

Letter to Participants: The Removal of Incorrect PRNs/PERNs

I must apologise that you have been reading our views in the press prior to my having an opportunity to write to you.

The Environment Agency wrote to all registered on the National Packaging Waste Database (NPWD) on 23 April 2021 to formally communicate their position in situations where it is found that PRNs or PERNs have been incorrectly issued. There are a range of reasons why this may have occurred, from deliberate fraud to administrative error, regardless of which it is in clear breach of the Agencies' conditions of accreditation. It is good to see that the Environment Agency is taking firm action to ensure that all can rely on the robustness of the PRN/PERN which is an essential part of the Producer Responsibility Regulations achieving their objectives. Something that not only all applaud but also should be doing as much as possible to support. This issue is as important for any future system as now.

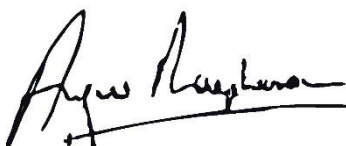
Equally it is good to see that the Environment Agency implements a range of solutions to fit the 'crime'. No criminal should benefit from a crime, and fraud in any system is unacceptable. However, the Environment Agency's proposed solution of retrospectively cancelling a PRN/PERN that has been issued incorrectly after it has already been acquired in good faith by a producer, risks punishing the victim rather than the criminal. Since, to demonstrate compliance, the producer, though innocent of any crime, will be forced to acquire a PRN/PERN to replace the cancelled one potentially without any compensation from the issuer. As others have raised there are also practical issues on identifying which PRN/PERN to cancel and potentially legal ones as well.

The route proposed by the Agency to ensure non-cancellation is for producers to compile the same evidence from the PRN/PERN issuer as the Agency requires for its own accreditation processes effectively duplicating the Agency's activities. Not only does this potentially impose significant bureaucratic burdens on both producer and issuer but also raises confidentiality and legal issues. If these can be overcome, then the result is potentially multiple accreditation systems competing with the Agency one. From a pragmatic perspective this seems to head down the wrong route. Surely the ambition is to increase the robustness of the current system not to compete with or undermine it.

Increasing the robustness of the system is certainly the ambition of t2e and it would encourage its participants to follow the same route. The delivery and settlement of all contracts is a requirement of operating a fair and orderly market. All participants are expected to adhere to t2e's rules or face consequences. t2e regularly checks publicly available sources on all its participants and suspends those that fail these checks. All sellers are required to deliver valid PRNs in settlement of t2e contracts. If subsequently the PRN is found to be invalid not only would the seller be in breach of their contract, but they would also be liable to t2e's disciplinary procedures which require the seller to make good on the contract and could result in a fine and public disclosure.

In our view early action by the Agencies to prevent incorrectly issued PRNs/PERNs is a far more practical solution than trying to resolve the issue after it has occurred. In cases of doubt swift suspension of accreditation to prevent the issuing of incorrect PRNs/PERNs would focus the penalty on the crime more effectively than delayed cancellation, which potentially punishes the victim. Concurrently we will work with the Agencies to make their systems more robust.

Kind Regards,



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