

DÁIL ÉIREANN

AN COMHCHOISTE UM CHOMHSHAOL AGUS GHNÍOMHÚ AR SON NA HAERÁIDE

JOINT COMMITTEE ON ENVIRONMENT AND CLIMATE ACTION

Déardaoin, 7 Deireadh Fómhair 2021

Thursday, 7 October 2021

Tháinig an Comhchoiste le chéile ag 5.30 p.m.

The Joint Committee met at 5.30 p.m.

Comhaltaí a bhí i láthair / Members present:

Teachtaí Dála / Deputies	Seanadóirí / Senators
Richard Bruton,	Lynn Boylan,
Réada Cronin,	Alice-Mary Higgins,
Cormac Devlin,	Pauline O'Reilly.
Alan Farrell,	
Darren O'Rourke.	

Teachta / Deputy Christopher O'Sullivan sa Chathaoir / in the Chair.

General Scheme of the Circular Economy Bill 2021: Discussion

Vice Chairman: Apologies have been received from Deputies Brian Leddin, Bríd Smith and Jennifer Whitmore. The purpose of today's meeting is to commence pre-legislative scrutiny of the general scheme of the circular economy Bill. From the Department of the Environment, Climate and Communications, I welcome Mr. Leslie Carberry, principal officer; Mr. Kevin O'Donoghue, principal officer; Mr. Alex Hurley, assistant principal officer; and Ms. Catherine Higgins, assistant principal officer. On behalf of the committee, I welcome all the witnesses to the meeting and thank them for coming before us to discuss the general scheme.

I remind witnesses of the long-standing parliamentary practice that they should not criticise or make charges against any person or entity by name or in such a way as to make him, her or it identifiable or otherwise engage in speech that might be regarded as damaging to the good name of the person or entity. Therefore, if their statements are potentially defamatory in relation to an identifiable person or entity, they will be directed to discontinue their remarks. It is imperative that they comply with any such direction. For witnesses who are attending remotely outside the Leinster House campus, there are some limitations to parliamentary privilege and, as such, they may not benefit from the same level of immunity from legal proceedings as a witness who is physically present does.

Members are reminded of the long-standing parliamentary practice to the effect that they should not comment on, criticise or make charges against a person outside the Houses or an official either by name or in such a way as to make him or her identifiable. I also remind members that they are only allowed to participate in this meeting if they are physically located on the Leinster House complex. In this regard, I ask all members, prior to making their contributions, to confirm that they are on the grounds of the Leinster House campus.

I now call on Mr. Carberry to make his opening statement.

Mr. Leslie Carberry: Today's global economy is overwhelmingly based on a linear model of production and consumption – we take, make, then waste. This linear economic model is environmentally and economically unsustainable. However, the circular economy offers an alternative, whereby waste and resource use is minimised and the value of products and materials is maintained for as long as possible. In this scenario, when a product reaches the end of its life, its parts can be reused again and again to create further useful products. The circular economy, therefore, has the potential to significantly reduce dependency on primary resource extraction and complex global supply chains, thereby strengthening state and business resilience in the face of supply shocks.

Meeting our climate targets also requires a transformation in the way we produce and use goods. Therefore, making less or using fewer resources will play a key role in climate action. In line with the evolution of EU and UN environmental policy, A Waste Action Plan for a Circular Economy was published in September 2020. This far-reaching plan reconfirms the link between the circular economy and climate action, and mandates a whole-of-government approach to ensure Ireland's successful transition to a circular economy. The circular economy Bill 2021 is a key step in this transition and will provide a robust statutory framework for moving from

a focus primarily on managing waste to a greater focus on adapting patterns of production and consumption.

The Bill will provide the necessary legislative basis for several key measures, including the circular economy strategy and the circular economy programme. The adoption of a high-level whole-of-government circular economy strategy will provide an overarching policy framework for the public, private and voluntary sectors. The first version of that strategy, which is due to be published shortly, will set out the first high-level steps we need to take to make the transition possible. The circular economy programme, which will be implemented by the Environmental Protection Agency, EPA, will provide critical evidence-led support for achieving the objectives of the strategy.

Food waste is also a global problem with environmental, social and economic consequences. Worldwide, more than one quarter of food produced is wasted. Through the national food waste prevention roadmap, Ireland will provide a pathway to achieving the goal of reducing food waste by 50% by 2030. Placing the strategy, programme and roadmap on a statutory footing will ensure that the circular economy transition remains a national policy priority.

The Bill will also give the Minister for the Environment, Climate and Communications the power to introduce new environmental levies on single-use items and, in due course, to prohibit the placing on the market of certain environmentally harmful products by replacing and building on existing powers currently set out in waste legislation.

Recognising the role of the environment fund and the need to align it more closely with the promotion of the circular economy, a new circular economy fund will replace the environment fund.

The Bill will also make important amendments to the Waste Management Acts to support the delivery of further actions in the waste action plan. In the context of waste enforcement, the Bill will advance a number of priority provisions, including the general data protection regulation, GDPR, compliant use of technologies such as CCTV, for waste enforcement purposes. This will support ongoing efforts by local authorities to tackle illegal dumping and littering. Provision will also be made for the use of fixed penalty notices for additional waste streams, including under the extended producer responsibility model for dealing with waste tyres. The changes proposed have the general aim of providing for more proportionate and more focused enforcement. A combination of legislation, guidance and the use of mandatory codes of practice will ensure that the processing of personal data may be carried out by local authorities tasked with enforcing litter and waste law, thus providing an important deterrent to protect our environment from the scourge of littering and illegal dumping, while at the same time respecting the privacy rights of citizens.

Further provisions in Part 3 of the Bill will help drive better segregation of waste in the commercial sector, where EPA statistics indicate that 70% of the material placed in the general waste bin should be in recycling or organic bins. This in turn will help us to attain our EU targets for recycling and landfill. The Bill will also help streamline and improve the end of waste and by-product application processes. These measures will help drive higher quality applications, and ultimately tailor the level of regulatory assessment of applications to their environmental risk.

Finally, Part 5 of the Bill will end the issuing of new licences for the exploration and mining of coal, lignite, and oil shale. This will consolidate our policy of reducing our reliance on fossil fuels.

A transition to the circular economy offers the possibility of a sustainable future and is a fundamental step towards achieving climate targets. Through increased awareness, better informed consumption decisions and appropriate incentives, Ireland can become a leader in this field, delivering environmental, social, and economic benefits. The circular economy Bill is a key step in that process.

I thank the committee for the opportunity to share the Department's vision for our transition to a circular economy. We look forward to considering the report of the committee and taking part in the pre-legislative scrutiny process.

Vice Chairman: At this point we will take questions from members. As this meeting is confined to a maximum of three hours, I propose that each member is given two minutes to ask their question in order to ensure all members get an opportunity. Is that agreed? Agreed. We will be able to be liberal with the two-minute timeframe considering we have three hours available. There should, therefore, be no rush with questions or answers. The first contributor is Deputy Richard Bruton.

Deputy Richard Bruton: I welcome the officials to the meeting. This is important legislation and it is the context within which all materials that do environmental damage can be considered and removed, insofar as is possible, from the supply chain. That includes fossil fuels. It is the context within which the climate challenge should be considered. It promotes designing out any negative while still enjoying the service, and that is really important. It is broader than climate alone or waste alone, which has been the focus of traditional policy, and it embraces consumption as well as production. This is crucial.

I have the following concerns. For a strategy to work, it needs clear targets, defined responsibilities, adequate budget, authority to deliver, rigorous oversight and capacity to adapt. Those are six crucial elements. There have been suggestions there will not be firm targets in the strategy. That is something we need to be concerned about. There is no evidence that a budget commensurate to the challenge will be available. I am concerned that the Environmental Protection Agency, EPA, which is charged with implementing it, does not have the authority to drive the cross-sectoral change that is necessary here. In my belief, it needs to become a central spine of the climate strategy and have that oversight from the heart of Government with annual actions updated, timelines set and delivery. That is one area of concern.

The other issue is the definition of the circular economy. We should define it more broadly than has been defined here, which is, essentially, only looking at resource use and trying to keep it going as long as possible. We should be looking at it in the broader sense to cut the environmental damage all along the supply chain. That means taking out some materials that should not be there in the first place in the supply chain. One of the concerns of the committee that has been expressed on a number of occasions is that challenges such as that of biodiversity do not get caught up in the climate and waste debate whereas if you look at that broader context, they do. Some definition change is necessary.

My final point is that the legal framework for creating this strategy needs to be more ambitious. We need to have in the legislation some sense of what the ambition is and a guidance of how the strategy should be evolved, particularly in the key sectors, such as construction, mobility, retail as well as in food, which is adequately there. It should be setting out certain criteria and subject matters that need to be addressed in the strategy. The framework needs to be stronger, albeit that a strategy will be published before the proposed Bill is passed. For the next strategy, we need to have a significant step-up. This is the opportunity to do that.

Vice Chairman: I thank Deputy Bruton. Mr. Carberry or any of the other witnesses who wish to respond to or comment on Deputy Bruton's questions, please feel free.

Mr. Leslie Carberry: I am happy to do so. I thank Deputy Bruton for those questions and remarks. I thank the Deputy as well for the support for the importance of the circular economy.

There would be very little that the Department would disagree with in what the Deputy has said in terms of the idea of targets, responsibilities, adaptation, deliverables, etc. Our view is that there is a step before that, given where we are in terms of the circular economy today, which is tackling awareness and understanding of the circular economy across all sectors. We felt that what was first needed was a high-level strategic document which would demystify what the circular economy is, how it can apply, what its benefits can be to sectors and, essentially, put in place a single policy target which is about significantly improving our circularity rate versus our EU peers.

The current version of the strategy - we can make this clear but I hope this was the message that went through when it was launched for consultation - was always intended to be a short-term document with a lifespan of less than two years. When we convene the interdepartmental groups which will implement the strategy and the circular economy advisory groups which will take in broader stakeholders, we will be looking at identifying specific targets, sectoral roadmaps and actions that can be taken to support those targets identifying responsibilities that will go into the second version of the strategy, which will then be a statutory document. We felt that getting an overarching policy document was important. That seems to have been the international experience. The countries that are doing really well, such as The Netherlands, have that overarching single-point-of-reference document for their circular economy policy and then build in those targets and other measures where there is a common understanding.

In terms of budgets the environmental levies, which we can talk about and which I assume will be talked about at some stage, are not intended to be revenue-raising measures. They are intended to modify people's behaviours to more sustainable choices but, in common with the plastic bag levy and the landfill levy, initially, in their lifespan, there will be revenue generated. That revenue will be routed through the circular economy fund to support circular economy initiatives and support the strategy.

Finally, in terms of the connection to the climate plan, the Climate Action Plan 2020 treats the circular economy as a cross-cutting issue that will affect all sectors of the economy and there are actions related to the circular economy that will be in the climate action plan. I would assume every year, when that plan is updated, you will see an increasing number of specific circular economy actions.

Vice Chairman: I thank Mr. Carberry. Deputy Bruton, do you want to come back in?

Deputy Richard Bruton: While I fully understand that this is, if you like, an opening statement, it seems that what we are doing is providing legislation that will be the framework for the long term not the short term. In framing this legislation, we need to go beyond the ambition of setting a broad-based statement and pulling together groups which might engage on it. We have to look at the how and the wherefore of sectoral plans delivering results with a fair degree of urgency. We need to have in our own mind what some of those high-level targets are. Ending landfill could be one. I, myself, have done a report for the committee that suggests what some of the high-level targets could be. That helps one to get the buy-in for consumer, community and enterprise to move. Design thinking is crucial here. One must have some fairly stringent

expectations of where we end up so that one drives the capacity to rethink the design of these supply chains. One will not get it by getting everybody into a room and hoping they will spontaneously respond. Certainly, I will be urging the committee in our response to look for some more exacting terms within the legal framework that the Department is asking us to consider.

Vice Chairman: I thank Deputy Bruton. As I said, if any of the other witnesses wants to jump in at any point, he or she should feel free to do so. I call Senator Higgins.

Senator Alice-Mary Higgins: Deputy Bruton has been clear on the need for much stronger accountability. I also looked at the definition and felt that it was not strong enough. Even when we went back to the three Rs - reduce, reuse and recycle - I felt that the reduction part of that is one of the parts that is not strong enough in the proposed Bill. There is a strong focus on the recycle and the waste management. There is a strong focus on those components. There is some discussion around the reuse piece but that reduction piece - the initial piece around thinking about the inputs that are coming through - is a part that needs to be stronger.

Of course, the direction of travel is clearly signalled now in Europe where we are looking now at discussions on the right to repair, and a new “R” getting added at the other end in terms of the right to repair. One might also add the “rethink” in that. In all of those issues, it is, as Deputy Bruton stated, around design thinking.

I am concerned that if we end up with a Bill that is addressing issues at consumption points we will be going three steps back in that we are hoping that consumption patterns change. We hope that consumption patterns changing has this knock-on effect in terms of industry and manufacturing in some sense when, in fact, with this legislation, we really should be going quite directly in manufacturing terms and being very clear there around things such as design. In the report Deputy Bruton produced for us, something the Deputy looked at was how, for example, new, virgin or fresh plastic is treated versus recycled plastics. How do we ensure that there is, in fact, a preferential treatment of recycled plastic in design? How do we build the right to repair and protection against in-built obsolescence into a requirement? Perhaps there need to be penalties for knowingly building in obsolescence. The witnesses will be aware that many NGOs have challenged us to institute penalties where we see greenwashing or abuse, with materials being presented as meeting various standards when they in fact do not. One scandalous form of recycling saw fresh palm oil being presented as used cooking oil. That had consequences.

How does this Bill reach into industrial manufacturing? Some of that manufacturing is not taking place in Ireland but across the EU. In that context, the key element is procurement. It should not just be about incentivising different choices by individual consumers, in that the State, as a major purchaser and consumer, should also be setting high standards. We have a chance to set high standards through the law while demanding even higher standards through our procurement. The witnesses will be aware that I have drafted legislation on meeting quality criteria in procurement. A key issue in that regard is what kind of material is being purchased. This has to do with the design and making reductions from the very beginning. Procurement decisions should take into consideration the supply chain’s past in terms of design and quality and its future in terms of life cycle survival, potential reuse and the right to repair. Procurement is one of the tools that can be used. I hope that these areas might be strengthened in the Bill. The producers’ responsibilities need to be more centre stage.

Mr. Leslie Carberry: I thank the Senator for her questions. Regarding the definition, to the best of my knowledge, this is one of very few examples, if not the first example, of capturing the concept of the circular economy in legislation. It is a broad economic, social and environmental

concept, so it is not easily captured in the language of legislation, but we are open to making the definition as expansive and progressive as possible.

On the shift towards the producers, I should have noted in my opening statement that the Bill and the strategy do not represent the totality of everything that is going on in the circular economy space. The Department is working on amendments to ensure that, under the extended producer responsibility scheme, self-certification will no longer be an option. Producers will be required to become members of certified schemes and will then be subject to eco-modulation of fees whereby less recyclable goods will incur higher fees than more recyclable goods will. There are incentives. While it might be said that the commercial segregation of waste is at the end of the pipe, when one considers the purchasing power of the commercial sector and the sector's incentives to switch to more recyclable options, it will have an effect.

We strongly support the initiatives around right to repair, eco-design and eco-labelling, although they are better taken at EU level through the EU's circular economy action plan so as to ensure a level playing field. This would recognise the fact that, were Ireland as a relatively small EU market to introduce some of these measures alone, it would be difficult to say that a comprehensive right to repair, for example, would shift the EU manufacturing market. We believe that these measures should be introduced, and would be most effective, at EU level. We will advocate for strong measures along those lines in our discussions with fellow EU member states.

Regarding waste policy, are there already measures in place that address enforcement and mislabelling?

Mr. Kevin O'Donoghue: Yes. There is much going on in that space. The important part is trying to decouple people's views of the circular economy as being related directly to waste. Our ambition in this regard is set out in the waste action plan, but we view the circular economy as a much broader engagement.

To address the Senator's specific point on recycled plastics, there is a worldwide shortage of rPET at the moment. It cannot be got, so companies are moving as quickly as they can, from a consumer perspective if nothing else, to try to utilise as much recycled material as possible. There has already been a great deal of movement in that regard in Ireland. There will be a bottle-to-bottle plant in Ireland soon. That will help, as will the deposit return scheme, DRS. The move away from materials that are difficult to recycle will be the greatest transition. That is where eco-modulation is already playing a role, and it will do more. In a very short period, we have seen changes to the colouring dyes that are used in black meat trays so that the trays can now be recycled and we have seen a change whereby soft plastics can now go into the recycling bin and be dealt with properly, which will have a significant impact in terms of the materials that are left at the end of the pipe for landfill or waste energy treatment. All of these measures will force a shift on the producers' side so that the materials they are putting onto the market will be easily recyclable, meaning they can be captured better and moved out more quickly.

We should acknowledge that we are not lacking in ambition in many of these areas. In 2008, 62% of material went to landfill. We were down to 14% in 2018 and we are well on target to meeting the EU's expectation of 10% by 2035, although we hope to get there much sooner than that. However, we must ensure that there is a level playing field for everyone. As Mr. Carberry mentioned, a pan-European solution to some of these issues would be a faster implementation model for us than trying to do something at an Irish level that would penalise only Irish producers of these materials.

Senator Alice-Mary Higgins: I will follow up on that briefly. We focus a great deal on the consumer and the product - we all have images in our heads - but what about buildings? Something that is happening at EU level has to do with building regulations and changes in building practices as well as the question of embodied energy in terms of wood and construction. An issue we have seen in large-scale projects has been the question of how to ensure the use of recycled materials in buildings. This has been a concern. Related to that is the question of how to reconcile food safety with moving towards refillables. Each of us might have a bottle that we refill here or there, but what about moving back to a situation where food sellers are able to use materials that can be recycled?

I am a member of the Joint Committee on Disability Matters. It is important that the need of people with disabilities for certain kinds of flexible plastic materials be factored into however we do this. I think of that as being dual use rather than single use, in that it is used by a person for a purpose and in order to protect his or her disability.

Senator Pauline O'Reilly: I welcome our guests. It is important to say at the outset that, although we will be nitpicking because this is the pre-legislative scrutiny phase, they have done good work with this Bill. It is in a similar vein to the climate action Bill, which the committee also scrutinised. It puts in place a legislative framework to empower the Minister, which is the important element. The Bill will not contain everything - that is where the plans will come in. From our point of view, we need to consider what the problems are and whether this legislation allows the Minister to address all of them.

I run repair cafés. One of the main challenges is insurance. In Ireland, it is difficult to run repair cafés, so we ended up doing sewing rather than anything mechanical. The other issue is having to pay full VAT. There is no tax incentive to sell something that is repaired or made from reused materials. Obviously it is much more difficult to do because it is more difficult to purchase the items that are necessary. Will the Bill allow the Minister to make the changes that are necessary to make these things easier for people?

I understand the point that the witnesses are making about wanting to get people on board but my experience in recent years is that many people are already on board but find it quite difficult to do what they need to do in their daily lives. For instance, in terms of zero waste, one could spend one's entire day thinking out how to arrange one's life in a way that is compatible with one's values and most people simply do not have that time. I am thinking particularly of those in more disadvantaged areas who are living hand to mouth and whose children are far away from a market. I do not believe the options are there for people. As Senator Higgins has said, we must make sure it is the manufacturers and retailers who bear the brunt of this. How does that fit into the overall plan and, more specifically, into the Bill?

There is quite a small list of products under head 6. The list is far smaller than the one in the waste action plan. I ask the witnesses to explain why that is the case. Under head 3, similar to the climate action plan, the Minister shall "take into account" the following. Is there a way to make that a firmer commitment in order to ensure that the Minister takes into account the programme for Government, the climate action plan and relevant EU directives? Is there a way to strengthen the language in general? Sometimes "may" is used rather than "shall" and there might be a good reason for that but we will have to look at it in more detail.

Mr. Leslie Carberry: I thank Senator O'Reilly for her questions. Specifically on the repair issue, the Bill will ensure that when the national waste action plan is being prepared, it will include specific targets for reuse and repair. Furthermore, it gives the Minister the power

to effectively set regulations regarding those targets. We do not expect that ever to be needed but if it was the case that, for example, the national waste management plan was not ambitious enough, the Minister could make regulations in that regard. More broadly on the issue of repair, the repair sector is one we want to look at in terms of a sectoral roadmap under the strategy. The Senator mentioned issues with insurance and that is something we have heard repeatedly from people in the reuse and repair sector. There is also the question of skills, which probably needs to be looked at. Design and the right to repair are also issues but actions in that regard would be most effective if taken on a Single Market-wide basis. That is certainly an issue we will be considering.

In terms of the list of products that are mentioned, the heads may seem quite compact but what will happen is that the regulations will specify, within that category of products, potentially quite a long list. For example, the head provides for levies on single-use disposable food packaging which can cover a significant range of products. It can include everything from plastic clamshell containers to packaging for reheatable food. The regulations can specify quite a long list, given the powers of the Minister. The legislation just sets out the broad categories, principles and policies.

In terms of the heads dealing with what the Minister “shall” or “may” take account of, we are looking at the drafting at the moment in consultation with the drafters and the Attorney General and we can certainly try to make sure the language is as strong as possible.

Senator Pauline O’Reilly: I thank Mr. Carberry for that. One of the issues that comes up quite a lot, particularly for councillors, is the installation of CCTV. As I understand it, this legislation would allow local authorities to install CCTV cameras. Illegal dumping is a huge issue in many areas near me in Galway. People drive to isolated locations, or to estates with long and winding roads into them, and dump huge amounts of waste. I have heard from many local authorities that the installation of CCTV cameras raises issues related to GDPR. I ask the witnesses to comment on the legalities around CCTV and GDPR. How can we ensure through these regulations that the installation of same is legally robust?

Mr. Kevin O’Donoghue: That has been a difficult issue for quite a while. We have been working with the Data Protection Commissioner, DPC, and the Department of Justice on it. Obviously, we have also been keeping our colleagues in the local authorities involved as well. I will ask Mr. Hurley to run through it because he has been the point person dealing with this.

Mr. Alex Hurley: As Mr. O’Donoghue said, we have been consulting closely with the Department of Justice and the DPC on this. It is our view that we should be able to resolve the issues via a code of practice for the use of CCTV under the Waste Management Act and the Litter Pollution Act so that local authorities would be able to make a case for the installation of CCTV schemes. We are also looking to expand slightly on that under the Waste Management Act to cover the use of drones and other mechanisms for more significant waste management enforcement actions. We believe there is a relatively good understanding of the intent in our discussions with the DPC and that this will be resolved via the proposal.

Vice Chairman: We will now move to Senator Lynn Boylan.

Senator Lynn Boylan: I thank our guests for their contributions. I have a number of specific questions that I would like to tease out. I worked on the single-use plastic directive when I was an MEP and one of the things that was exposed through freedom of information, FOI, was the negative role that Repak, particularly in Ireland, played in trying to delay the targets. My

first question is on the discretionary nature of those targets. Should we not be setting statutory targets because industry has shown that it is unwilling to move unless it is forced to do so? It also creates an unfair disadvantage *vis-à-vis* those companies that are trying to do their best. I echo what Deputy Bruton said with regard to the importance of having strict and ambitious targets to force industry to change the way it does business.

Under head 3, is there a possibility of including marine protected areas in the list of matters the Minister should take account of? The Marine planning framework is included but not the marine protected areas which would cover wildlife at sea and the quality of the water.

My next question is about head 4, which deals with recovery. My understanding of recovery is incineration, either in the incinerator in Ringsend or in cement kilns, and that this would be included in the circular economy fund. However, at EU level, incineration has been excluded from the new European Green Deal funding. I am wondering why we would include this element of recovery. Given that Covanta alone made €21.9 million in 2021, I do not think it needs access to the circular economy fund, if that is what the definition of recovery is in head 4.

On head 6, Senator O'Reilly asked about the lists of items and Mr. O'Donoghue answered her by saying that we can expand on the lists, which are broad areas that can be teased out. Is there a possibility of also including marking requirements? One of the disappointments in regard to the single-use plastics directive is that the marking requirement on balloon packaging advising people that they should not release balloons into the air did not get through. Perhaps we can show more ambition at a national level and have that marking requirement on balloon packaging.

I have another concern in regard to, I think, head 15 around the civic amenity, CA, sites and waste collection. The national review of civic amenity sites found that there is a lot of disparity among the different civic amenity sites and that where you live can determine how much you are charged and how often you can access the site, including at the weekend. There are some parts of the country where there is no provision for waste collection services and people have to travel long distances to civic amenity sites. Are we, therefore, increasing the potential for illegal dumping? Will this be covered in the Bill? Will there be a standardisation of tariffs, opening hours and what is accepted at civic amenity sites? The review also noted that some civic amenity sites are doing co-operative work in establishing co-location of re-use and repair social enterprises such as Men's Sheds. Will that be expanded? It might address some of the insurance issues if they are covered by the civic amenity site as opposed to having to get their own insurance.

Mr. Leslie Carberry: I thank the Senator. On the specific questions around the single-use plastic directive and markings, we would need to engage on that with colleagues who are working directly on transposing the directive and revert to the Senator. In terms of the marine protected areas being add to the list as something the Minister would have to take account of, we could look at that. On head 4, the recovery levy is essentially a counterpart to the landfill levy. That means when material is sent for recovery to incineration or exported for recovery it will incur a levy and that levy will fund the circular economy fund. It is essentially tackling something we want to phase out in the medium term through the use of a levy to incentivise more sustainable behaviour and ring-fencing that revenue for environmental and circular economy initiatives. It is not the case that this would be providing money to those activities. Rather, it will be levying those activities with a view to disincentivising their use *vis-à-vis* recycling.

On the civic amenity sites-----

Senator Lynn Boylan: I refer Mr. Carberry to head 4, paragraph 9(b). My understanding is that it relates to activities the Minister can fund, including to assist the establishment, equipping and, where appropriate, the operation of waste re-use, recycling activities or recovery activities and that the levies come under later heads. Am I reading it wrong?

Mr. Leslie Carberry: This language is taken broadly from the existing Waste Management Acts. I can be quite definitive in saying there is currently no policy intention that such recovery activities would be funded via the environment fund or the circular economy fund. Going forward, we can look at the language used with a view to tightening it up. My apologies in that I slightly misunderstood the Senator's question.

Vice Chairman: I thank Mr. Carberry.

Senator Lynn Boylan: I ask Mr. Carberry to respond to my questions on the setting of statutory targets to force the industry to make the changes and in regard to the civic amenity sites and the standardisation of tariffs, opening hours, material accepted and the co-location of the re-use, repair facilities.

Mr. Leslie Carberry: On the civic amenity sites, we definitely want to look at the role of civic amenity sites and how they can be maximised within the strategy. There is particular potential for the co-location referenced by the Senator and bringing in more social enterprises around re-use and repair. It makes sense to look at maximising that network.

On standardisation, tariffs, rates, etc., I will ask Mr. O'Donoghue to respond.

Mr. Kevin O'Donoghue: We want to harmonise what is happening at civic amenity sites around the country and to make a distinction between civic amenity sites and bring centres. We funded that report from the regional authorities in regard to CA sites with the specific intention of harmonising them. The opening hours and materials accepted at CA sites should be harmonised across the State. This will allow us to build on the social enterprise side as well and get to a point where we can use CA sites for re-use activities and to get people through them and begin to learn at a local level what the circular economy can be. We would like to see the CA sites have a much higher profile in local communities and, so that people would not be disadvantaged on the basis of where they live, each CA site would have the same facilities available.

Senator Lynn Boylan: I have a final question on biodegradable packaging. We work in a building where biodegradable takeaway containers are in use, but they end up in a bin. How do we ensure that biodegradable packaging does not require industrial composting so that we are not just creating waste and making ourselves feel better by saying it is biodegradable? What is happening with regard to the materials such as polyfluoroalkyl substances, PFAS, used to line those containers to stop the grease and liquids leaking? The use of PFAS is a live issue at the moment. I am particularly interested in hearing how we propose to stop the greenwashing of biodegradable containers replacing single-use plastics when they are no better.

Mr. Leslie Carberry: In terms of biodegradable packaging, there is a national standard for biodegradable compostables. Products that meet the requirements can use that standard. In terms of the policy approach, taking the example of single-use coffee cups, the intention, following the enactment of this legislation, is to make regulations introducing the levy on disposable coffee cups. We are currently minded to put in a single levy that will cover all classes of disposable coffee cups because the important message that we want to drive home is that we are trying to move from single-use disposable of any type to reusable rather than trying to segre-

gate different types of single-use products. That is in line with requirements at EU level, where we have to take measures to disincentivise the use of single-use cups, including biodegradable ones. At a policy level, as set out in the waste action plan and in the strategy, we will always state that reusables are better than single-use items, but with specific exemptions for specific circumstances. That is the approach we will be taking. Again, taking disposable coffee cup as an example, we would not see a mass change from one type of disposable cup to another. We are trying to shift from disposable items to reusable items. We are hoping the levy will help us to achieve that.

Vice Chairman: The next speaker is Deputy Cronin.

Deputy Réada Cronin: I welcome the Bill. I have had only a quick read through of it but I think it makes some excellent points about living as lightly as we can. It would be interesting if we could put our mummies or nannies in charge of this. I am old enough to remember when children visited their cousins and they were invited up to their rooms to be given old clothes. For me, the circular economy is about recycling Moses baskets, prams and clothes and Sunday's dinner being Monday's tea and chicken bones being used to make stock. The waste of food in the world today is frightening. There is a famine in Yemen and we have food banks in our universities and soup kitchens. I know this is not about a return to the old days. I have not gone into huge detail on the Bill, I just have not had time, but I will and look forward to working on it. I worry that there is infinite production and consumption, expansion and growth now. The economy when I was growing up is different to the one we are in now. I do not see Governments and economies getting this. The power and wealth is all based on a production and consumption model where, for example, it is cheaper to buy a new thing than get it fixed. Obsolescence is built into products. I worry that it is not so much the public that needs to buy into this but the leaders and Governments. The people here are all working for the Department of the Environment, Climate and Communications. Do they see that the Government and leaders are actually ready to embrace the radical changes that are necessary?

Mr. Leslie Carberry: I will address the easier part of that question first. I fully agree that many of the practices around the circular economy are not new. They are not innovative. They were probably more frequent in times past. All around the country there are community-based swap groups, people exchanging old clothes, children's toys and so on. These are bottom-up initiatives that do not need any regulatory framework but are doing great work. One thing I would like to do in the next year or so is find a way to help people capture those initiatives and reflect the work that community groups are doing at a national level.

All I will say on Government commitment is that we are very explicitly tasked in the waste action plan to produce a whole-of-government strategy for the circular economy which will look at all the policy levers available and bring policy coherence across not only the Government and the Departments but the wider public sector. That probably addresses that.

Deputy Réada Cronin: I know there is a job to do. The officials are given the job of creating this Bill but do they think the political will is there? How can we be talking about growth and expansion while yet protecting the planet and addressing the climate change that is coming?

Mr. Leslie Carberry: I am not going to get into commenting on the political will of this Administration or any other but we do have a comprehensive set of ambitious policy documents before us with the strategy, the climate action plan etc.

Deputy Réada Cronin: There should be more emphasis on the producers to play their

part, including in respect of the built-in obsolescence of electrical goods and so on, rather than expecting it to be bottom-up all the time. I would like to see more emphasis on that in the Bill.

Deputy Cormac Devlin: I thank Mr. Carberry and his colleagues for the information they supplied. First on the circular economy and the Bill, to me this is a missing piece of the puzzle. We are talking about reducing our emissions but we obviously must encourage and incentivise the public to do what they can and many people are doing what they can without any need for legislation. This committee has spoken about packaging in particular and the need to do what we can to reduce packaging and recycle it appropriately etc. Deputy Cronin was talking about social enterprise and how we can encourage that. There was an upcycling website, its name escapes me, which had information on how to reuse and share discarded items. I think it had problems with funding about a year and a half ago. I hope that the levies that are to be collected will help towards funding these initiatives. Mr. Carberry spoke about that earlier.

On the heads of the Bill, Mr. Carberry's opening statement mentioned the national food waste prevention roadmap. We need to reduce our food waste by 50% by 2030. How will the Bill incentivise the proper disposal of food waste, while also discouraging the discarding of food waste?

Mr. Kevin O'Donoghue: Food waste is a really challenging area that we have been looking at for some time along with the EPA. The Bill gives us the authority to set out the food waste strategy or roadmap and the actions will come through that. A draft has been done. It has gone to colleagues in the EPA for their assessment and we will share it with others. FoodCloud is going to see it tomorrow. We will bring it to our colleagues in the Department of Agriculture, Food and the Marine and get a flavour from them as to where it should be tackled. It is a really complex area. The problem with the halving of food waste target is there are no baseline data yet. We have to set up a metric for that in order that we have a target to aim at. In the interim we will change some of the waste things very quickly. We will incentivise waste collection for commercial premises because they are not using a three-bin system currently so there is a huge amount of food loss happening there. In many respects it is not waste, but loss, because it is simply going into non-target materials and would be better composted. We need to start capturing the baseline data of farm, producer, retailer and consumer and establish where the losses are happening and where we can target them best. It is a much broader piece of work. The Bill is basically setting out a statutory requirement to deliver a roadmap and update it at a minimum of every three years.

Deputy Cormac Devlin: Will that roadmap go out to public consultation once the various agencies and organisations have looked at it? Is that the idea?

Mr. Kevin O'Donoghue: The last thing we worked on as part of this went through the waste advisory group, which is the group we established to develop the waste action plan for a circular economy. The intent was to go there but we can examine the idea of putting it out for full public consultation as needed.

Deputy Cormac Devlin: I think that would be a good thing. Staying on food waste, I hear what Mr. O'Donoghue is saying about commercial waste and his point on the three-bin system is fair. Within Dublin, waste management was trying to look at the by-laws about people disposing in the wrong bin in the domestic waste sphere. There was talk of fines, levies and everything else. No enough information campaigns are being conducted on the green, brown and grey or black, or sometimes purple, bins. There needs to be education around both commercial and domestic waste disposal and people need the benefits of segregating waste explained.

Hopefully that will be done. I will leave that with the officials.

Mr. Carberry mentioned the Minister having the power to introduce new environmental levies. Head 6 makes a proposal around regulations, which Mr. Carberry said was quite a small list. Section 3 goes on to say the amount of the levy will be specified in the regulation but should be no more than €1 per item. Will Mr. Carberry elaborate on section 4 and whether it refers to an individual producer having to pay the levy but if it is sold by a multiple, then it will be collected by them? Section 3 of head 6 concerns the €1 cap on the levy and was included to indicate the absolute theoretical maximum. We expect the levies that will be set by the regulator will be much lower, and further detail will be set out on how and when the rate of the levies can be increased.

Head 4 concerns businesses selling or supplying leviable items and sets out that the person who carries out that business is responsible for the collection and payment of the levy. There may be multiple businesses carried out in the same outlet, such as a department store that has a concession area within it. An example of this would be a department store that has one till for its main business, with a concession area that has its own separate till and supplies. The person running the concession area is equally responsible for the collection of the levy for his or her business.

Deputy Cormac Devlin: This would be similar to the plastic bag levy.

Mr. Leslie Carberry: Exactly.

Deputy Cormac Devlin: I will conclude and come back in later as I am sure other colleagues would like to contribute. Under head 6, I note it states that section 72 of the Waste Management Act will be repealed. Is the reason for that because there will be an amalgamation of the various waste Acts?

Mr. Leslie Carberry: The section on the environmental levies currently in the Waste Management Act will be repealed and replaced with what will become a new section, under the circular economy Act, that will set out the levies.

Deputy Cormac Devlin: From our perspective, the broad parameter of the legislation is one matter while the regulations may be of more interest to us, although that is for a different day's work. I will come back in after colleagues have contributed.

Deputy Darren O'Rourke: I will be brief. On the issue of food waste prevention, should the case be made that the mandatory reduction targets be set statutorily because at present they are not? I am concerned we will have waste management plans that will consistently miss their targets. A number of people have raised the need to set targets and to have a regime of enforcement. Is there a case to be made for the mandatory reporting by food businesses on the amount of food waste they generate and the actions taken to reduce such waste? As we have to reduce food waste by 50% by 2030, some argue that a mandatory 7% food waste reduction target should be set each year. That would require the setting of year-on-year food waste prevention targets and the establishment of an regime to enforce them.

A number of people have raised the issue of product obsolescence. Perhaps this cannot be tackled at an Irish level, but is there anything that can be done to address that issue because it is a fundamental issue of importance in a circular economy? There are many examples of unnecessary waste that relate specifically to product obsolescence.

On construction and demolition waste, does this legislation provides particular opportunities for us to improve our performance in this regard? In my area of County Meath, each year we deal with illegal dumping on an industrial scale for which the State and the taxpayer pick up the tab. This occurs on the one hand while on the other hand there is a regime that lacks the level of regulation that is required. From speaking to people in local authorities, I know of the challenges they face keeping on top of requests for licences.

I have a related question which perhaps cannot be dealt with by the legislation. It strikes me that this Bill could result in a significant demand for increased resources, be that from the Environmental Protection Agency or local authorities, in regard to enforcement. Has that been factored into the Department's preparations to date?

Mr. Leslie Carberry: On the last point about resources, the Environmental Protection Agency's budget for 2022 is obviously part of the annual Estimates process and, as part of that, the agency has confirmed to the Department that the resources necessary to convert to the circular economy programme from the national waste prevention program has been factored in.

On the issue of obsolescence, I raised the point on the measures that are best put in place at EU level around right to repair, green design, etc. There are measures we are taking at home and some we want to progress further. There is direct funding, for example, for circular economy initiatives under the Environmental Protection Agency green enterprise programme and the Department's circular economy innovation scheme, which was launched this year. Both of those are open to a range of different circular economy initiatives. Green design is an approach we want to see more of and which we will support through these funding models. The boosting of repairs is an area we will look at through the strategy. Another aspect when considering obsolescence is the consumers' willingness to avail of repaired or refurbished goods. There are commercial operators that refurbish ICT and phone equipment at present. More research may need to be done on what are the barriers consumers think about before purchasing a refurbished phone. For example, are consumers unsure of the quality of the product? Are they concerned whether the producer they buy from will remain in business for the duration of the warranty? This is relevant for data bearing devices. Are they willing to sell their device to a refurbisher who will then resell it? Can they be sure their data is secure? There are many elements that need to be considered beyond just the design. There is also the consumer behaviour analysis aspect at which we want to look. There will be an increased focus on awareness under the strategy which we specifically need to work on further. I will hand over to Mr. O'Donoghue who will speak about the food waste issues and some other points raised.

Mr. Kevin O'Donoghue: We are not against setting mandatory targets. We need to get an understanding of where they should be set and we are waiting on baseline data to figure out exactly how we can achieve the 50% reduction by 2030. We will examine any mandatory targets needed on that basis.

I refer to the area of construction and demolition waste. It is a significant area of work for us to ensure construction and demolition waste generated is managed properly. The local authority system and the EPA deal with a significant volume of waste under article 27, by-products, and article 28, end of waste, of the European Communities (Waste Directive) Regulations, the two areas I imagine the Deputy was referring to for local authorities. There are provisions in this Bill that will streamline those processes and should assist in ensuring the applications made for determination are of sufficient quality to make a determination. Due to the changes we expect in that regard, we have been working with the Construction Industry Federation and all the relevant stakeholders, and the regulatory side, since 2017 through a construction waste

resource group. The areas that need immediate attention have been identified by the sector. On that basis, we would expect the change to happen relatively quickly after the introduction of the provisions in this Bill.

Deputy Darren O'Rourke: I thank Mr. O'Donoghue.

Vice Chairman: Before we start the second round I have some questions. The heads of the Bill the Department have brought forward present a huge opportunity to transform the consumer culture that has got us to where we are at the moment and the amount of waste that we see. As Senator Boylan said, it is a huge opportunity to clean up our oceans and clean up our countryside, about which we are all very passionate. It could also give value for money to the consumer in how we do things. We must focus on the potential positives of what these heads of Bill provide and eventually in having a circular economy Bill enacted, which is great. The next weeks and months will be about trying to ensure that it is robust.

Some of my questions might apply more to a circular economy strategy than the legislation itself. If we could touch on it, however, it would be great. On the types of projects that could be funded by the circular economy fund, I believe that anaerobic digestion does not get enough attention. It does not get talked about enough and we do not debate it enough. I often wonder why it is something we often seem to steer clear of. If we are talking about reducing waste, about reusing by-products in a better way and about decarbonising a sector such as agriculture, then fundamentally anaerobic digestion surely has a part to play.

The members are probably bored of me telling my story of visiting an anaerobic digestion facility in west Cork. What I saw and what was presented to me provides a lot of solutions around the disposal of agricultural waste in particular. It was almost a co-operative style set up where the local piggeries, the poultry farm, and the local distillery brought waste to this anaerobic digester. They were getting energy from this, which is almost a renewable energy, and an environmentally-friendly fertiliser to be sprayed on the land. As part of that going forward, do we have a strategy for anaerobic digestion? We have seen the success of this in Europe. I understand the concern that we do not want to have a situation where crops and products are being grown specifically for anaerobic digestion. Can we have a strategy for anaerobic digestion? Can this be included in a circular economy fund?

Mr. Leslie Carberry: My understanding is that an anaerobic digestion would primarily be dealt with under the bioeconomy policy. The bioeconomy is recognised in the strategy as an important subset of the circular economy. The national bioeconomy policy statement states that the Irish bioeconomy as it develops should be sustainable and circular. There is already a recognition that there should be close co-operation between those two policy areas and further opportunities for co-operation identified.

On the question of funding anaerobic digestion from the circular economy fund, the fund funds specific proposals and everything would come down to the merits of those proposals. I am not aware of any statutory blockage at the moment to such funding being provided to an anaerobic digestion scheme.

Vice Chairman: Where does the Department stand on anaerobic digestion? Is it something it sees a place for in the future and would it like to see it expanded?

Mr. Leslie Carberry: I might ask Mr. O'Donoghue to come in on this with regard to the role of the waste hierarchy.

Mr. Kevin O'Donoghue: It is an interesting one. I believe that I was at the same plant described by the Vice Chairman. From a departmental perspective, it is something we would look at more on the energy side than from a purely waste perspective. We have conversations with the energy side in relation to it. There are some fairly substantial anaerobic digestion projects which have come on stream over the last while, and are about to come on stream. It will be interesting to see what kinds of feedstock they go for. The standard mix at the moment is slurries and potentially some organic fines. We keep an eye on it but the stronger element in Ireland tends to be for composting at the moment rather than anaerobic digestion. As an emerging technology, however, we are certainly open to seeing its use expanded.

Vice Chairman: I would certainly like to see it looked at and explored. The food loss prevention roadmap is included in the heads of the Bill. Again, this comes down to the idea of anaerobic digestion and the smaller scale digesters that are used in some hotels or in some more industrial sized kitchens, whereby peelings and food waste is used to create gas to cook. Is this something that could be part of the food loss prevention roadmap? We have seen it done on a smaller scale and there is some great emerging technology in how we can cut down the amount of food going into the brown bin, composting bin or waste bin, which happens in some cases, and reuse to produce gas for cooking.

Mr. Kevin O'Donoghue: At the moment, the roadmap is focused on what is currently happening and trying to determine where the losses are happening across the supply chain. Our focus is on the roll-out of the brown bin for households and the proper segregation in commercial waste. We are not looking at the moment to move material away from the brown bin network. The composting sites would be looking to increase that. The idea of support for small-scale digesters is not part of what we are looking at currently.

Vice Chairman: Another initiative, which seemed to be a pretty big thing a couple of years back, but seems to have stopped in its tracks, was where larger supermarket chains worked with local communities and food that was near its sell-by date or guideline date was used in the community for different schemes. This was to avoid waste and to help those people who were more vulnerable or on low incomes and may not have been able to afford a big shopping bill. Would there be a requirement for some amendments to health guidelines or health strategies to encourage those types of initiatives, especially where we are seeing tonnes of perfectly good food being binned because of guideline sell-by dates on food?

Mr. Kevin O'Donoghue: The date issue is an interesting one. It is an education piece around the terms "use by" and "best before" that was causing problems previously. We worked with the retail action group, which was most of the major retailers in the State. I am sure the members will have seen in supermarkets a push to have as much food as possible used, even by slashing prices and putting it into designated areas, so as to minimise the food waste in supermarkets. Many of the bigger chains are partnered up with the likes of Food Cloud so there are charitable donations and donations to local communities through that. Obviously, we would like to see that continue but the impact of what we are trying to do with the roadmap is to ensure that there is not enough food in the system causing the need for it to be dealt with at the back end like that. Each stage of the process will be examined to see where the major losses are happening, and to see what can be done to ensure, from a policy perspective, that we are minimising the amount of waste being generated in the first place. Then we will look to deal with the materials that are left, as holistically as possible. If the food can be used, eaten or distributed, this is a far better use of it than putting it to composting or anaerobic digestion.

Vice Chairman: Mr. O'Donoghue is in the hot seat, so I will just keep going while I am

on a roll. I just have two quick questions. Deputy O'Rourke brought up an excellent question about resources. He mentioned the Environmental Protection Agency and the local authorities in particular. Many of us have sat on local authorities and we saw how under-resourced their litter-response teams were, including their litter wardens. My area of west Cork is a huge geographical area and we essentially have one litter warden responding to all of it. Will funding be freed up and made available for local authorities to monitor and enforce the circular economy?

Mr. Kevin O'Donoghue: Litter is an area that came into my sight last year and in new litter scheme we set up with the local authorities, we funded provision of solar compacting bins and that type of thing and changing some of the older infrastructure. We basically set aside €5 million this year to start to combat some of the difficulties found by local authorities. We have also changed the waste enforcement structures and have an enhanced waste enforcement regional lead authorities, WERLAs, for that in order that we are ensuring there is a minimum number of waste enforcement officers in each county. We will be looking to do the same with litter. We are trying, as best we can, to ensure local authorities have sufficient resources to deal with what they are being asked to do.

At the same time, a major part of our role is to ensure education and awareness for everybody in this State around the importance of leaving no trace and trying to take care of one's local area. We worked with MyWaste on the staycation messaging and on leaving no litter, as the economy started to reopen. It is important to reflect when we were in a lockdown scenario of 2 km to 5 km, the waste was still appearing. We were getting more calls pointing out what was there, but there was no increase in the waste being generated. It highlighted to all of us, to some surprise, at a time during when no one was travelling, that the waste and litter were not being generated by passing motorists coming through one's county and throwing it out the window, but by each local authority area. It is being generated in everybody's locality.

We decided to tackle that as best we could through a more harmonised approach throughout the State and we are working with the waste collectors to try to ensure we have better provision of facilities and the materials people need, such as litter pickers or bags. We will work on whatever is necessary to support the Tidy Towns groups but much broader than that is a big education and awareness piece which needs to happen. We need to ensure the enforcement of the laws and fines are carried through and to try to get people back to supporting their local communities and ensuring they are not the cause of the littering issues other people in their communities are being asked to resolve.

Vice Chairman: That is an excellent point. Two things were happening there. People were walking the feet off themselves during those two lockdowns and probably walking in beauty spots to which they had never been and were noticing these things. We also had those great summers during which people were flocking to the beaches. That obviously caused an issue. At least there was a response to that. We have not spoken about international examples. Are there one or two good international examples in which they have legislated for a circular economy and it has successfully led to a reduction in waste?

Mr. Leslie Carberry: The Netherlands is held up in the EU as best in class for its circular economy. To use the metric of the circularity rate, which is the amount of resources that go into an economy and are then circulated back in, as opposed to being disposed of or exported, Ireland is the second worst. We are below 2%. The Netherlands is in the high 20s. It shows what a coherent policy framework, not just around legislation, but a whole joined-up approach about awareness and a focus on both consumers and producers, as has been noted by the committee, can achieve. If we were looking to best in class, we would say it is the Netherlands. Some in-

novative work is also being done in Scotland around Zero Waste Scotland, such as what it has done around reuse and repair.

Deputy Richard Bruton: The evidence suggests the cars we all purchase are idle 95% of the time. That results in us building substantial parking facilities under more compact living, which adds enormously to the cost of new homes. If we could move to more shared use of vehicles, we could dramatically reduce our material use in cars purchased, but also reduce our building costs and make homes cheaper. There is a massive virtuous circle here, if we get the design thinking right. Is there a place in this Bill for design principles to be set out as something that sectors should refer to, audit and report and that they should commit to progress on a comply-or-explain basis in order to create momentum in the design space? Is there a place for packaging, retail or public procurement principles to be set out in order that we could start to see real momentum built in sectors we want to see addressed? It would not be a regulation beyond the European because these would be principles and encouragement, such as comply or explain. They could be compatible.

One of the complaints I received, not just from the construction sector, was that many standards prevent the reuse of materials; standards that have grown up and their unintended consequence is one cannot reuse materials. It could be in making toys from reused materials and they simply will not pass the standard tests. Are the officials looking at that sort of obstacle in any detail to bring forward change? I will go back to Deputy O'Rourke's point in that this is a big project. Whether the Environmental Protection Agency, EPA, has the resources is one thing, but does it have the authority to do the sort of sectoral work required here? It is one agency under one Department, when really we are talking about every Department in every sector buying into a process of deep change.

Mr. Leslie Carberry: On Deputy Bruton's point about the example of cars and the level of time they are unattended and unused, I absolutely agree in that when we look at the circular economy, it is not even just the material design we have to look at, it is the business and use models. A greater pooled use of existing products and materials, without changing design at all, would make a huge difference to our resource consumption. That is something we want to look at.

In terms of providing for design principles or reporting requirements, I echo what Mr. O'Donoghue said about food waste targets. The Department would not have any objection to being given the power to introduce such principles and reporting requirements into the legislation. It would be precipitous to specify, in legislation, what those principles, actions or targets should be, but if it was the will of the Oireachtas to designate, the Minister would have the power to set those under the legislation and that is certainly something we could look at. There is no economy-wide material flow analysis for the Irish economy, that is, looking at the products and materials coming in, tracking how they are used and then tracking they are disposed of, recycled or re-entered. That is a huge piece of work that would let us target our interventions and track our progress. Getting that kind of work done, as well as doing the sectoral work of identifying actions and regulatory barriers, is necessary before we specify what would be potentially quite onerous targets through legislation.

In terms of the regulatory barriers, as Mr. O'Donoghue alluded to, the end of waste and by-products processes are being streamlined. This means that under certain circumstances, a product which is being treated as waste can be taken out and no longer treated as waste but reused. Similarly, a by-product from a process can no longer be treated as waste and be used in a subsequent industrial or manufacturing process.

In terms of other regulatory barriers, some may be set at an EU level. Where we identify them, we must take an approach at EU level to see if we can ensure that barriers that exist around safety, for example, are as robust as they need to be but can also facilitate the circular economy. Part of the work we want to do under the strategy is to identify any national regulatory barriers where we can take action. I am engaging with stakeholders, particularly from the private sector, on this and am asking them for feedback on where such barriers are and if there is anything we can do at national level.

The EPA will have a key role in implementation but, for the avoidance of doubt, the Department and the Minister will have overall responsibility for driving this agenda across government. An interdepartmental working group, comprising a wide range of public bodies as well as Departments, will be tasked with implementing the first version of the strategy, preparing the second version and seeing through the various actions there. It is not that the agency will be left by itself to do all this. The EPA is a key player and partner for the Department but the Department is responsible for the wider whole-of-government process around the circular transition.

Senator Pauline O'Reilly: I have a question on incineration which I meant to ask in the first round. Will there be something in head 1 that excludes incineration from the recovery wording? They are sometimes or often synonymous.

I am really interested in the whole idea of the sharing economy. There is a place in Galway that I have used previously to get bunting and gazebos, which are shared. If there is a big event coming up on a particular day, we do not necessarily want every community group purchasing a gazebo. It works pretty well from a cost point of view and it obviously extends the life of all of those things. I also know of sharing apps that are consumer driven and libraries are obviously the ultimate in a sharing economy. Are there any plans to expand on the idea of a sharing economy? I might have a shovel and then there is no need for anyone else in Highfield Park to have one because there are only so many hours in a day that anyone will be digging holes. I have been interested in the sharing economy for many years but it needs real backing and it needs the numbers to make it work.

I asked a question in the first round about VAT. Deputy Bruton spoke about tax incentives and said that regulations often make it difficult to reuse or upcycle things, like standards for toys, for example. I have spoken to people at An Mheitheal Rothar in Galway, who recently received more funding for bike repair in the context of social innovation but from an economic point of view, it is very difficult. They have to purchase parts to enable them to upcycle an old bike into a new one and it is difficult to make the sums add up when they are paying VAT on those parts, not to mention the amount of hours involved. How do we ensure that it is economically viable for people to upcycle?

My last point is around obsolescence. I understand that it is being looked at in Europe and I understand why. We are a small economy with limited purchasing power. Is there engagement between the Department and Europe so that we can have our voices heard, over and above our MEPs? One of the key issues around obsolescence is the length of a warranty. Objects become obsolete at the end of the warranty so if warranties could be extended, that could really help.

Mr. Leslie Carberry: On the recovery issue, we may need to look at the drafting of the Bill. For the purposes of the new environmental levies, including the waste recovery levy, recovery is being used in a very specific sense to address incineration, certain landfill operations or export for those purposes. Waste recovery is being used to capture these specific activities which we want to disincentivise relative to recycling. We may need to look at the other sections which

draw largely on the pre-existing waste legislation and which might mention recovery. We may need to differentiate so it is clear that when we are talking about waste recovery for the purposes of those levies, we are talking about incineration and we may not mean the same thing in other parts of the legislation. I thank the Deputies and Senators for flagging it because when I look at it with fresh eyes, I can see why there might be some confusion there.

In terms of encouraging the sharing economy, the potential of the digital economy to support the circular economy is something we want to further progress. This year, under the circular economy innovation grant scheme, we funded the development of an app through which consumers can buy pre-owned goods from charity and other second-hand stores. That will help to expand the scope of those stores and help them to improve the overall retail experience. The grant scheme will be an ongoing feature of the Department's strategy to encourage innovation and digital innovation would be part of that.

There are no current plans to look specifically at VAT but the strategy does talk about looking at all of the policy levers available to government to encourage the uptake of upcycled, refurbished or repaired goods. In terms of engagement with Europe, through our permanent representation and our environment team, there is always ongoing engagement with other member states and the European Commission on a full range of environmental issues.

Deputy Cormac Devlin: On head 8, the witnesses spoke of fixed penalty notices. What is envisaged there? Would the local authorities maintain those records, issue the notices and pursue them?

On head 10, Mr. Carberry spoke earlier about data protection issues, which I have been aware of since September of last year. Hopefully this legislation will address those concerns. Is it envisaged that the local authorities will be the data controllers? If that is the case, I would go back to the issues of the lack of litter wardens and resources that local authorities do not have. I am thinking about their ability to maintain and issue fixed penalty notices and monitor CCTV footage, as well as the number of litter wardens available in each local authority's administrative area. Maybe the circular economy fund could assist in that regard.

My final question is on head 11. Could Mr. Carberry outline what the rationale behind that particular section? In terms of investigating, detecting and prosecuting the offences, I assume that the local authority will be responsible. Mr. Carberry might elaborate, however.

Mr. Leslie Carberry: I think all those are for Mr. O'Donoghue to respond to.

Mr. Alex Hurley: I can take them. There are two aspects to fixed-penalty notices. Deputy Devlin is correct in that the penalty can be collected either by the agency or by the local authority, depending on the offence that is identified. For example, the litter offence will be changed. That would be local authority. Illegal dumping would again primarily be local authority but there is the provision that it could also be collected by the agency for different offences, for example, for principles of responsible investment offences.

Deputy Devlin also mentioned the data controller issue. There are data experts within local authorities. A local authorities would be working as the data controller in this instance as well. We are confident that they have the resources to do this.

Deputy Cormac Devlin: Before we move on, from what the Cathaoirleach said earlier and on the basis of my experience in Dún Laoghaire-Rathdown, we do not have enough litter wardens. If we took a vox pop of the committee, we could all speak to our local authorities and say

there are not enough litter wardens, particularly in rural local authorities which have vast areas. Senator Pauline O'Reilly referred to the laneway that is regularly dumped in. Nobody can see it but the local authority is charged with cleaning it up. It is all well and good having legislation which states that it is the responsibility of the local authority to issue the penalty notice and to do all that, but if, under the legislation, we are not looking to fund it through collecting levies, that is missing a key part of this. We have to be realistic. There is no point in having the legislation if we cannot enforce it. Enforcement is a requirement, unfortunately, in certain local authority areas because of the volume of waste that must be dealt with on a regular basis.

Mr. Alex Hurley: In a way, the fixed-penalty notices help to address part of the issue there in that you would have a situation at the moment whereby the local authority would potentially have to chase an illegal offence through the courts whereas the availability of a fixed-penalty notice for an illegal dumping offence allows the local authority to close out the matter in a much faster manner and to get the funds back without the necessity of setting up the case and pursuing it through the courts. We see this as helping and providing a more proportionate solution in this instance.

In the case of the closed circuit television, CCTV, and the litter warden, it is not necessarily the case that the litter warden is the one who is also tasked with monitoring the data.

Deputy Cormac Devlin: I accept that.

Mr. Alex Hurley: The local authority would decide on that. There is discretion for flexibility within that.

Mr. O'Donoghue mentioned earlier that we have attempted over the past couple of years to increase the funding that is available for enforcement through the anti-dumping initiative, the WERLAs, etc. The Department has an ongoing commitment under the waste action plan to that funding line as well.

Deputy Cormac Devlin: I thank Mr. Hurley. We certainly need to give serious thought to this. I accept what Mr. Hurley says about the fixed-penalty notices. That assumes that the individual can be identified. One of the biggest issues, aside from whether it goes to court or not, is whether you can identify the culprit who is dumping a vast amount of stuff. I would say that, between the fixed-penalty notices and the circular fund, we need to examine how we could fund many of these positions that the local authorities will need.

Finally, someone might elaborate on head 11. They might confirm that we are sticking with the fixed-penalty notices and CCTV under this head.

Mr. Leslie Carberry: Head 11, as I read it, is around the use of mobile visual recording devices for purposes of waste enforcement.

Deputy Cormac Devlin: Okay. That is fine.

Mr. Alex Hurley: It is envisaged as facilitating non-CCTV technology. What we would fit in there would be, for example, drones, bodycams, etc. It would be a similar procedure to that we described earlier so that a code of conduct-code of practice would be what governs an ensures that the data processing within that space takes place in a manner that is compliant with GDPR and law enforcement directive provisions. It is a similar thing, not being duplicated under the Litter Pollution Act in this instance but to make sure that, for significant waste enforcement investigations, the local authority has access to this technology. That is what is envisaged

under that section.

Deputy Cormac Devlin: I see. Okay. I thank Mr. Hurley for that.

Chairman: I call Senator Boylan.

Senator Lynn Boylan: I promise I will be quick. One of the issues I wanted to bring up in the first round was use of the phrase “from time to time.” It seems a vague use of language, and open-ended, for holding a Minister to account or even, in one case, the EPA, which may evaluate its programme from time to time but at least every six years. I am wondering if there is scope to tighten that up.

We are saying we do not want to put too much work on the EPA. They have enough to be doing. This is a huge body of work that they will take on in implementing this but six years also seems like a very long period. Given that we are in this phase where there will be pilot schemes and the initiatives we were talking about, such as the sharing economy, the repair and the co-location of civic amenities, I am wondering should we reduce that period or at least allow that the initial one may be a review after two years and then extend it to every six years. It is more about the loose language in the context of the number of times the phrase “from time to time” is used, and whether that can be tightened up.

Under head 12, where the Minister has the authority to include targets on a statutory basis, will reuse or refill be defined. Will there be a certain number of high temperature washes? Will it be set? Best practice is that we should be setting that in law as 20 times minimum that something should be refilled or reused. Will we be defining that in the legislation?

Mr. Leslie Carberry: I thank the Senator. In terms of the language, in using the phrase “from time to time” in the drafting exercise that we have been doing since the heads were published, we are specifying more specific timelines in many cases. At present, I cannot state definitively that we have looked at the six-year timeframe, specifically, in relation to the EPA programme, but it is something we can look at. When one sees the published Bill, one will see many more specific timelines around things like when the strategy, etc., should be reviewed and replaced.

The first part of head 12 provides for statutory inclusion of reused and repaired materials. The second part will allow the Minister, if necessary, to make regulations specifically on those targets. That would allow for the kind of specification that the Senator is talking about.

Senator Lynn Boylan: Will it defined what constitutes a refill or reusable so it is not that one reuses it once?

Mr. Leslie Carberry: My reading of the head is that would be feasible under the regulatory power the Minister has. We can double-check that with the Attorney General’s office and revert to the committee.

Senator Lynn Boylan: Brilliant. On a more general question, Senator Pauline O’Reilly referred to VAT. She made good points about VAT for repair operations and making it economically viable for those organisations to be able to do that. Is the Department in consultation with the EU in regard to the VAT schemes? One of the issues we have around sustainable period products is that they are charged at 12.5% whereas disposable sanitary products are actually rated at 0% VAT. If we want to encourage a reduction in waste, and this is a huge area of waste, we need to reform the VAT on a European Union level, or at least negotiate to get the period

products that are sustainable put in with the rest of the period products in Ireland. Is there a conversation with the Department on the need to reform the VAT rate at an EU level to address some of these issues?

Mr. Leslie Carberry: To the best of my knowledge, and I stress that, I am not aware that the Department is in direct communication with the European Commission on VAT issues in general. That line of communication would be through the Department of Finance. We can confirm that but not to my knowledge, no.

Vice Chairman: There are no other members indicating to speak. Do the witnesses have anything to add?

Mr. Leslie Carberry: If I may, looking back on my notes I see that I neglected to answer Senator Higgins's point on green public procurement. There is the programme for Government commitment that green criteria will be included in all public procurement by the end of 2023. My division is working with the Office of Government Procurement to operationalise that commitment. Recently the EPA produced green public procurement guidance and a set of criteria which procuring bodies can use. I wanted to correct that oversight.

Vice Chairman: I thank members for their questions and comments and the witnesses for attending today and for answering to the best of their abilities.

The joint committee adjourned at 7.22 p.m. until 5.30 p.m. on Thursday, 14 October 2021.