsible for the registration, including contact details.
- The brands or categories of the products the company introduces to the market (e.g. groceries, electronics).

Companies should be issued with a registration number upon initial registration.

### **Data reporting the quantities of packaging introduced to the market.**



If a company can fulfil its duties under the EPR in a number of different ways, their reports to the register will have to include some additional information. For example, if a company can choose whether to use an individual or a collective take-back system, its choice must be recorded in the register. In addition to the basic reporting requirements, various levels of supplementary reporting requirements may be imposed depending on any additional information that may be required in some countries as a result of the size of the obliged company and/or the amount of packaging it introduces to the market. Basic details must be provided as a bare minimum for all companies, and the thresholds, beyond which additional data must be reported, should be clearly defined in the regulations for the EPR system.

As a minimum, the **data to be reported by obliged companies** might include details such as the weight of the packaging introduced to the market (this information is also required in order to calculate quotas) and the proportion of each defined group of materials in each tonne of waste. The number of units each company produces can also be part of the data. Reports might be filed annually or on a monthly basis.

It is also recommended that the reported data will be audited regularly, either by state authorities or approved external auditors.

- If general or random audits are carried out by approved auditors, a suitable set of rules and regulations must be in place, and sufficient numbers of auditors must be available.
- Inspections by relevant state authorities require a clear mandate for the body carrying out the audit, as well as the availability of suitably qualified personnel.

#### *Companies required to register*

The legal framework must include a clear definition of what constitutes an obliged company. If the obligation to register is made to apply irrespective of the quantities of packaging the company produces or of turnover, a large number of very small companies could be obliged to report data to the register, in which case it should be borne in mind that they may not have access to the technical equipment used by bigger companies. Therefore, it may be preferable to draw-up a definition of a micro company, and not to impose any additional obligations on these companies beyond the requirement to register in the first place. Simplified reporting procedures can also be used to minimise the burden on small businesses when reporting data.

It is optional to make the registration number mandatory. Due to this exact number, however, which will be listed in every company document (e.g. invoices), the company will be identifiable. Also, this specific number will make sure companies can only list and sell registered products.

#### *Ensuring the register is transparent, availability of data and confidentiality*

A register should be designed in such a way that no confidential market information is published. What exact information can be made publicly available should be clarified in the regulations governing the register. Given that not all data can be published, a register should have two sections: one for **data that can and should be publicly available** and one for **confidential data**. The section containing general information about the registered companies should be publicly available. This section should include the name of the company, its address and, if necessary, details of how they fulfil their obligations under the EPR system (or, for waste management activities, what type of disposal activities they carry out).

The control by competitors is an important tool for minimising free-riding. Checks should focus on whether they are registered, and may also cover the EPR form - e.g. a PRO or an individual producer responsibility. The confidential section of the register should include any information about the amount of packaging each company is introducing to the market.





### Steps to establish a register for obliged companies

- **Phase I: Preparation**

- **Phase I a - Clarify governance:** Who should set up and operate the register? Who will the supervisory authority be? Set up a working group to prepare next steps (including participants from government and business). Calculate the costs associated with operating the register (equipment, personnel, ongoing expenses). Clarify how data will be reported (e.g. online, by fax, open interface system) and how communication will take place.
- **Phase I b - Establishing a legal framework:** The regulations should set out which parties are responsible for which tasks, who will run the register, what powers they will have, and how the register will be funded. It should also state who is responsible for reporting the required data (whether the companies have to do it themselves or can do so via a third party tasked to do so on their behalf, how to deal with companies based outside of the country in which the register operates, internet sales, etc.). > See Factsheet 05

- **Phase II - Rolling out the register**

- The structure of the database and the front end must be sufficiently developed. Any issues surrounding data protection and data security must be clarified.
- To make sure there is enough time to test the reporting and data processing systems, the register should be operational well before the deadlines by which companies have to start meeting their responsibilities. It must also be decided exactly which data should be made publicly available.
- Obligated companies participating in the register must be aware of the register and any obligations associated with it. It is therefore very important to carry out the necessary public relations work to ensure they are fully informed.

- **Phase III - Evaluation and development**

### Further reading

**Register of Central Agency “Verpackungsregister” (Germany).** <https://oeffentliche-register.verpackungsregister.org/Producer>

**Register of Fost Plus (Belgium).** <https://www.ivcie.be/wp-content/uploads/2019/03/Erkenning-F-2018-EN.pdf>

**ZAREg (Austria).** <https://secure.umweltbundesamt.at/eras/registerabfrageVerpackungVHVSearch.do>





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