

EXTENDED PRODUCER RESPONSIBILITY (EPR) AND PACKAGING REGULATIONS IN ARGENTINA: REFLECTIONS ON THE ASPECTS ASSOCIATED WITH THE BLOCKING OF THE DRAFT LEGISLATION INITIATIVES

Pablo J. Schamber ^{1,*} and Sergio Bon ²

¹ CONICET-UNQ, UNAJ/UNLA, Buenos Aires, Argentina

² UADE, Buenos Aires, Argentina

Article Info:

Received:
10 March 2022
Revised:
7 June 2022
Accepted:
8 June 2022
Available online:
30 June 2022

Keywords:

Extended producer responsibility
EPR
Packaging waste management
Recycling
Regulation
Governance
Controversies
Waste pickers

ABSTRACT

For more than two decades there has been an on-going debate in Argentina about the draft bills presented to congress for the management of packaging waste and the notion of extended producer responsibility. This article analyses the points of agreement and controversies among the stakeholders with respect to their approach to the debate. The analysis essentially covers the discussions around three key issues related to a proposed packaging waste management system: the obliged subjects liable to make contributions, the state or private nature of the entity responsible for managing such system, and the role of the waste pickers and their organizations. A number of secondary sources were consulted (legislative files, dossiers, public records and bibliography), and several interviews were conducted with a number of key actors (specialists in this field, legislative advisers, waste picker's referents, law-makers, public servants and technical experts) for the writing of this paper.

1. INTRODUCTION

1.1 Who is financing the cost of waste management?

In Argentina, the services of waste collection and street sweeping and cleaning (categorized as “urban hygiene”) represent a large share of local government’s resources. Studies carried out in different localities at different times show variations of up to 30% of municipal budgets (Gutiérrez, 2015; Pérez y Gamallo, 1994; Schejtman e Irurita, 2012). To partially fund these expenses, citizens are charged with a municipal fee commonly known as ABL (Lighting, Sweeping and Cleaning; “ABL” is the acronym in Spanish). The calculation of the fee is based on the valuation of the buildings, which mainly takes into account the property’s built up and land areas in square metres. Some authors question the criteria used for the calculation of the ABL fee, arguing that it should have a closer relationship with the amount of waste generated rather than the fiscal valuation of the household or commercial property. For example, Herrero contends that “the payment of the service concerning the size of the buildings must be adjusted by taking into account other elements that reflect more accurately the real

generation of waste, especially some activities such as retail and other activities, that may simply appear to generate domestic solid waste” (Herrero, 2003). Following this rationale, several jurisdictions across the country have recently introduced legislation that established a distinction between taxpayers according to the volume of waste generated by them (1 tonne of waste per month is the threshold to surpass to become a “big generator”) and their legal status or activity type. Those taxpayers who qualify as “big generators” are excluded from the regular waste collection service funded by the ABL fee, and are required to hire specific and certified waste collection and treatment contractors (Sarandón y Schamber, 2019).

Even if the criteria to establish fees is changed, from the valuation of buildings to the volume of waste produced by each generator, the issue is still stuck on the idea that the generators are liable to pay a fee for waste management, in other words, the consumers that generate leftovers after consuming products are the ones charged.

This way, the key actors that produce and supply the packaged goods to the market, typically known as producers or packagers (P/P), continue to not assume any re-

sponsibility for waste or recycling management. The waste management costs of the products that P/P put on the market are beyond their scope. Their responsibility ends at the retailers' shelves, with the quality reassurance that the goods delivered are in good condition and before the expiring date. Once the consumer takes a product from the shelf and pays for it, the responsibility of the Producer/Packager (P/P) ceases, being relieved of what happens with the packaging waste after products are consumed.

The idea that evolves from this position is known as Extended Producer Responsibility (EPR), which understands that the liability of the P/P doesn't expire after the commercial transaction, but is extended after the product is consumed. The EPR perspective "sustains that the producer or importer must take charge of the environmental impact of the product throughout its life cycle, from the extraction of raw materials, distribution, usage, treatment and final disposition. It is argued that a producer generates an environmental risk when choosing materials or processes that generate pollution instead of using other options that could have a lower environmental impact" (Hernández Vidal, 2015). Precisely, EPR implies the acknowledgement of an economic, social and environmental externality, and justifies the establishment of regulatory mechanisms to assume the costs. As said by other authors "extending the environmental responsibility of the products to the post-consumed stage, works as a market-driven instrument that provides incentives to the companies that produce goods with 'deferred' impact, to take initiatives to mitigate environmental externalities, internalizing costs" (Matteri y Nassi n/d).

The alternative approach that engages P/P with the funding of packaging waste management (PWM) has been implemented for many years in different parts of the world, and in fact, in Argentina it has been the subject of debate for almost two decades. For instance, in 2004, in the Centro Cultural San Martín (City of Buenos Aires), a minimum standard law project for the management of packaging waste was presented, like no other time, with important support from the public and private sectors. The project was drafted by an ad hoc commission formed within the "National Packaging Waste Workshop" organized by the Secretariat of Tourism, Production and Sustainable Development (City of Buenos Aires), Secretariat of Environmental Policy (Province of Buenos Aires) and the Secretariat of Environment and Sustainable Development (National) which took place on September 2003. The workshop had the explicit support from the Coordinating committee of Industrial Food Producers (COPAL), Industrial Association of Personal Hygiene and Household Products (ALPHA), Argentine Chamber of Cosmetic and Perfumery Industry (CAPA), (Argentine Chamber of Aerosol Containers (CADEA), (Industrial Brands Association (ADIM) and Inter American Sanitary Engineering Association (AIDIS) in representation of various NGOs. In its rationale, the project acknowledged as a main objective, the complementation of the recently sanctioned Domestic Solid Waste bill (Congreso Nacional Ley N° 25.916/04), and subscribed to the EPR principle through new instruments of private management and public control and approval. Specifically, the proposed

law bill introduced two of the three key ideas discussed throughout this article: a definition of the obliged subjects and their responsibilities, and the implementation of a management system for packaging waste.

1.2 Packaging waste law projects

In fact draft legislation aiming at transferring the responsibility from the consumers to the producers/packagers (P/P) are referred to as Packaging Waste Laws. These regulations are based on environmental foundations, since they take into account the internalized costs of the materials used to produce each pack or container. In other words, the proposed laws promote what is recognized as eco-design, lessening the burden for P/P that include environmental features in the design of their products, defining lower fee rates for packaging materials that are lighter, long-lasting and recyclable, or if they contain post-consumer recycled materials. Looking beyond the environmental issue, those projects can also be classified as financial initiatives, since they propose a substantial change to the subjects who will be responsible for funding the PWM systems. The responsibility of the local authorities for financing these systems (through the charging the ABL fee to consumers), in the proposed legislation will move upstream to the P/Ps, the originary generators of the environmental risks, who have effective control of their supply and distribution chains. P/Ps define their product's design, materials and prices, therefore they have the responsibility for the environmental impact caused by the products they produce along their lifecycle.

In addition to the environmental and financial dimensions of the proposed packaging waste law bills, a social dimension must be included, as it is a key aspect of the local discussion in Argentina. The proposed law bills would have an impact on the role of the waste pickers (commonly known as "cartoneros", which describes a person collecting discarded cardboard) in the formal or informal circuits, to a greater or lesser extent, whether by act or omission.

In fact, in Argentina, the debates around EPR started in the Autonomous City of Buenos Aires (CABA) in 2002 with the recognition of the waste pickers following the approval of law 992/02 (enacted on 12/12/2002. B.O. N° 1619). This bill acknowledged waste pickers as key players in the domestic solid waste management, and promoted their inclusion in the official differentiated collection schemes, bolstering training and health programs, aiming at the improvement of working conditions, as well as their relationship with the local community. Discussing here, the massive impact waste pickers had since the start of 21st century in the main cities of Argentina, with regards to the discussions about the characteristics that waste management should have, would imply shifting the focus of this article, and deserves a separate work. Nevertheless, in order to have an idea about its importance, it is worth highlighting a number of academic papers that focused on the "waste pickers phenomena". The following postgraduate theses (some of them published as books) worth to mention are: Álvarez, 2011; Busso, 2004; Gorbán, 2005 y 2014; Dimarco, 2010; Gurrieri Castillo, 2020; Maldovan Bonelli, 2014; Molina, 2017; Paiva, 2008; Perelman, 2010; Portugheis, 2020;

Schamber, 2008; Shammah, 2009; Sorroche, 2016; Suárez, 2003 y 2016; Tagliafico 2021, Villanova, 2015.

In that sense, the creation of a new government department dedicated to deal with waste pickers, not only raised questions about who was responsible for paying these new expenses, but the empowerment of this key actor highlighted the local nuances within the controversies generated by packaging waste regulations [the same appears to happen with the term “circular economy”, another idea of recent global emergence that affects waste management and develops new attributes in this context (Gutberlet, et.al, 2017; Rutkowski, 2020)]. As detailed below, the role of waste pickers (and their organizations) would have in the implementation of a PWM bill occupy a prominent place in the discussions in Argentina.

It should be specified that the proposed regulations invariably define two instruments or mechanisms that P/P can use for PWM, while a few projects propose in addition a third option. The first mechanism exists, and in fact is commonly used and known as Deposit Return Schemes (DRS), which is an old system that covers a small share of the packaging universe, limited to the beer industry and some well-known brands of carbonated drinks. The mechanism takes into account the selling price of the product plus an additional sum of money as a deposit for the container. When returning the empty container to the retailer, the consumer receives the deposit back. Although major players in the industry are considering again the implementation of this system - known in Spanish as “envases retornables” (Donato, 2019; Sanguinetti, 2018), the historical trend is to avoid this type of scheme for the high logistics costs involved, they argue.

An alternative option is known as Integrated Management System (IMS), which, according to the law projects presented, is assigned to a specific territory or jurisdiction and is the mechanism to which all P/P are required to adhere with the exception of those who have in place DRS for their containers and packaging. Each IMS is responsible for the collection and storage of packaging waste, which is then delivered to either the respective P/P for re-utilization, or to the recycling industry or authorized waste pickers. This scheme is funded by the participant P/Ps, each contributing according to the type and quantity of packaging

put on the national market. Likewise, other actors of the value chain that do not sell their products directly to the consumers, would act as advance payment agents (we will expand on this idea below) and are required to submit the funds collected to the IMS. The additional costs that the local governments incur in waste management (packaging waste containers, sorting plants, personnel, voluntary collection points, etcetera) will be financed by the IMS, after subtracting the savings produced by the reduction in the final disposal of packaging waste in a particular territory. Considering that the IMS would be responsible for the administration of the funds, its governance model is the axis of controversies and disputes between the private and state sectors. To execute the role of IMS, most projects propose the creation of a private non-profit consortium. Conversely, other projects put forward a state-run, decentralized and collegiate body to act as an IMS, composed of members of the Executive and Legislative branches, the waste pickers cooperatives and the private sector.

As an alternative to DRS and IMS, there are projects that contemplate in addition a third mechanism, known as Best Available Practices for Waste Management (BAPWM). Even though its characteristics are not specified, this alternative needs to prove its efficacy and its suitability to meet the objectives and goals that the regulation establishes as basic principles. However, beyond this clarification, some actors understood that this alternative could include the waste valorization and surreptitiously the incineration of domestic recyclable solid waste. For that reason they requested that the objective of the law explicitly excludes incineration techniques for waste materials that have other viable valorization options.

Graphically, DRS, IMS and BAPWM schemes can be shown in Figure 1.

1.3 Glossary and acronyms

- BAPWM: Best Available Practices for Waste Management
- DRS: Deposit Return Schemes
- EPR: Extended Producer Responsibility
- IMS: Integrated Management System
- IMSSI: Integrated Management System with Social Inclusion



FIGURE 1: Different schemes for Packaging Waste Management.

- P/P: Producers/Packagers (Manufacturing companies that produce packaged goods)
- PWM: Packaging Waste management

2. METHODOLOGY

This article aims at the systematization of the key aspects of the above discussion, evaluating the main features of the different waste packaging law projects presented to the National Congress, for which a number of secondary information sources were consulted (in addition to the most relevant law projects, several documents were analysed including technical reports published by public entities and NGOs, public records and bibliography related to this subject). Visiting the official website of the National Congress became an essential source of information, as its search engine allows access to all files recording the law projects presented in both the upper and lower houses.

As for the primary sources of information, various interviews with key actors in this area were conducted including: environmental lawyers specialising in this subject, technical experts, executives from the plastics industry, legislative advisors that have drafted the law projects, representatives of three waste pickers' cooperatives, members of parliament and civil servants and technical staff that have occupied positions in the environmental areas of the national government of different administrations. The majority of the interviews were conducted face-to-face, and only a few were done through the phone. The method of recording responses was in writing, and on a few occasions the interviews were recorded in audio. The analysis of the data obtained from the primary and secondary sources was based on our reading and interpretation, and digital tools were only used for the development of Table 1.

In our investigation, the intention was to identify the most controversial and antagonistic positions among key stakeholders. Thus we could understand that, even though there is a high consensus that packaging waste management is an activity that should no longer be a State's responsibility (through taxpayers' contributions), and becomes instead an internalized cost of the parties responsible for putting packaged products in the market, prejudices and mistrust prevail among the different actors, with regards to how this transition would be organized and the fundamental features that the management systems would have. Perhaps this article could be a contribution for those non-profit institutions, equidistant from the conflicting interests at stake, who have the technical expertise and the organizational experience, to bring positions closer in order to facilitate the much-needed transformation that would definitely translate into environmental benefits with social integration (Rutkowski, 2020).

3. RESULTS

We have identified that since 1999 there are records of packaging waste projects presented at the National Congress (Exp. D 1843/99 del diputado Francisco García, Exp. D 3017/02 diputada Graciela Gastañaga, Exp. 7646/02 diputado Daniel Esain). However, the projects that with their

respective variations and nuances are similar to the model shown in Figure 1, including the DRS and IMS schemes, started to be introduced just days before the sanction of the Minimum Standards of Environmental Protection for Domestic Waste Management Law, N° 25.916 (year 2004). Since then, no less than 20 projects have been presented to the National Congress to date (through either the Upper or Lower House) for the sanctioning of a bill related to the issue of packaging waste.

Table 1 shows the number of law projects for packaging waste management presented to the National Congress, according to the year of presentation and the corresponding chamber where the project was introduced.

For this analysis, we have searched the following relevant keywords: "packaging", "containers" and "waste". We have selected only those projects that were relevant to the management of packaging waste from domestic sources, that is packaging and/or containers of FMCG (fast-moving consumer goods). We have not considered other projects that have a focus on a specific packaging type (e.g. "PET bottles", "compostable packaging"), neither we have considered projects that have a broader scope (e.g. "Extended Producer Responsibility", "Circular Economy"). Although the table counts projects that have a unique file ID, it is complex to establish a precise number of unique proposals, since it is common practice to present again the same project by another author, a tactic used to maintain the project's parliamentary status.

A sharp observer of this long process, a former advisor of an institution that promotes the packaging industry, described during an interview the start point of the succes-

TABLE 1: Law projects for Packaging Waste presented to the National Congress by year and house.

Year of presentation	National Congress House		
	Lower	Upper	Total
2002	1		1
2004	2	1	3
2006	1		1
2007		1	1
2008	1		1
2009	2		2
2010	2		2
2011	2	2	4
2012	1	2	3
2013	3	1	4
2014	1	1	2
2015	2		2
2016	3	2	5
2018	4	2	6
2019	2	1	3
2020	1	3	4
2021	3		3
Totals	31	16	47

sion of presentations, and highlighted a significant change in the contents of those law projects from the year 2014. In his own words he stated:

"Packaging waste laws (projects) were adopted from overseas. It was observed that the main countries started to enforce them, and vanguardist legislators took the idea. They were gestures with little probability of success, the initiative of 2 or 3 lawmakers with good intentions and well informed, but with not enough real support. They were environmentalists or linked to an NGO that approached them for this purpose. The proposals reached the core of political power but did not prosper. You could see that some legislators said 'yes', but then they would vote against the law. Someone helped them to change their decision, or they changed their minds for whatever other reasons, and the law projects didn't come through. You could see certain arrogance and outrageous self-sufficiency from the companies that had to 'put up the dough', and hear them saying 'this will not succeed, we've got everything sorted out, this is not happening..."

It should be noted that these types of regulations have been imposed on the countries within the EU with the sanctioning of Directive 2008/98/CE by the European Parliament and European Council on November 19th 2008. More recently it was established that "a definition of extended producer responsibility (EPR) regime must be introduced to clarify the meaning of numerous measures adopted by the member states, in order to require to manufacturers the compliance of their financial and management responsibilities, with regards to the waste phase in the life cycle of a product, including the activities of collection, sorting and treatment of the materials. This obligation can as well include the organizational responsibility and the duty to promote waste reduction and recycling and reuse of materials. Manufacturers can comply with the obligations of the EPR regime in a collective or individual way." (ECD 851, 2018)

The same expert mentioned above quoted:

"There were more laws (projects) coming through, and more frequently. They were no longer legislators from the periphery. There was volume. And when Capitanich was around, we saw for the first time a law initiative propelled by the Secretary of the Environment, part of the Executive branch, under Capitanich authority. They hired as an advisor a young specialist in the subject who did a very good job, changed the paradigm and takes the notion of EPR seriously. Different sectors were convened, and things started to move."

The change of the national administration in December 2015 [12] didn't affect the willingness of the Executive branch to promote a law project similar to the one presented during the last part of the previous government, although on this occasion it was sponsored by the Ministry of Production rather than by the environmental area. Other people interviewed and supporting bibliography highlighted that such continuity is related to the international agenda of the new administration, given that the national government started a number of negotiations and proceedings

to increase the participation of Argentina in the Organization for Economic Co-operation and Development (OECD) (Carciofi, 2017). Another author clearly states: "Today EPR can become a reality thanks to the intention of the National Government to be part of OECD... the political interest that we will soon see, the enforcement of the EPR principle, will come because of the interest of Argentina to become part of the selective group of OECD countries, and this goes beyond the projects already presented by some legislators on their own right. And in this case, being part of it (OECD) has its obligations. In this sense, perhaps we have to get used to the idea that the design and execution of environmental policies would only be possible thanks to the pressure of international organizations or the market itself, with the pros and cons that this entails." (Testa, 2017)

Nevertheless, the project presented on this occasion (Expediente 6375-D-2016) was not approved either, even considering the exceptional case that it was presented by the Executive Branch, and had the support from various sectors. Although legal experts would probably find many more differences, from our perspective there are three key issues that provoked antagonistic positions along the process, which made it difficult to approve a national packaging waste bill. These are related to a) the type of agents identified as obliged subject which generates controversies among P/Ps, b) the legal form or structure of the integrated management system (IMS), for which the P/Ps homogeneously propose a "trust fund", in opposition to some legislators that propose a state run system, and c) an additional element that became more relevant in the last few years, which is related to the role of waste pickers and the empowerment of their organizations, clear evidence of that being the appointment of some of their leaders in relevant positions in the both, the National and Buenos Aires province administrations, as well as the first seat won by a waste picker in the National Congress. It should also be pointed out that are in favour of a state-run integrated management system (IMS). These issues are further analysed below.

4. DISCUSSIONS

The large amount of law projects for packaging waste presented to the National Congress highlights the high level of consensus that exists among stakeholders that the management of packaging waste may cease to be a burden for the state (partly financed by consumers) and becomes an internalized cost for the P/P, who are the ones responsible for placing packaging containers in the market. Although this state of affairs is promising, there are not yet wide agreements on how this transition would be organized, or the essential features that the new system would have.

The most relevant controversies that have been identified among the different projects, revolve around three key issues: the obliged subjects and the advance payment of contributions, the state or private nature of the integrated management system (IMS) and the role of waste pickers and their organizations.

4.1 The obliged subjects

Independently of the way that they are called in the different projects (“economic agents”, “producers”, “packagers” which in this paper we refer to as “producers/packagers” or “P/P”) and the fact that the same denomination could not include the same kind of actor, or could not define them with the same level of detail, all projects identify a certain type of “obliged subject”. The clarity of the definition is of the utmost importance as it dictates who would become liable for the packaging waste management costs. Even though there is a lack of precision in the criteria to categorize the different actors, there is a substantial difference among the different projects regarding the suppliers/producers of raw materials for packaging production. There are some projects that not only assign responsibility to the producers/packagers (P/P), but also go upstream in the production chain, pretending that the scope of EPR also includes the suppliers/producers of raw materials for packaging. These inclusions are highly relevant because they would become “advance payment agents” of the contributions that the P/P must do.

Some of the people interviewed justified that inclusion for operative reasons, arguing that the collection of money contributions would be simplified, considering that the suppliers/producers of packaging raw materials are a small and concentrated group of companies, in contrast with a heterogeneous and wide universe of P/Ps. However, others considered that the main reason to propose the inclusion of suppliers/producers of packaging raw materials as advance payment agents, was promoted exclusively by the representatives of large producers of bottled carbonated drinks, grouped in a powerful industrial chamber. This industry organization considers that the State is conscious of the high informality that exists in this sector, meaning that the State tolerates that some players operate outside the supervision of the tax authorities, and therefore they would not make the contributions for each packaging or bottle placed on the market (Bazzan, 2017). From that perspective, the imposition of a new financial contribution for the formal P/Ps would only make things better for the informal P/Ps, or at least for the part of their business channelled through the black market, harming those brands that are compliant with the tax laws, being them typically international “first” brands. Those “first” brands would also become less competitive, as they are normally marketed at higher prices, and the impact of the PWM contributions would make their prices even more expensive. With the proposed scheme of advance payment of contributions by the suppliers/producers of raw materials for packaging manufacturing, the informality issue in the P/P sector becomes less relevant, as the packaging waste management scheme would be financed regardless of the declaration of units sold by each company: the supplier companies are concentrated, abide by the law.

According to the same sources, this scheme is proposed by a specific sector of the P/Ps which in turn are also members of the large and strong industrial chambers such as UIA (Argentine Industrial Union) and COPAL (Coordinating committee of Industrial Food Producers). UIA and CO-

PAL would only adopt a public position on this matter with a unanimous and consensual agreement of its members. One of the interviewees made the following comment:

“UIA makes statements only by consensus. 95% of the industrial companies are in favour of the law and that the funding should be provided by the P/Ps. But the remaining 5% are the P/Ps that are represented by COPAL say no. They maintain that although they are in favour of the law as well, the fees should be collected by the suppliers/producers of raw materials, and that would be an advance payment of contributions scheme. They say that there is an uneven playing field with regards to the tax impositions of formal and informal P/Ps, and the gap would be greater if they introduce a new contribution, and the state is consistently failing to fight tax evasion. So if the funds are collected from the raw materials industry, then there is no escape, and everyone pays regardless of operating in the formal or informal sectors. If instead the P/Ps are taxed, ARCOR will put the money, but Cuchufrito and Pindonga won’t.”

The positioning of the different actors in the industry is not unanimous. Those who oppose to the advance payment of contributions scheme do so on the grounds that “a guiding principle of EPR is to assign responsibility to that entity in the supply chain that has the greatest power of influence in the design and selection of the packaging offered to the market- the Producer” (Stephenson y Faucher, 2018, p. 10). In that sense, the supplier of raw materials has no concern or responsibility over the criteria used by the P/Ps for the packaging design of their products. As expressed publicly by a manager of CAIP (Argentine Chamber of Plastics Industry) “neither the producers of raw materials nor the transforming industry (which is us), decide what type of packaging is used on each product that is put in the market. It is a corporate decision that is completely beyond our reach. The advance payment of contributions scheme does not exist anywhere in the world. It has been technically demonstrated that it is unfeasible and it would also generate a phenomenal distortion in anything to do with the raw materials’ supply chain.” (Tres Mandamientos, 2020; Revista Petroquímica, 2020). Nevertheless, in September 2019 during the debates originated on the “Dialogue roundtable for a federal packaging law”, carried out in the context of “Packaging and Environment Sessions”, an event annually sponsored by IAE (Argentine Packaging Institute), an idea was put forward that in the case of packaging made with PET (polyethylene terephthalate), a material used by the majority of the carbonated drinks bottles, it would be possible to implement an advance payment of contributions scheme. In the local productive chain, the manufacturers of this raw material are a small group of players, and the product that they generate is almost totally used for the manufacturing of bottles for carbonated drinks. In the own words of a specialist who participated in the roundtable:

“In the case of PET it is feasible. It is the only material that 95% of it goes to the packaging industry, whilst the remaining 5% goes to the textile industry. In addition to it, all manufacturers say ‘yes’, all P/P are my clients and they

are my most important business. So now, all of us who participated in the roundtable and were against the advance payment of contributions scheme, we started to think about how it would be possible to implement it. We wrote an amendment text to the law that says: when in a given sector a consensus is reached among all participants, the tax authority could allow the producer of raw materials to pay the contributions in advance, and then submit that duty to the P/Ps when required. I pay in advance, and then when I sell you the raw materials I charge you the contributions that I have already paid on your behalf. This way 'you've got the informal players by the balls' because all of them go and buy the material from the same producer, which is just one (DAK. This is a complete novelty; the industry doesn't know it yet. There is 30% of the raw material that is imported into the country, we will have to see. This idea perhaps unlocks the limitation presented by the carbonated drinks industry, the hard core of resistance".

Even though this new idea gained some momentum, to date the heterogeneous group of P/Ps have not communicated a consensus position, and the majority block has been unable to prevail.

4.2 The administration of the integrated management systems

Each law project presented includes a proposal with respect to the entity responsible for the administration of the integrated management systems. Although this proposed entity is not defined with precision and clarity (delegating the task to the stage when a law already approved by the National Congress is regulated), for the purpose of establishing a classification of this universe, two types of entities can be established: state-run or private.

Among the projects that establish a state-run system, there are some that avoid the creation of a new, ad-hoc entity, and instead define that the enforcement authority should be the State organ in the highest hierarchy of the environmental competence as defined by the Executive branch of the government, being typically mentioned the National Secretariat or the National Ministry of Environment and Sustainable Development. Also among the same group, there are initiatives that propose the creation of new State organisms with collegiate management (members of the executive and legislative branches, the national science and technology agencies, P/P industry and waste pickers). At provincial level, their respective local authorities will be responsible for establishing the competent authorities responsible for the implementation of the law.

The projects that propose a privately-run system, the new entities would be integrated mostly by representatives of the P/Ps (companies and/or industry chambers from the packaging and raw materials sectors that have been defined previously as obliged subjects). They are defined as non-profit consortiums, in the form of "trust funds" or other legal figures that ensure that their members are not liable to the creditors or tax authorities.

Lastly, there is a group of eclectic projects that propose the creation of a new state-run decentralised entity, in addition to the enforcement authority, the State organ in

the highest hierarchy of the environmental competence as defined by the Executive branch of the government. This new entity would be able to work in collaboration with the private sector, the municipalities, provincial authorities, the cooperatives or waste pickers' organisations, NGOs, universities and science and technology institutions.

4.3 The role of waste pickers and their organizations

The collective of waste pickers was not taken into account on the first versions of the projects presented to Congress until 2004, when they appear incidentally mentioned as actors to be considered, in the context of a list of actions that the competent authorities would conduct in each jurisdiction. That is reflected in wordings like "promote actions that take into account the integration of informal waste collection circuits", or "encourage the participation of waste pickers in PWM activities", or "support the inclusion of packaging waste pickers, promoting their registration and integration in the post-consumed market".

However, in 2016, a law project is submitted that represented the most vocal support for the inclusion of waste pickers in a leading role of a new PWM system, and is expressed in its first article: "establish the minimum standards for the protection of the environment for packaging waste management with the aim of reducing its impact on the environment, by applying the principle of extended product responsibility to the producer and giving precedence to the integration of waste pickers, in its different forms: individuals, work cooperatives, or any other form of social, associative or cooperative format" (Exp. 6910-D-2016, reproduced two years later under code Exp. 3141-D-18, underlined our). This project proposes a state-run IMS [which in this case is referred as SIGIS in Spanish or Integrated Management System with Social Inclusion] through the creation of a ENAER (National Entity for the Administration of Packaging Waste), a legally autonomous entity with financial self-sufficiency. It is important to note that among the responsibilities of ENAER, it restricts the options for hiring the PWM: "at the moment of bidding and/or contracting the public service of collection and transportation of dry solid urban waste, ENAER must employ waste pickers and or the work cooperatives formed by waste pickers, properly registered..." in the National Programme for the Strengthening of the Waste Pickers, which is also created by this law project within the scope of ENAER (Art. 10°, Inc. J, underlined our).

Finally, on July 6 2021, the trade union Argentine Federation of Cardboard Waste Pickers, Cart-drivers and Recyclers (FACCYR) together with environmental organizations, organized a rally in front of the national congress to build momentum for a new law project that would be presented by like-minded legislators. A post on the union's Facebook page states "the law project, to be discussed during August 2021, seeks the implementation of an environmental fee for companies and manufacturers that place packaging goods in the market. The funds collected will be used for the implementation of a Recycling System with Social Inclusion across the whole country, that will allow the used packaging to return to the industry, dignifying the labour of waste pickers, women and men". (FACCYR, 2021)

In November 2021 the new law project was presented in the lower house of the national congress. Although the submission was done by incumbent legislators and officials from the Ministry of Environment took part on the legislative committee's meetings, the waste pickers union (FACCYR) recognized that they were responsible for writing and driving this initiative (Iglesias, 2022). In comparison to the previous proposals, this new project included novelties that can be grouped into two themes: a socio-economic theme related to who would be the main actors responsible for the operation and administration of the new IMS, and a technical-environmental-economic theme, related to technical specifications of the different packaging materials and containers as well as the different packaging waste collection systems, that would have a higher or lower impact on the P/P contributions to the IMS or being exempted from contributing at all.

In the socio-economic theme, the new project expressly mentions the key role that waste pickers currently play in the recycling chain. They would be the main beneficiaries of the proposed system, as their right to work would be recognized in addition to the investment in the infrastructure needed for the achievement of the recycling targets. With regards to the type of organization, the proposal is to create a National PWM System, a new entity with the authority to implement the programs for the strengthening of the Local Management Systems that work at municipal level, and would be responsible for the recycling of packaging waste and the re-introduction of those materials in the production chain. Additionally, it provides the creation of a Trust Fund for Inclusive Packaging Waste Management, the institution in charge of the administration of contributions from P/P and state funding. Both entities would operate under the authority, regulations and governance of the national state.

Under the technical-environmental-economic theme, the proposed legislation is quite specific, as it proposes the creation of an Environmental Fee to be paid by P/P, in relation to the type and quantity of packaging material that they submit to the market in a given time frame. Annex 1 of the proposed bill defines a polynomial formula for the calculation of the fee, which evaluates a number of technical features of the packaging such as: recyclability, environmental impact, percentage of post-consumer recycled material and eco-design. The objective of the formula is to reward with a lower fee those containers and packaging that minimize environmental impact and guarantee circularity. In addition to these considerations related to the shape and structure of the packaging, the proposed bill also provides a strong incentive for the implementation or the continuity of DRS by the P/P. These schemes should not pay any fee to the IMS, which clearly indicates that the proposed bill promotes the prevention of waste generation as an environmental strategy in addition to "inclusive recycling". DRS are the only alternative systems that are allowed to run alongside the IMS. Therefore, the new law will not allow P/P to establish their own packaging waste management systems in competition with the IMS.

The public debate around this new bill proposal created two different views. On one side, the legislators from the opposition parties and some of the most relevant industry

chambers (AmCham, UIA, CADIBSA) strongly objected to the new project arguing that the Environmental Fee would be in fact a new tax, increasing the prices of the products, impacting negatively in consumer's budgets, and increasing the already high tax burden that P/P face in Argentina nowadays. They have also questioned the lack of participation of the P/P or the private sector in the proposed IMS, and the lack of transparency, which could not ensure that the contributions made to the trust fund would be used for the specific objectives of increasing the recycling rate, and rather be used for "bolstering the state coffers for political purposes" In favour of the proposed bill were the plastics industry associations (CAIP, CAIRPLAS). (Infobae, 2021) In this opportunity, and unlike what happened with previous projects, there were no voices proposing or questioning the idea of advance payment of contributions by the producers of raw materials for packaging, for which we could assume is no longer an issue for the industry in general.

Up to April 2022, the proposed new law failed to get approval from the National Congress.

5. CONCLUSIONS

Whether the current debate has been originated after the social and economic crisis of 2001 in Argentina, or the domestic repercussions of a global trend for a transition to a circular economy, the definition to be made should take into account the particular characteristics of the local context, mainly the key role that waste pickers play today in packaging waste management. In contrast, it is worth pointing out that the context in which the EPR initiatives were implemented in Europe, more than two decades ago, were characterized by having a number of elements that are not easily perceived to be present in the local Argentine reality.

The proposals for advance payment of contributions by the producers of raw materials appear to be losing momentum, clearly positioning the vast and heterogeneous P/P sector as the obliged subjects of a future law.

With regards to the Integrated Management Systems (IMS), the differences among the law projects presented are related to the governance and ownership structure of the proposed entity: private, state-run or mixed. The options that propose a state-run scheme estimate that such an approach would imply significant administrative savings as it would use the current existing structure within the local governments. Those who oppose this approach suspect that it would have the propensity to attend to the urges of the local governments, and the new funds would be used for any purposes different than environmental protection. They argue that there are advantages for the collection of funds and administration through a private entity, given that such a structure would be more focused on its specific goals and further away from the other urgent needs of the community.

Another controversial aspect is the role of the waste pickers' organizations in management packaging waste. In any case, the activities of the current actors in the recycling chain (waste pickers, P/P, intermediaries) that operate in the informal sector and whose activities are not registered,

should be addressed. The objective of social inclusion, together with the formalization of the actors of the recycling value chain, should not be an obstacle to the achievement of recycling rate and efficiency targets. There are no doubts that regardless of the type of IMS defined by future regulation, waste pickers will have a key role within the new entity.

A packaging waste law does not only imply the concept of extended producer responsibility (EPR). Even if it is a regulation that proposes a substantial change in the way recycling is financed, it is also an instrument for environmental protection and social inclusion. By promoting eco-design and giving incentives for collection and recycling, there is a positive effect in the reduction of landfills and open waste dumps. At the same time, it improves the working and living conditions of waste pickers and intermediaries that are already providing a service without additional incentives, a fact that strengthens the unavoidable social dimension of this type of legislation in this part of the world. In that sense, the waste pickers collective (in alliance with the incumbent national administration) has been more proactive and specific than the industrial sector by proposing regulations that give incentives to the inclusion of post consume recycling materials in new packaging, and punish those that have a bigger environmental impact.

The transfer of the contribution responsibility from the consumer to the producers/packagers is undoubtedly an opportunity for law proposals that imply environmental protection with social integration.

REFERENCES

- Alvarez, R. N. (2011). La basura es lo más rico que hay. Relaciones políticas en el terreno de la basura. El caso de los quemeros y los emprendimientos sociales en el relleno Norte III del CEAMSE. Buenos Aires. Dunken.
- Bazzan, G. (2017) Impuestos internos. Bebidas alcohólicas: peleas por botellas truchas, contrabando y presión fiscal. Diario Clarín. 23/11/2017
- Bilbao, C. (2019) Ley de Envases, un debate que lleva más de 20 años en el Congreso. En Informe Agenda Ambiental Legislativa 2019, Análisis de proyectos de Ley clave para el debate en el Congreso de la Nación, Círculo de Políticas Ambientales (comp.). Buenos Aires, p. 26-29.
- Busso, M. (2004). Los trabajadores informales y sus formas de organización colectiva. Un estudio en ferias de la ciudad de La Plata 2004 [Maestría en Ciencias Sociales del Trabajo, Universidad de Buenos Aires]. <http://www.ceil-conicet.gov.ar/wp-content/uploads/2013/02/2004busso.pdf>
- Carciofi, R. (2017). Argentina se postula para ingresar a la OCDE, Centro de Estudios para el Cambio Estructural, Buenos Aires. <http://fcece.org.ar/wp-content/uploads/informes/argentinaocde.pdf>. (accessed 17/07/2017)
- Dimarco, S. (2010). Entre el trabajo y la basura: Socio-historia de la clasificación informal de residuos en la Ciudad de Buenos Aires (1870-2005) [Tesis para optar por el título de Doctora en Ciencias Sociales]. Universidad de Buenos Aires.
- Donato, N (2019). Las botellas no retornables, uno de los motivos que llevaron a Coca-Cola Femsa a la crisis. Diario Infobae. <https://www.infobae.com/economia/finanzas-y-negocios/2019/02/23/las-botellas-no-retornables-uno-de-los-motivos-que-llevaron-a-coca-cola-femsa-a-la-tesis/> (Accessed: 23/07/2019)
- ECD 851. (2018). Recital N° 14 of Directive 2018/851 by the European Parliament and European Council on May 30th 2018. <https://www.boe.es/doi/2018/150/L00109-00140.pdf>. (Accessed: 26/08/20).
- FACCYR. (2021). <https://www.facebook.com/fcartoneros/> (posted on 07/07/2021)
- Gorban, D. (2005). Formas de organización y espacio. Reflexiones alrededor del caso de los trabajadores cartoneros de José León Suárez. Universidad de Buenos Aires, Tesis de Maestría Facultad de Ciencias Sociales.
- Gorban, D. (2014). Las tramas del cartón: Trabajo y familia en los sectores populares del gran Buenos Aires. Gorla.
- Gurrieri Castillo, J. L. (2020). Del reclamo por el derecho a trabajar al Servicio Público Cogestionado Sobre el proceso de formalización de los cartoneros en la Ciudad de Buenos Aires (2002-2016) [Tesis de Maestría Políticas Sociales y Urbanas]. Universidad Nacional de Tres de Febrero.
- Gutberlet, J., Carezo, S.; Kain, J.; De Azevedo, A.; Mantovani M. (2017). Waste picker organizations and their contribution to the circular economy: Two case studies from a Global South Perspective; MDPI AG; Resources; 6; 4; 12-2017; 1-12
- Gutierrez, R. (2015). Avances hacia la gestión integral de residuos en la Región Metropolitana de Buenos Aires. Universidad Nacional de San Martín, Talleres Trama
- Hernández Vidal, A. (2015). Responsabilidad extendida del productor. Una introducción con enfoque en el manejo de residuos sólidos. En Lecturas sobre Derecho del Medio Ambiente. Universidad Externado de Colombia. Bogotá.
- Herrero, F. (2013). El tratamiento de los residuos sólidos urbanos en localidades de la Provincia de Buenos Aires. Pag 9. Ediciones de la UNLa, Buenos Aires.
- Iglesias, E. (2022). Brújula legislativa 2022: los 3 proyectos de ley que los empresarios miran de cerca. El Cronista 17/02/2022, <https://www.cronista.com/apertura/empresas/brujula-legislativa-2022-los-3-proyectos-de-ley-que-los-empresarios-miran-de-cerca/> (Accessed: 10/03/2022)
- Infobae. (2021). "Propuesta anacrónica": fuerte rechazo de las empresas de EEUU en el país al proyecto de ley de envases del kirchnerismo. <https://www.infobae.com/economia/2021/11/18/propuesta-anacronica-fuerte-rechazo-de-las-empresas-de-eeuu-en-el-pais-al-proyecto-de-ley-de-envases-del-kirchnerismo/> (Accessed: 15/03/2022)
- Maldovan Bonelli, J. (2014). Del Trabajo Autónomo a la Autonomía de las Organizaciones. La Construcción de Asociatividad en las Cooperativas de Recuperadores Urbanos de la Ciudad de Buenos Aires, 2007-2012. [Tesis Doctoral Facultad de Ciencias Sociales]. Universidad de Buenos Aires.
- Matter A. y Nassi M.C. (2016). Principios específicos de derecho de residuos post-consumo. Los envases. Revista de derecho ambiental. Nro. 45. Buenos Aires.
- Molina N. (2017). Los intermediarios de materiales reciclables: Dimensiones de su rol en el subsistema del reciclaje en Quilme. [Tesis de Maestría en Ambiente y Desarrollo Sustentable, Universidad Nacional de Quilmes]. https://ridaa.unq.edu.ar/bitstream/handle/20.500.11807/835/TM_2017_molina_015.pdf?sequence=1&isAllowed=y
- Paiva V. (2008). Cartoneros y cooperativas de recuperadores. Una mirada sobre la recolección informal. Buenos Aires, Prometeo Libros.
- Perelman M. (2010). El cirujeo en la ciudad de Buenos Aires. Etnografía de la supervivencia. [Tesis doctoral Facultad de Filosofía y Letras]. Universidad de Buenos Aires.
- Pérez P. y Gamallo G.(1994). Basura privada, servicio público, CEAL, Buenos Aires.
- Portugheis A. (2020). Las institucionalidades emergentes de tres cooperativas de reciclado del Cono Sur (2010, 2015). Coop. Coocasis de Brasil, Coop. NuevaMente y Coop. Nuestro Ambiente Limpio de Argentina, [Tesis de Maestría en Políticas Ambientales y Territoriales]. Universidad de Buenos Aires.
- Rutkowski J.(2020) Inclusive packaging recycling systems: improving sustainable waste management for a circular economy. Detritus / Volume 13 - 2020 / p. 29-46 <https://doi.org/10.31025/2611-4135/2020.14037>
- Sanguinetti, A. (2018). Coca Cola lanza un envase universal para sus gaseosas. iProfesional <https://www.iprofesional.com/insider/281118-coca-cola-lanza-un-envase-universal-para-sus-gaseosas>. (Accessed: 10/12/2018)
- Sarandon F. y Schamber P. (2019). Fortalezas, debilidades y oportunidades de la política de gestión diferenciada de residuos para grandes generadores del Área Metropolitana de Buenos Aires (2013-2017) ¿Promoción del reciclaje inclusivo o más de lo mismo?. Revista GAPP Nueva Época N° 21 Mayo-Octubre 2019 – ISSN: 1989-8991 – DOI: 10.24965/gapp.v0i21.10559 – [p. 61-79]

- Schamber P. (2008). De los desechos a las mercancías: Una etnografía de los cartoneros. Buenos Aires. SB.
- Schamber P. y Suárez F. (2012). A diez años del reconocimiento de los cartoneros en Buenos Aires (2002-2012), *Revista Realidad Económica (IADE)* N° 271 oct./nov 2012, ISSN 0325-1926, p. 102-132.
- Schamber P.(2012). De la represión al reconocimiento. Derrotero de la política pública hacia los cartoneros en la CABA (2002-2011). *Revista Perspectivas de Políticas Públicas* Año 2, N° 3, julio-Diciembre 2012, Ediciones de la UNLa. ISSN 1853-9254. P. 148-177
- Schamber P. y Tognetti, M. (2021). Controversias en torno a la sanción de iniciativas legislativas para la gestión de los residuos de envases y embalajes en países en desarrollo: reflexiones a partir del caso argentino (2003-2019). *Revista Direito GV*, v. 17, n. 1, jan./abr. 2021, e2117. <https://doi.org/10.1590/2317-6172202117>
- Shammah, C. (2009). El circuito informal de los residuos. Los basurales a cielo abierto. Espacio.
- Sorroche S. (2016). Gubernamentalidad global y vernaculización en la gestión de residuos. Análisis etnográfico desde la experiencia de cooperativas de cartoneros en el Gran Buenos Aires, 2016 [Tesis doctoral Facultad de Filosofía y Letras, Universidad de Buenos Aires]. <http://repositorio.filo.uba.ar/handle/filodigital/6019>
- Stephenson D. y Faucher I. (2018). Estudio comparativo de legislación y políticas públicas de Responsabilidad Extendida del Productor – REP- para empaques y envases, Iniciativa Regional para el Reciclaje Inclusivo.
- Revista Petroquímica*, (2020). Reclaman una ley presupuestos mínimos la gestión envases RSU. <https://www.revistapetroquimica.com/reclaman-una-ley-presupuestos-minimos-la-gestion-envases-rsu/>, (Accessed: 28/05/2020)
- Suárez, F. (2003). Actores sociales de la gestión de los residuos sólidos de los municipios de Malvinas Argentinas y José C. Paz. [Tesis de Maestría en Políticas Ambientales y Territoriales]. Universidad de Buenos Aires.
- Suárez, F. (2016). *La Reina del Plata*. Buenos Aires: Sociedad y Residuos. Universidad Nacional de General Sarmiento.
- Tagliafico J.P. (2021). Cartografiar las basuras: Etnografías del trabajo cartonero en el marco del Sistema de Recolección Diferenciada de la Ciudad de Buenos Aires (2018-2019). Tesis de Maestría en Sociología de la Cultura y Análisis Cultural, UNSAM.
- Testa M. E. (2017). Residuos y responsabilidad extendida del productor ¿ahora sí?. *Punto Verde Blog* (<https://puntoverdeblog.net/2017/08/10/residuos-y-responsabilidad-extendida-del-productor-ahora-si/>) (Accessed:01/07/2020)
- Tres Mandamientos (2020), En busca de una ley de responsabilidad extendida del productor <http://www.tresmandamientos.com.ar/nota/1598-en-busca-de-una-ley-de-responsabilidad-extendida-del-productor> (Accessed: 28/05/2020).
- Villanova N. (2015). *Cirujas, cartoneros y empresarios. La población sobrante como base de la industria papelera* (Buenos Aires, 1989-2012). CEICS-Ediciones RyR.

Other sources

- Cuadernillo Proyecto de ley de presupuestos mínimos para la gestión de residuos de envases, 2004. 7)
- Círculo de Políticas Ambientales (2019): Informe del Taller “La Responsabilidad Extendida del Productor para la Gestión de Envases y Embalajes” realizado el 01/10/2019 en CABA (<http://circulodepoliticambientales.org/assets/pdf/Taller-REP-CPA.pdf>.)