



**OFFICIAL REPORT**  
AITHISG OIFIGEIL

# Net Zero, Energy and Transport Committee

**Tuesday 28 March 2023**

**Session 6**



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**Tuesday 28 March 2023**

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**NET ZERO, ENERGY AND TRANSPORT COMMITTEE**

**11<sup>th</sup> Meeting 2023, Session 6**

**CONVENER**

\*Edward Mountain (Highlands and Islands) (Con)

**DEPUTY CONVENER**

\*Fiona Hyslop (Linlithgow) (SNP)

**COMMITTEE MEMBERS**

\*Jackie Dunbar (Aberdeen Donside) (SNP)

\*Liam Kerr (North East Scotland) (Con)

\*Monica Lennon (Central Scotland) (Lab)

Ash Regan (Edinburgh Eastern) (SNP)

\*Mark Ruskell (Mid Scotland and Fife) (Green)

\*attended

**THE FOLLOWING ALSO PARTICIPATED:**

Fergus Ewing (Inverness and Nairn) (SNP)

Maurice Golden (North East Scotland) (Con)

David Harris (Circularity Scotland)

Simon Jones (Circularity Scotland)

Màiri McAllan (Minister for Environment and Land Reform)

Donald McCalman (Circularity Scotland)

Steven McMahon (Office of Gas and Electricity Markets)

Dan Merkel (Scottish Government)

Jack Presley Abbott (Office of Gas and Electricity Markets)

Irene Steel (Circularity Scotland)

Collette Stevenson (East Kilbride) (SNP) (Committee Substitute)

Brian Whittle (South Scotland) (Con)

**CLERK TO THE COMMITTEE**

Peter McGrath

**LOCATION**

The Mary Fairfax Somerville Room (CR2)



## Scottish Parliament

### Net Zero, Energy and Transport Committee

*Tuesday 28 March 2023*

*[The Convener opened the meeting at 09:04]*

### Decision on Taking Business in Private

**The Convener (Edward Mountain):** Good morning, everyone, and welcome to the 11th meeting in 2023 of the Net Zero, Energy and Transport Committee. We have apologies from Ash Regan. I welcome Collette Stevenson, who is joining us as a substitute member.

The first item on the agenda is to decide whether to take items 6 and 7 in private. Item 6 is the consideration of evidence that we will hear today as part of our inquiry into Scotland's electricity infrastructure and whether it is an inhibitor or enabler of our energy ambitions. Item 7 is consideration of evidence that we will hear today on Scotland's deposit return scheme. Do members agree to take those items in private?

**Members** *indicated agreement.*

## Subordinate Legislation

### REACH (Amendment) Regulations 2023

09:05

**The Convener:** Agenda item 2 is consideration of a consent notification on the REACH (Amendment) Regulations 2023. This is a United Kingdom statutory instrument for which the UK Government is seeking the Scottish Government's consent to legislate in areas of devolved competence. The committee's role is to decide whether it agrees with the Scottish Government's proposal to consent to the UK Government making these regulations within devolved competence, and in the manner that the UK Government has indicated to the Scottish Government.

At our most recent meeting, we considered the notification and agreed to request further information from relevant regulatory bodies and the UK Government about the proposed extension to registration dates and the impact in Scotland. Additional letters have been received, which I believe all committee members now have.

We also agreed to invite the Minister for Environment and Land Reform to give evidence today. We have until 31 March to respond to the Scottish Government's notification so, straight after today's evidence session, we aim to come to a view.

I am therefore pleased to welcome Màiri McAllan, Minister for Environment and Land Reform. Minister, thank you for attending at short notice. I also welcome Dan Merckel, chemicals team leader, and Ailsa Heine, lawyer, both from the Scottish Government.

We have around 20 to 25 minutes for this item. Before we move to questions, minister, I believe that you would like to make a very brief opening statement.

**The Minister for Environment and Land Reform (Màiri McAllan):** I will do, convener. Thank you very much for having me here today to discuss the proposed statutory instrument to extend registration deadlines under the transitional arrangements of UK registration, evaluation, authorisation and restriction of chemicals regulation. The purpose of the statutory instrument is to extend by three years the dates by which manufacturers or suppliers of chemicals in Great Britain—GB—must register their substances in UK REACH.

Following feedback, work is currently on-going to look at how registration arrangements might be improved in UK REACH. The extension is proposed to allow that work to be completed and

to give business certainty on its obligations in the meantime.

By way of brief background, the UK REACH regulation replaced the equivalent European Union REACH regulation following EU exit. UK REACH applies in GB, and it regulates the marketing and use of the majority of chemicals on the GB market. The hard Brexit that was eventually negotiated meant that we were denied membership of the European Chemicals Agency; as such, we have had to set up an entirely autonomous regime that essentially mirrors that of the EU.

Registration under UK REACH is a significant undertaking for businesses in GB—likewise for the Health and Safety Executive, which delivers most of the technical functions of the UK REACH, and the Department for Environment, Food and Rural Affairs, as the UK REACH policy lead. The proposed extensions to the registration deadlines arise from the significant financial and practical challenges that registration poses for GB businesses.

To put that into context, compliance with EU REACH was estimated to have cost UK businesses some £500 million. The current DEFRA estimate of cost to UK business under the new regime is between £1.3 billion and £3.5 billion. As well as cost to business, in Scotland, we have a large number of small and medium-sized enterprises that are unlikely to have directly interacted with the EU and will have relied on others in the supply chain to do the necessary on their behalf. Therefore, an extension is particularly important for Scottish business, its supply chains and, ultimately, consumers in Scotland.

Concerns have been raised, and potential improvements are being considered. The three-year extension is thought to be appropriate while that work is under way.

The committee will recognise that the concerns that I have set out are largely about business and costs, but you will also recognise that, in my role as Minister for Environment and Land Reform, I need to be content about the impact of any changes on the environment. Although the proposed extensions are far from ideal, I am satisfied that there are sufficient mitigations in place such that the potential for negative consequences for the environment is low.

By way of practical example of that, during the extended transitional phase, suppliers and users of chemicals in GB will continue to follow the safeguards that are in place under EU REACH, as all chemicals that are subject to the proposed extended deadline are already registered under that regime. Perhaps we can get into a little more of that in questioning.

In summary, I consider the situation to be far from ideal, as is the case for most things connected to EU exit, but the risks to Scottish business, consumers and the operation of the regime itself by not agreeing to the proposal are greater than the risk to the environment from consenting to it.

I am happy to take questions, and I will bring in colleagues, because there are some technical aspects to the issue.

**Fiona Hyslop (Linlithgow) (SNP):** Good morning, minister. Chemical registration was one of the key areas of concern when the UK left the EU. In relation to the Scottish statutory instrument that is in front of us, how has the Scottish Government assessed the implications of the proposed extensions to registration and compliance-checking deadlines for areas that are within devolved competence? What have you done on that?

**Màiri McAllan:** That is a very good question. The area of chemicals is a complex split of devolved and reserved issues. For example, the environment is devolved, but health and safety is reserved. We have worked with DEFRA and with the Health and Safety Executive, which is the competent authority for these matters at UK level. I have reassured myself on some of the points about the impact on devolved matters that I was beginning to allude to in my opening remarks.

First, we are talking only about chemicals. The only chemicals that are affected by the transitional arrangements are those that are already under the EU REACH regime, so I am comfortable that the rules will continue to apply to them. Any new chemical or any novel use will have to be registered straight away and will not be caught by any extension that we are proposing here.

It is also about recognising that there is risk to not acting. The risks of not acting—having a system that is unworkable and a registration process that business and industry tell us they cannot comply with in the time that they will have to—are more problematic to business and the environment than the risks of acting. All that has been considered, and officials have worked very closely with DEFRA and with the Health and Safety Executive, which is the competent authority in all this.

**Fiona Hyslop:** You have addressed the point that there are risks to delaying the approval, but in making that assessment and in relation to the overall extension, we understand from the Scottish Environment Protection Agency that the Scottish Government has not sought advice from it. How did you make your assessment on that?

**Màiri McAllan:** Obviously, SEPA is the regulator for environmental issues in Scotland and

will be for the environmental impact of REACH overall, but the competent authority for the issue of registration is the Health and Safety Executive. That decision was made across the board with the Scottish ministers, the Welsh ministers and so on, so the Health and Safety Executive is the equivalent of SEPA in this, and we have therefore worked closely with it on the issue. Officials are keeping SEPA very closely updated on all these developments, and it is always welcome to give us its feedback.

I do not know whether Dan Merckel might want to say more about the engagement that he has had with SEPA, but it is certainly not the official body on this. However, the convener is indicating that we need to be as short as possible.

**The Convener:** I am happy for you to come in, Dan, but I think that the minister has made that point clear. Fiona Hyslop, are you happy with that?

09:15

**Fiona Hyslop:** Yes, I am. My final question is about the common frameworks, which will be key for whole aspects of the on-going EU exit. How has the common framework on chemicals and pesticides and its associated governance structures been used to support agreement between the UK and devolved Governments on these proposals. Is the common framework functioning as anticipated? If so, is this agreement an example of that?

**Màiri McAllan:** Yes, I think that this is an example of the functioning of the common framework. Our getting to this point, and the cross-UK agreement that we have reached to get here, is a result and an example of the functioning of the common framework on chemicals and pesticides.

**Mark Ruskell (Mid Scotland and Fife) (Green):** It is good to see you in front of the committee, minister. I will turn to some of the concerns of environmental stakeholders and how you have addressed those in discussions within the common framework process and come to the decisions that you have, collectively. One of those concerns is around divergence during this delay period.

I understand that the EU is considering, and has taken the first steps towards, phasing out 47 groups of chemicals under its regime but that, under the UK REACH scheme, the UK is considering only three groups in that first phase of considering the environmental health impact of chemicals and how quickly they can be phased out. Do you see the potential for divergence, given the deadlines and the lack of pace of the UK scheme?

**Màiri McAllan:** I will split my answer into two points. First, what we are dealing with today is squarely about the extension of the deadline rather than about what system might replace the registration arrangements. On the extension of the deadline and the decision to be made today, I do not have much concern about divergence, because we are talking about trying to have a complete register and getting there within a realistic timescale. I do not see much scope for a concerning divergence between us and the EU in that regard. In fact, its register took 10 years to complete, and if we agree to this today, what we will be dealing with in UK REACH will happen within a similar timescale.

The risk of divergence comes further down the line when we look at the changes that will be made to the system and for which this time extension is needed. Officials are very much involved in the working groups, looking at what might be changed in registration arrangements. We have been clear from the outset that we would not tolerate any diminution in standards, and that is our starting point for the work with DEFRA, which is very much in the early stages.

**Mark Ruskell:** However, the example that I pointed to is a live one. Forty-seven groups of chemicals are going through the process of being phased out in the EU, but only three groups are going through that process in the UK system. Therefore, how does the alternative model of UK REACH ensure that we do not have that divergence going forward? That seems to be a live case of divergence that is already creeping in to the system. How will the model ensure that, as we understand more about chemicals and their health and environmental impacts, decisions can be made more quickly to get them on the path to being phased out?

**Màiri McAllan:** I might bring in Dan Merckel to see whether he can offer anything else on your specific point, but for my part today, I am content that extending the deadline does not increase the risk of divergence and that, as we develop changes to the registration system, my officials and I are clear that we will not tolerate any diminution in standards. I will be very watchful for any risk of divergence in that regard, and we would want to see that mitigated as far as possible. Dan, do you know any more about the specific point that Mr Ruskell raises?

**Dan Merckel (Scottish Government):** I am happy to come in, if that helps. I think that you are referring to restrictions under REACH, which are a separate process from registration, although registration data will be used in the restrictions process to inform those dossiers. Under UK REACH, we have two on-going projects. One is the alternative transitional registration model,

which looks at fixing the problems that we are talking about today.

The other big project is called REACH improvements and is about trying to change wider aspects of REACH to make them better. The Scottish and Welsh Governments are particularly focused on restrictions under that project. We want better use to be made of decisions and work in other countries and other regulatory regimes so that those can be fast-tracked into UK REACH and, it is to be hoped, save resource that could be put into specific issues around chemicals on the GB market.

The idea of the alternative registration model is that the information requirements on the intrinsic properties of chemicals should not change much but, in the GB context, we want an increased emphasis on use and exposure, which should help to identify where there are risks that need to be controlled through, for example, restriction.

**Mark Ruskell:** Thanks for that. I have another couple of questions on this.

**The Convener:** Mark, I am going to have to ask you to be brief, on the basis that other committee members want to speak.

**Mark Ruskell:** Okay, I will roll the questions together. A decision was made not to go for the preferred option that was put forward by the UK Government, which was a delay of three years, two years and one year for different categories. Instead, another option was taken: to go for three years for all three categories. What was the Scottish Government's input to that decision?

**Màiri McAllan:** We worked with DEFRA in advance of its public consultation, which, I think, was answered by industry, trade associations and non-governmental organisations. That was a broad spectrum, although, admittedly, the majority of the respondents were trade and industry representatives. It was very clear that a three-year extension across the board was the workable option, in their view, as opposed to what I think the UK Government's preferred option was: to extend the first category by three years, the second by two years and the last by one year.

On the backdrop of the assurance that, in the view of DEFRA and of the Health and Safety Executive, those extensions are not likely to be detrimental to the environment, I was happy that three years across the board was appropriate, if that is what trade and industry believe is necessary to make it right. It goes back to the point that I raised with Fiona Hyslop: the risk of not getting it right is substantial and, if we need that time, we need that time.

**Jackie Dunbar (Aberdeen Donside) (SNP):** Good morning, minister. Is there a realistic

alternative to the Scottish Government consenting to the extension deadline for registration and compliance, and what would happen if the Scottish ministers refused consent?

**Màiri McAllan:** I do not think that, ultimately, there is a realistic alternative. We spoke about the common frameworks. Those are the way in which we have agreed to work together in the post-Brexit landscape and, so far, that has worked well.

One of the problems that I have with UK REACH is that we are no longer doing it on an international basis, as we did with EU REACH. To suggest that we could do something even more insular in Scotland would not be credible. It is better for everyone involved that we continue to work together, continue to take advice from the Health and Safety Executive and continue to consult.

As for the on-going work on how the registration process might be changed, I am comfortable with the fact that the Scottish ministers' consent will likely be required to any of those changes, and that a statement in compliance with article 1 of REACH UK will be required, which will demonstrate how it does not represent a difficulty for the environment.

**Jackie Dunbar:** Shall I ask my other question now, or wait?

**The Convener:** By all means go for it.

**Jackie Dunbar:** Do you anticipate any further amendments to the REACH regulation?

**Màiri McAllan:** I do not anticipate any further extension to the timescales. I suppose that it is not impossible; however, I understand that a lot of resource is currently being arranged in DEFRA to make sure that it is done in the appropriate time. I expect that we will be back at some point to discuss substantive changes to the registration process because, of course, examining that is what the extension is required for.

**Collette Stevenson (East Kilbride) (SNP):** Good morning, minister. This question is fairly long, so bear with me.

We are aware of other significant developments in the policy area, including the 2020 EU chemical strategy and the forthcoming UK chemical strategy. How are the Scottish Government and the agencies engaging with those developments and what resource is committed to that? Will the forthcoming UK chemical strategy apply in Scotland in the devolved areas and will the Scottish Government feed into that strategy?

**Màiri McAllan:** I will try to answer that and, if I need to hand over to my officials, I will do so, because they are involved with that just now.

The UK strategy is currently being developed. I understand that our teams are feeding into that and our position at this point is that we will withhold our approval for it while we make sure that the final version reflects the input that we have made and is in line with Scotland's interests. That is similar to the position that Welsh ministers are taking.

Dan Merckel or Ailsa Heine might have more to add to that, but I will comment briefly on the EU strategy. We are keeping a watchful eye on it and I suspect that a lot of what we will feed into the UK strategy development will be a part of learning from the EU strategy, in line with our desire to keep pace with the EU.

Is there anything to add to that, Dan?

**Dan Merckel:** I do not think so.

**Collette Stevenson:** Are you comfortable with the level of consultation that has been carried out and the compliance checks on a minimum of 20 per cent of the registration dossiers for relevant tonnage?

**Màiri McAllan:** Yes, I am comfortable with 20 per cent. That has not been up for discussion as part of the development of the SI. If the Health and Safety Executive believes that 20 per cent is sufficient for it to get the kind of return that it needs, then I am comfortable with that. The point of the extension is that those checks will have to come after completion of the final registration deadline. Is that right, Dan?

**Dan Merckel:** Yes.

**Collette Stevenson:** I know that carrying out an impact assessment is more a UK Government task, but are you comfortable with the costs and the risks of the extension?

**Màiri McAllan:** Yes, I am. I agree with Rebecca Pow, who wrote back to the committee—thank you for sharing those documents with me. As she put it:

“we believe that allowing the extra time could lessen potential burdens on businesses without significantly impacting on human health and environmental protections. We also recognise the potential for better quality data and maximising chances of compliance under the longer timescales.”

**The Convener:** I remind people who are not at the meeting that that letter came in quite late last night. It will be published on the website so that people can see it.

The next question is from Monica Lennon.

**Monica Lennon (Central Scotland) (Lab):** Good morning, minister. You said that the SI involves a complex split of devolved and reserved issues. Will you outline how the Scottish Government will ensure that devolved interests

are represented in the development of the proposed alternative registration process for UK REACH?

**Màiri McAllan:** Yes, of course. Through the common framework process, we liaise closely and will continue to do that. My officials are part of the working group that is considering the development of the registration system and how it might change. We have been given assurances about DEFRA ensuring that there is sufficient capacity to get that work done in the necessary time.

When it comes to approving the final outcome, because of the statute under which the process is undertaken, Scottish ministers' consent will, I understand, be required and, therefore, parliamentary scrutiny will be engaged. Also, that proposal will have to be accompanied by a statement in line with UK REACH article 1, which sets out the confidence that it is in line with environmental protections and does not threaten any of them.

09:30

**Monica Lennon:** Thank you for walking us through that. Divergence and some of some of its risks have been mentioned a few times today. Do you have concerns that this registration process will represent a significant divergence from EU REACH, and are you aware of any desire or appetite in the chemicals industry or in the UK Government to move away from mirroring EU REACH?

**Màiri McAllan:** On the first point, I am not concerned that changes to the deadlines are a risk to divergence or convergence. What might change is still very much at the early stages, so I have to withhold my view on that point while we develop the process. However, we will certainly make the argument for divergence to be minimised as far as possible.

I cannot really speak for the industry or the UK Government, but my impression is that the industry's barrier is the cost of obtaining the data that is required under UK REACH, much of which it does not own. We will therefore have to find ways to try to overcome that barrier. It is very much early days, but our position will be to minimise any divergence as far as possible as that process develops.

**Monica Lennon:** I take it that the Scottish Government will continue to engage with industry and stakeholders on that point.

**Màiri McAllan:** Yes, we certainly will, and I suspect that further consultation will take place on the substance of whatever it is expected to replace that year.

**The Convener:** I had cut you off, Mark, but I can let you in briefly if you have a subsequent question.

**Mark Ruskell:** No, I do not.

**The Convener:** Okay, thank you. I thank the minister for attending today and giving those answers. I want to move to the next agenda item, if I may. Minister, I am sure that you will want to slip out to carry out your other duties while we consider the UK statutory instrument.

Our next item of business is to formally consider the type 1 consent notification sent by the Scottish Government relating to REACH (Amendment) Regulations 2023 in light of the evidence that we have just heard and the additional letters.

Before I go further, I remind members that, as a farmer, I use chemicals, so I have some knowledge of the chemical system—just so that there is no dubiety about that.

If members are content for consent to be given, the committee will write to the Scottish Government accordingly. In writing to the Scottish Government in that way, we have the option to pose questions or to ask to be kept up to date on relevant developments.

If the committee is not content with the proposal, we might have to make one of the several recommendations, which I could go through. Are there any comments from committee members on that point?

**Mark Ruskell:** That was a useful session today, which looked in some detail at the REACH model—both registration and compliance—and how the whole model is evolving and developing over time. It is important now, in the post-Brexit landscape, that committees are able to scrutinise how common frameworks are working and how stakeholders are interacting with the development of those regulations, so I felt that the session was useful.

I do not think it desirable or achievable for the Scottish Government to take an alternative route in relation to the matter, so I am content to accept the regulations that are before us. However, there is a need for on-going scrutiny, and I would welcome more information about the alternative registration model as it is developed over time.

The wider model, which the minister talked about, particularly in relation to the points that were made about divergence and the review of existing chemicals—that we are all using at the moment, but which might impact on our health or environment—needs watched as well. Questions exist about the pace of how that model is developing and how particular groups of chemicals are being reviewed continually, as our knowledge and understanding of their impact develops.

It would be good if those points could be reflected in a letter to the minister, as I feel that this is the start, not the end, of a conversation.

**Fiona Hyslop:** I agree with Mark Ruskell and think that we should write in those terms to the Scottish Government. I am also minded that we acknowledge the letter from Rebecca Pow. We wrote it at quite short notice, following our meeting last week, and I think that the prompt response was very helpful, so we should indicate that.

There were two things to consider in that letter. One was that the UK minister referred to the alternative transitional registration model for UK REACH, which I think that we should express our on-going interest in. The second was that in the letter the minister said:

“We are conscious of the question of divergence and that both industry and NGO stakeholders wish to keep unnecessary divergence to a minimum.”

I suppose that our issue is what is “necessary” divergence; we want to continue to monitor that.

We should write on those terms and thank the UK minister for replying so promptly, because this is an area of such concern. I agree with Mark Ruskell that an indication of how common frameworks can and should work is going to be important to us in our on-going work on looking at implications, particularly for the environment.

**The Convener:** As no other members want to make a comment, I now move to the substantive question for this item, which is whether the committee is content that the provision set out in the notification should be made in the proposed UK statutory instrument.

If we agree to that, we can write to the Scottish Government along the lines that have been suggested to say that we want to be kept informed of the pace of the change and of any review of chemicals in the future. I think that doing so would be useful. As part of that, we could—as the deputy convener suggested—write to Rebecca Pow to thank her for her prompt response and ask her to give a bit more detail and information on the alternative transitional registration and on what divergence means.

Are committee members happy with that?

**Members indicated agreement.**

The clerks are happy as well, so, now we know what we are doing.

I was going to pause the session to allow for a changeover of witnesses, but they changed over before we even had a chance to complete our business, so we will crack straight on.

## Electricity Infrastructure Inquiry

09:36

**The Convener:** Our next item of business is an evidence session as part of our inquiry into Scotland's electricity infrastructure and whether it is an inhibitor or an enabler of our energy ambitions.

The aim of the inquiry is to scrutinise what electricity infrastructure will be needed to realise the ambitions that are set out in the Scottish Government's recently released "Draft Energy Strategy and Just Transition Plan", and to understand what will be needed to deliver that infrastructure. This is a short inquiry that will lead to a report to the Scottish Government as it finalises its strategy.

Last week, during the first evidence session of our inquiry, we heard from two panels of key energy industry stakeholders and experts. Today, we will hear from the Office of Gas and Electricity Markets, which is the Government regulator for the electricity markets in Great Britain. We will discuss the evidence that we have heard so far and hear Ofgem's views on the delivery of the aims that are set out in the draft energy strategy and on the decarbonisation—there are a lot of long words in this brief—of our electricity infrastructure.

I am pleased to welcome Steven McMahon, deputy director for networks and head of Scotland at Ofgem, and Jack Presley Abbott, deputy director for energy systems management and security at Ofgem. Thank you for accepting our invitation; we are delighted to have you here.

Before we start our questions, I believe that Steven would like to make an opening statement.

**Steven McMahon (Office of Gas and Electricity Markets):** Good morning, and thank you for inviting us to give evidence.

As the convener said in his introduction, I am the head of Ofgem's office in Scotland. I am also the deputy director who leads much of our work on electricity network regulation. I am joined by my colleague Jack Presley Abbott, who is also a deputy director based in our Glasgow office. Jack oversees much of our work on connections policy and market design.

Taking a step back, the Intergovernmental Panel on Climate Change report that was published last week concluded that

"only swift and drastic action can avert irrevocable damage to world".

As members will be aware, the report runs to thousands of pages, but the message is crystal clear: either we act now or it will be too late. The

evidence has never been as clear as it is at present: we need truly transformational and accelerated action across every sector, including energy.

Given what has unfolded across the energy sector over the past few years in particular, not least following events in Ukraine, alongside ambitious Government targets for renewables and other forms of generation, we already knew that we needed to accelerate the shift away from fossil fuels to clean energy. That will help to reduce costs to customers by breaking the link between electricity bills and gas prices. As well as protecting our security of supply and providing secure and reliable home-grown energy, it will help to protect customers from the dangers of unmitigated climate change.

Basically, we are on the cusp of a transformational shift in the energy system, which will probably involve the biggest changes that anyone involved in the sector has ever seen. As the economic regulator of that energy sector, with a responsibility to protect consumers and represent their long-term interests, that represents a big change in the environment in which we operate.

We need to act at pace to enable cost-effective infrastructure investment, to transition away from a high dependence on fossil fuels and to deliver a home-grown, cheaper and more secure net zero energy system. Over the next 10 to 20 years, in particular, that will require an immense amount of investment in new network infrastructure, which needs to be built in a co-ordinated way, across generation and demand, not only at pace but at a reasonable cost. That is the defining challenge that we face. We need to ensure that our regulation helps that infrastructure to be built as rapidly and efficiently as possible, so that when everything—from the wind farms down to electric vehicles—is ready to connect on to the system, the grid capacity is already in place. That is possible through accelerated planning, environmental consents and network companies being incentivised to deliver on time.

The committee's call for evidence specifically poses the question whether our electricity infrastructure is an inhibitor or an enabler of Scotland's energy ambitions. Our response is that it must be an enabler, and everything that we are doing is geared towards ensuring that our economic regulation can help to build the system that we need, at pace, but in a way that protects energy consumers, both now and in the future.

**The Convener:** Thank you. Before we move to questions, I would like to remind members and those people who are listening that, as a farmer and a landowner, I have electricity transmission lines across the farm in the form of 11kV lines—

the small ones—33kV ring main lines, which are the bigger ones, and I am in negotiation for a 132kV power line to go through the farm. At some stage, all of those will generate some income for the farm, so I want there to be no doubt that I have some interests here. I will continue to make that declaration as and when I think it appropriate to do so. I do not think that it inhibits me from doing my job as convener, but I want committee members to know about that.

The first questions will come from Mark Ruskell.

**Mark Ruskell:** Good morning, and thank you for joining us.

The draft energy strategy discusses a range of targets for onshore wind. There is also the potential for a target or targets for solar to emerge from the energy strategy, perhaps at different scales, including embedded agricultural-scale solar. There is potential for marine energy targets as well. How do such targets influence your approach to market design and regulation? It would be useful to start with solar.

**Steven McMahon:** More broadly, the Scottish Government sets targets and the UK Government sets targets, and we see those policy ambitions growing every year.

How do we treat the targets? The targets are an important part of our responsibility. We interpret our remit to deliver the policy ambitions and the decarbonisation targets that are set by Government. The key thing is how that then plays into the system planning. In your evidence session last week, you heard that we are moving towards more co-ordinated, holistic network planning. It is important that the policy aspirations and the targets for any source of generation are included in that planning process.

We also have to work with Government to understand what those targets are, as does the industry. We believe that we can help to inform those targets, including how they are set and the policies that will sit behind them. Sometimes that might make a difference in how we look at the challenge. We might ask, “Is this deliverable?” Especially when very specific targets are being set in specific locations, we need to ask whether we can deliver on those and whether we can do that in a way that avoids unnecessary costs. For any source, we see the information coming through in terms of the network planning. That feeds into the system and the system architecture that would need to be in place to deliver against those targets.

09:45

**Jack Presley Abbott (Office of Gas and Electricity Markets):** I will add that it is clear with

all the targets that we are going to have increasingly renewable, and therefore variable, generation on the system. In order to do that, we have to consider—in market design terms—how to ensure that the signals are there for those assets to operate when they are able to generate and that the flexible technologies, such as battery storage, exist to respond to deal with variability in the system.

I do not think that any of the markets will be radically removed or that new markets will be created. It is more a case of a transformation of current markets to ensure that they work for highly renewable, and therefore variable, generation.

**Mark Ruskell:** Therefore, with regard to the network operator’s business plan, how would, say, targets for onshore wind generation of 12GW and targets for solar generation impact on that? What will change on the ground, in practical terms?

**Steven McMahon:** Let us take the example of offshore and onshore wind at the transmission level. The electricity system operator’s first iteration of the holistic network design was published last year, and it told us, “Here is the network infrastructure that we need to get to 50GW of offshore wind generation by 2030.” That is the first step in that process—it is basically your low-regrets investment. Further iterations of that will follow. I think that the existing electricity system operator will publish HND 2 this summer. That will look at 25GW from ScotWind and floating offshore wind generation in Wales. It will also look at what additional network infrastructure requirements we need.

We have tasked the system operator with producing what we call the centralised strategic network plan, which will be published in 2025. It will look holistically at onshore and offshore targets across the whole of GB and ask what infrastructure we need to deliver those, including any aspirations and targets that the Scottish Government sets out. Therefore, that is the situation at transmission level, to use industry speak.

When it comes to solar generation, for example, that might connect into the transmission system, but a lot of it is likely to come through in the distribution network. We see that coming through the distribution future energy scenarios, which, in turn, inform the business planning process for the distribution network operators in Scotland—Scottish Power Energy Networks and Scottish and Southern Electricity Networks—which factor that into their investment planning over the regulatory periods.

**The Convener:** I will bring you back in later, Mark, but the next questions come from Jackie Dunbar.

**Jackie Dunbar:** Good morning. What role does Ofgem play in developing and regulating hydrogen markets? What work has been done on that to date?

**Jack Presley Abbott:** I can pick that up. With regard to hydrogen, we are still awaiting many of the business models from the UK Government to deploy hydrogen production and hydrogen storage. Ofgem's role is to ensure that the markets and market design will work. We have a market for natural gas. Do we need to transition to a system where we are able to buy and sell that hydrogen? At present, it will be a mechanism through which we have facilities that can produce hydrogen and we have end users, such as industry, which require that hydrogen to decarbonise their processes.

With regard to Ofgem's role to date, there has not been a specific requirement to develop the market because it is an industry that has been stimulated through UK Government mechanisms. However, over time, we will have to be ready for whatever form that hydrogen market takes, whether it is specifically between buyers and sellers or is a bigger traded market that is dealt with in the same way as natural gas.

**Jackie Dunbar:** Whose responsibility is it to develop the regulatory regime for hydrogen storage, either onshore or geologically, and what role would you have in that?

**Steven McMahon:** In general, it is our responsibility to ensure that we have the right regulatory regime in place and the right regulatory environment across all the technologies for which we are responsible. Some of them are established and some of them are new and emerging, but we see that as our responsibility.

When new technologies emerge, as Jack Presley Abbott set out, we have to work closely with Government just to understand the market arrangements that are in place around some of the commercial drivers that will determine whether those technologies will be successful. We can then ensure that we can build them, like our regulation, into the system planning. That will ultimately allow us, irrespective of where those technologies materialise, to make sure that we have the infrastructure in place to support them.

**The Convener:** I will push on that a wee bit. We heard in last week's evidence session that the storage of hydrogen will become critical to ensuring the supply in future. It is not a just-in-time situation; hydrogen is something that we will have to store. Will Ofgem have to develop future resources to make sure that that storage becomes available? Without that, hydrogen will not be a fuel that will be of huge use to us.

**Steven McMahon:** Absolutely. That applies across the board—we have to put our resources where they are needed. The Climate Change Committee report that was published earlier this month gave us a good feel for putting more flesh on the bones of what the mix of generation will look like in 2030 and 2035. The dominant factor there is onshore and offshore wind, but hydrogen is a big part of that as well. The CCC has set out how we expect those to complement one another, particularly in Scotland, given the natural resources that we have. We will definitely make sure that we are resourced to have the right regulatory arrangements in place for hydrogen over time, because it is emerging.

**Collette Stevenson:** Good morning. I will touch on Ofgem and energy markets. I know that the UK Energy Bill is going through the House of Lords, and there is a provision in it that we establish a future systems operator. What impact does Ofgem believe that the establishment of a future systems operator will have on whole-energy-system planning? What skills, experience and authority will the FSO have that existing agencies and system operators do not?

**Steven McMahon:** We are very involved with the FSO work at the moment, and we and the UK Government are incredibly supportive of it.

We have talked about adapting our regulation. You will see a big shift in the landscape in terms of the institutional and governance arrangements. The single biggest issue for us is that, if there is an FSO that is responsible for whole-system planning, it will be charged with looking at the GB energy system as a whole and asking, "What is the right mix of generation? Where will we see production over time? What impact will that have on how we orchestrate the system?" A lot of responsibility will sit with the FSO.

We have consulted recently on what our future model of economic regulation of the network should look like. We have had a very successful model since privatisation, but that, like everything else, needs to adapt and evolve. The emergence of whole-system planning gives us a big opportunity; it can become the bedrock for network planning. If the FSO acts as a co-ordinating body across the networks that says what we need to build, where we need it and by when, that will give us a lot more certainty on the decisions that we need to take. Our role might reduce slightly. That is not guaranteed—there are different models over time—but the FSO will certainly have a prominent role.

The same will potentially happen at distribution level. A lot of the decisions that we have to take on net zero will be taken at a regional and local level, particularly around the electrification of heat and transport. Can we do the same thing at a regional

level? That is further back in our thinking, but we are consulting on that at the moment, particularly around the emergence of new regional system planners. Can the FSO create a whole-system plan at a particular geographic level that reflects those network needs, the associated demand and the available opportunities? There are two parts to that.

**Jack Presley Abbott:** The fact that the gas and electricity systems are being brought together under one independent entity will give the FSO assurance and the ability to give proper strategic advice to regulators and the Government.

**Collette Stevenson:** How will the electricity networks commissioner interact with and add value to the work of Ofgem and the FSO, and vice versa? Is there a risk that regulation and forward planning will become crowded and a bit fussy?

**Steven McMahon:** On your second question, I think that the idea is that we try to simplify the landscape as much as possible. I know that that is an objective for the UK Government. We have the work that is on-going; I cannot remember the chap's name—

**Jack Presley Abbott:** It is Nick Winser.

**Steven McMahon:** Yes. The work that Nick Winser is doing is expected to report in the not-too-distant future, and I think that it is likely to set out a series of recommendations on what Ofgem should do over time and how our model of regulation needs to adapt. He is looking at some of the big strategic challenges that we are facing with network congestion and the time that it takes to get a connection into the grid. We are working closely with the UK Government on that piece of work, and we look forward to seeing what the implications are.

Generally speaking, I think that there is an opportunity to simplify the landscape as much as possible. Everybody is laser focused on getting to a net zero energy system as quickly and efficiently as we can.

**Collette Stevenson:** Do you want to comment on that, Jack?

**Jack Presley Abbott:** No.

**Collette Stevenson:** Okay. I have finished my questions, convener.

**The Convener:** Okay. Thank you. We will go back to Mark Ruskell.

**Mark Ruskell:** There has been a lot of focus on trying to decouple the gas price from the renewable electricity price. What are your thoughts on the review of electricity market arrangements, or REMA—the market access review? Are the proposals workable? Do the current market

access arrangements have particular pros and cons? It will be helpful if you can explore that a bit.

**Jack Presley Abbott:** The review of electricity market arrangements is very welcome. As I alluded to earlier, the scale of the challenge and the fact that we are going to have a largely decarbonised power system with huge amounts of renewables on the system mean that we need to take a good look at the market arrangements to ensure that they are fit for purpose for that energy mix.

The review, which is UK Government led, is looking at different elements, and I think that they are the right ones. How do we deploy mass low carbon at the lowest cost, but in a way that does not impact on the system from an operational perspective? How do we ensure security of supply when the assets are low carbon? At present, much of our security of supply is delivered by fossil fuels. How do we deliver the flexibility that we need when there are lulls in renewable generation? Finally—this is where we have been putting our focus—are the arrangements appropriate in the wholesale market where we buy and sell wholesale electricity? Will they work in a largely decarbonised system?

Ofgem has seen real value in assessing whether there is a need for more locational signals in the wholesale market to indicate to parties that they can site in the optimal location for the system, taking into account the network and demand, and then be used on the system in the most efficient way. We have been undertaking a lot of analysis of that. We need to consider the cost benefit case and the trade-offs that will apply if we introduce what is a very significant change to the market arrangements. We have been working through that. The work is on-going, but we intend to feed it into the REMA process and publish it more broadly.

It is a question of focusing on the right areas. We believe that there is a case for making sure that there are better and more granular signals, to ensure that parties use the system as efficiently as possible and that they can deploy in the right places and at the right times.

**The Convener:** We move on to questions from Liam Kerr.

**Liam Kerr (North East Scotland) (Con):** Good morning, panel. It has been suggested that Ofgem has an ambiguous relationship with net zero. There are proposals in a recent UK Government white paper to amend your statutory duties to include a specific reference to net zero. Do you have a view on that, Steven? What would expressly changing Ofgem's statutory duty to include achieving net zero mean in relation to the regulation and design of markets and networks?

10:00

**Steven McMahon:** That is a good question, and it is something that is often talked about. We work under a statutory remit that is set by the UK Government, which is to protect existing and future customers. We interpret that responsibility towards future customers as including achieving the net zero targets that are set by the Government.

I do not think that having a net zero objective would make a practical difference to us, because, ultimately, we are already doing the things that we think we need to do to deliver net zero. There is a chance that, through the consultation on the upcoming strategy and policy statement, we may be given an explicit duty around net zero or there will be other clarifications of our role. However, in practice, I do not think that our role will change that much, because we are already doing the sort of stuff that is implied by such an obligation.

**The Convener:** You can keep going, Liam. I will bring in Fiona Hyslop to ask some questions at the end.

**Liam Kerr:** Thank you, convener.

The Climate Change Committee has said that we need to ramp up transmission infrastructure massively. As I understand it, Ofgem sets price controls for SPEN and SSEN, which regulate how much can be spent on investment and infrastructure. Your submission says that, on at least one metric, those two companies asked for 17 per cent more for EDT2 than they were actually given. Given all of that, how will Ofgem ensure that the next transmission and distribution network price control periods—those post-2026 and post-2028—will deliver the investment and redesign of the network that we need?

**Steven McMahon:** We are currently consulting. As you say, we have set the last of the RIIO-2 generation of price controls—the new one for electricity distribution starts on Saturday 1 April. You alluded to some of those figures. I think that that represents the overall challenge against the submitted costs by the distribution network operators and the individual SP energy networks, or SSE for the Scottish licensed areas. That is us making sure that they are delivering efficiently and in the best interests of their customers.

If you take a step back, the RIIO model of regulation that we have had in place since 2013 has really evolved over time. They are very agile and adaptive price controls. Yes, it is right to have an ex ante set funding settlement for the companies, so that we can say, “Here is the amount of money that we are confident that we can set up front and that you can charge your customers in return, and here is the level of network service quality that has to go alongside

that. Here are the challenges that we are setting for your cost efficiency.” However, increasingly, we now have in-period uncertainty mechanisms. There may have been some discussion of that in the evidence session that you had last week. Those mechanisms allow us to adapt investment over time so as to track the changes in the economy because there may be new requirements for the transmission network or the distribution network.

That is good for the companies, because it gives them a route to funding in-period, and it is good for customers, because it avoids mis-targeted, inefficient or unnecessary investment up front. That adaptability and knowledge that we can evolve over time gives us comfort, here and now, that we can address the net zero targets. On the transmission side, the accelerated strategic transmission investment programme is a great example: last year, there was an additional £20 billion of network investment on the transmission grids, to give us what we need to deliver the 50GW of offshore wind by 2030.

We are constantly evolving the price controls over time. There is quite a big discussion at the moment of what happens beyond 2026 and 2028. Do we need to do things differently? Quite possibly, yes. To go back to the previous question about the system architecture and what it looks like, institutions and governance are evolving, so our price controller regulation of the networks should evolve over time, too. We do not have a set solution for that—it is subject to consultation. However, one thing that we can say is that it will be adaptable, to allow us to meet the net zero targets.

**Liam Kerr:** Thank you.

**Monica Lennon:** My colleague Liam Kerr mentioned the CCC report—witnesses did, too—and I want to come back to that report on delivering a reliable, decarbonised power system. The report suggests that a step change in the delivery of transmission infrastructure is necessary in order to meet both UK and Scottish Government targets for renewable generation. I want to explore in more detail what you see as the main practical constraints that Ofgem faces. You have mentioned a few examples already, but what are the main challenges? Can you give us more clarity about what needs to be put in place to support such an increase in deployment, which everyone wants to see?

**Steven McMahon:** I am happy to start off. For us, there are a number of big challenges. At the moment, there is quite a lot of coverage of network congestion, so we face system balancing costs in GB. There is a related problem with connection queues, which is queues to get connection into the grid. We can influence that through our

regulation—we have the ability to accelerate the network expansion. Alongside that, we can look at what can be done to reform the connections policy. Those approaches are more within our gift, working with the network companies and with Government.

Aside from that, we probably need to see two big things happening over time. One is around planning and consenting, which I think the committee heard some evidence on in its earlier session. We need Government to be getting on with planning and consenting, so that that issue is not holding us back from delivering the infrastructure. The other thing is around the network companies getting on top of their procurement and management of the supply chains.

We need the right regulations in place, the right market arrangements—as Jack Presley Abbott described earlier—and an enabling environment in terms of planning and consents and companies managing supply chain issues. If all those things come together in concert, we can meet the sorts of challenges that are set out in the CCC's report.

**Monica Lennon:** You mentioned a couple of things—planning and consents and the network companies themselves and procurement—as being the issues. I am trying to understand those so-called blockers and how we can unblock these systems. What is the issue? Is it a lack of people? Is it a personnel issue? Is it a skills issue? Has Ofgem done any work to look at the skills mix across the sector? I am just trying to understand it when people say that these are the things that are slowing things down. Are you looking for less regulation, or is there something in there about the number of people and the skills that they have?

**Steven McMahon:** It is probably a mix of everything. When you think about it, they sound like very simple problems to overcome. For example, from the outside, you might think, “Well, all planning is devolved in Scotland, so it must be a matter for the Scottish Government,” but there are some subtleties in how it works in practice. The interaction with the Electricity Act 1989 makes it more complicated, although we know that the Scottish and UK Governments are working quickly to resolve that.

When you need the amount of infrastructure that we need, putting it in place will have an impact on communities across the country, and we need to be able to bring them with us. We know that there is probably no alternative to low-carbon infrastructure. We need more wires and cables, and putting them in can have a disruptive impact. It is probably incumbent on all of us who are involved to work with the regional and local authorities to bring communities through, listening to their concerns and responding to them, and to

ensure that there truly are community benefits and lasting benefits from the work.

**Monica Lennon:** Do you have a view on whether national planning framework 4 will help with any of this, or do you feel that planning needs to be a higher priority for Government nationally?

**Steven McMahon:** Generally speaking, I think that NPF4 is seen as pretty world leading—it is certainly leading in a European context—and the Scottish Government has to be applauded for the work that it has done on that. On whether it is enough, I am not sure that we, as a regulator, are best placed to advise on that. However, as the committee heard from a panel last week, further improvements can be made around it.

On the procurement and supply chain issues, the challenge is that a number of countries, including the United States and countries in mainland Europe, are also moving at pace, so there can sometimes be physical constraints on the market's ability to respond. There is long-term procurement in countries such as Germany and the Netherlands. For us, the issue is also what the networks can do to make investment in them attractive. Should they take forward long-term, bundled procurement strategies to make sure that they are getting supply chain involvement?

There is the issue of people and skills, as well. Depending on which number you believe, between 250,000 and 500,000 additional skilled workers might be needed in the industry across GB, so there is huge potential. I think that the Scottish Government has agencies in Scotland, and there are the universities and the colleges. A mobilisation needs to happen to make sure that we have the right people coming through with the skills that we need to deliver all of this.

**Monica Lennon:** Does Jack want to add anything?

**Jack Presley Abbott:** I can speak about the connections queue, which is a challenge. We build a network to connect the parties that are in the queue. We have allowed people to connect prior to the entire network having been built, which has been a success. As a result of that, as well as the sheer investment that is proposed because of net zero, there are plans for a huge amount of assets to connect to the grid. That means that we have to ask, “We have those parties in the queue; which of them will realistically deliver?” If we identify parties that are not progressing at the speed that we want them to or projects that are not viable, those need to be removed from the queue as quickly as possible, because they are blocking others' progress.

We operate on a first come, first served basis, which means that, if you put in your connection application and get an offer, you must be

connected before the project that is next in the queue. If a party is not progressing, it is blocking others that are in the queue, so we look at whether we can speed up the removal of non-viable projects. We also try to ensure that the network companies and the system operator are considering appropriate assumptions. If they assume that everything that is in front of a particular project in the queue has been built, they will be quoted a date that is uninvestable, because they must assume that all those parties are connected. If we use more realistic assumptions, we can bring those dates forward, assuming that we can remove any unviable projects from the queue.

**Monica Lennon:** I would like to move on. However, your point about viability is important. You mentioned the queue a couple of times. How long is that queue? I have read that some projects have been quoted a connection date of 2035. Does that sound about right?

**Jack Presley Abbott:** It does sound about right for certain areas. The queue is not nationwide, but there are areas where some parties have been quoted that date. That is also the case for parties at a local level, because, if they trigger reinforcement work—

Our work is about removing non-viable projects in order to bring those dates forward.

**Monica Lennon:** Is 2035 the date that is furthest away, or are there any dates beyond that?

**Jack Presley Abbott:** That is the furthest-away date that I have heard about, although there may be other cases.

**The Convener:** Good luck in getting a quote for 2035. I suspect that that may prove difficult for connection to the grid.

The deputy convener, Fiona Hyslop, will now come in with some questions.

**Fiona Hyslop:** I think that we are getting to the nub of the issue and the concerns about it. Clearly, when there are queues, there is the potential for delays, for a number of reasons. Currently, because you have to create the conditions for a market investment, all the risk for grid delays lies with the developer and the generators. Is there anything that you can do to rebalance that? You imply that you would want to investigate the viability of some of the proposals. That is a shift from being an enabler to being—dare I say it?—a market interrogator. Is that what you are suggesting would lead to greater flexibility, adaptability and investment?

**Jack Presley Abbott:** Does your question relate to those in the queue and the management of that queue?

**Fiona Hyslop:** Yes.

**Jack Presley Abbott:** There are a few things that we can do, including introducing milestones for parties that are progressing their projects, so that, if they do not hit those milestones, they will be removed from the queue. We can do that sooner, although we are yet to approve that. That will keep the projects that are in the queue progressing towards delivery. Does that answer your question?

**Fiona Hyslop:** Yes, it does. On a market condition basis, that state involvement in the operation is interesting.

**Jack Presley Abbott:** It is not the regulator. The regulator approves the milestones. The idea is that, for each milestone, you have to build the network to facilitate those assets getting access to the system. The regulator makes sure that, when the network companies need to start investing in a new substation, for example, they are increasingly confident that those projects will be developed. If they do not have confidence in that yet build the network and those projects do not go ahead, they will have spent money on a network that is not being utilised.

10:15

**Fiona Hyslop:** Concerns have been raised with us that Ofgem is not as adaptable or as flexible as it needs to be. You have said that you have plans for the future, but why are you being so slow in mobilising the immense amount of investment that you have said is needed? Is it because you have not, in the past, allowed investment in anticipation of need? You have said that you are improving ASTI and so on, but what sort of trajectory are we talking about? After all, this will all have to accelerate at a rapid pace. How can people—and, indeed, investors—have confidence that Ofgem will be fit for purpose with regard to what we need for that expansion of renewable energy?

**Steven McMahon:** This is an important question, because the suggestion that our regulation prevents—or has prevented—investment ahead of need is just not true. Nothing in our rules or regulations prevents such investment.

Any network company under the licence is required to be economic, efficient and co-ordinated in how it delivers and discharges its responsibilities. It is entirely reasonable that, when someone installs assets with a 45-year lifespan, they should expect the obligation to cover the demand that is likely to materialise over time, so that they can size their intervention in response. It is for the companies to make that case—there is nothing in our regulation that prevents it.

If you were to push a company, it might well say that it is a behavioural thing and that Ofgem, as the regulator, has, in the past 10 to 15 years, been preoccupied with cost efficiency. In some ways, we have, and we will probably not apologise for that. Ultimately, all of these costs go into consumers' bills, so we want to make sure that companies are efficient. However, we would certainly not stand in the way of a good case for making investment ahead of need.

Your reference to ASTI is a good one, because it represents investment ahead of need. Even before that, there was the green recovery programme that we announced in 2021, which amounted to £300 million across Great Britain and, I think, about £50 million in Scotland. Again, that was anticipatory investment at the distribution level, with support for more EVs, heat pumps and low-carbon generation. We have shown that that can be done.

Indeed, I would say unequivocally that the mindset of the regulators is that there is no option but to invest ahead of need. We are encouraging the networks to do so, but to do so efficiently.

**Fiona Hyslop:** However, with regard to your existing responsibilities, particularly to customers, the issue is the location of demand, and we have seen charging costs, especially transmission costs, increasing rapidly in Scotland. That sort of thing leads to uncertainty, which we know business does not like when it comes to making the immense amounts of investment that you have referred to. Can something be done to send out clear, positive signals for investment? Is the dichotomy that has existed to date going to change in the future?

**Steven McMahon:** Jack Presley Abbott is probably more of an expert on charging reforms, but, generally speaking, I would say yes. As a matter of principle, we have to look across the full range of our regulation. Do the network regulation, the charging arrangements and the other things that might have held true in the past still hold true for the future? After all, we are likely to have a very different energy system.

Traditionally, more rural projects involve two big costs: the actual cost of the investment itself and the costs of connecting it into the grid. The further you are from demand, the higher the cost to the network of transporting that electricity. There is a trade-off in that respect. As has been said in past debates on charging arrangements, if you want generators to pay less, consumers have to pay more. It is a zero-sum game, and there is a trade-off that has to be assessed.

In short, the issue is under review, but I do not know whether Jack Presley Abbott wants to pick up on the detail.

**Jack Presley Abbott:** I should start by saying that the transmission charges are for recovering the cost of the transmission network.

We are looking at the transmission charging issue from two angles. First, we are, in the interim, looking at whether the assumptions that we are using are based on the system as it is today rather than the transmission charging regime as it was when it was set up. As a result, we are working through the transmission network use of system—or TNUOS—task force to ensure that the assumptions that we are using to calculate the charges not only are accurate and provide cost-reflective signals, but give a level of stability that will allow parties to invest.

Secondly, as we have already mentioned, the review of electricity market arrangements considers the purpose of transmission charging in a changed electricity market. That is a separate piece of work, although the two are co-ordinated. We are thinking further about whether we want transmission charging to be sending a signal when we have a different market arrangement.

**Fiona Hyslop:** There is clearly a mismatch, bearing in mind that, as far as we are aware, Scotland has the most expensive transmission costs in Europe, and that—thinking about your responsibility for customer pricing, too—we also have some of the most severe fuel poverty among our energy customers. We are able to generate so much renewable energy precisely because of the rural nature of our geography and the offshore and coastal lines that harness the wind. I think that the mismatch is caused by the speed at which decisions are made. When will the pieces of work that you have mentioned emerge so as to change that policy and give more certainty for investment?

I will then ask a final question, if that is okay, convener.

**Jack Presley Abbott:** Over the winter, we had to reprioritise our work. The transmission network use of system task force is restarting next month. It had already started—it is not a new project—and by working at pace we have resourced it appropriately to ensure that we can put changes in place to improve the current framework, with incremental improvements in cost effectiveness and stability over 2024 and 2025.

The longer-term design of those aspects is linked to the review of electricity market arrangements, which is due in 2030. Because of the importance of those charges, there are two co-ordinated but separate pieces of work. The first is to ensure that we give the near-term signals that parties can still keep investing. The second is to ensure that, in the longer term, those signals are appropriate, so that we are not giving conflicting signals when we potentially have a changed and

reformed electricity market. I clarify that we are doing those two pieces of work. They are co-ordinated, but we need to have the two because of the near-term importance of that charging and the importance of coherence in the long term.

**Fiona Hyslop:** Finally, how does Ofgem plan to ensure that the electricity distribution network is ready for the anticipated increases in demand, particularly for heat and for transport and electrification? How are you planning for the potential reduction in demand for the gas distribution network?

**Steven McMahon:** If I may, I will address the previous issue about the TNUOS charges. It is a fact that Scottish consumers pay the lowest transmission charges anywhere in Great Britain. It is perhaps when we look at the generator side that the picture looks different.

On the distribution network, we have just settled the new regulatory price control for electricity distribution: as I said, that starts on Saturday. At the start, its big strategic objective will be to ensure that the distribution networks are ready to deliver net zero. That is where many of the anticipatory investments come in for EV charging and heat pumps. We have done a couple of things there. One is basically to double the annual investment that is made in network upgrades and the distribution sector—that is a really sizeable increase across all the DNOs, including the two Scottish licensees.

To go back to a point that was made earlier, we have agile funding mechanisms in place so that, if demand materialises faster than we expect, the investment can track that. Most of the big challenges that we might have at lower voltage levels have automatic uncertainty mechanisms in place, so there will not be an administrative role for Ofgem up front. We have a unit cost and then, if more work is needed, the funding can match that. Those mechanisms ensure that the networks will be prepared to deliver net zero.

One of the big questions is what the role of the gas networks will be. We do not yet have all the answers to that. We still await some of the Government's policies on the future of heat. At the moment, we have an asset that has to be managed, but there are big safety issues. We have to operate, renew and replace the infrastructure. The existing gas price controls run until 2026. As I said, we are currently consulting on the regulatory arrangements beyond that, and will take a longer-term view on what the requirements of that gas network might be.

**The Convener:** Mark Ruskell wanted to come back with a brief question.

**Mark Ruskell:** On the TNUOS review, is it accepted that the locational signals need to

change? As far as I can see, the aim with locational signalling at the moment is to build as much generation as possible as close as possible to the theoretical centre of the GB energy market, which I think is Warwick. Last time I looked, building renewable energy close to Warwick was not going to produce as big an efficiency and load factor as building renewables in Scotland. We get more energy out of wind farms in Scotland than we would in the midlands of England. Is it recognised that locational signals need to change now through TNUOS, and that we need to be accessing and developing the resource where it is?

**Jack Presley Abbott:** As you have said, having a central point is one of the underpinning assumptions that we want to be accurate in order to calculate the transmission charges. We want to ensure that the charges are cost effective for today's system, rather than for a presumed historical centre. We need to balance the need to have a cost-reflective, really accurate signal with the ability for parties to know what the signal is and the stability of that signal. That is why we are convening industry experts to find that balance between stability and cost reflectivity.

The role of the charges is to recover the costs of the transmission network. It is a zero-sum game: we have to recover those costs. As for whether locational signalling should change, we are considering more incremental improvements in the nearer term, for the 2024-25 changes. In the longer term, there is a question about whether those signals need to be completely different or whether no signal should be sent at all through transmission charging. However, the crux of the issue is that we still need to recover the cost of the network through the signals.

Does that answer your question?

**Mark Ruskell:** Yes.

**Liam Kerr:** I wish to come back on some of the earlier questions—which I thought were interesting—on the timescales and processes. I recently visited a big company that has some really exciting plans on building renewables and infrastructure, but it is restricted or inhibited in doing that. Its representatives told me that the company needs to apply for the grid connection many years in advance—a grid connection that it will start paying for in advance of actually putting electricity into the grid.

Once the company has gone through that, it then needs to get planning; then it needs to get the kit; and then it will need to get the skills to fit it. Once that is all stacked up—that is, if we accept that the process, the timescale and the up-front investment will potentially restrict innovation and development, or at least limit that to very large

companies that can go through all of that—the question becomes one of what precisely needs to change in Scotland and which agency or body in Scotland needs to lead that change to encourage the step change in renewables investment that we all want to see.

**Steven McMahon:** I do not think that the responsibility sits with any individual party. We need the whole system—Government, regulator and industry—all working in concert to achieve that. We all have our different bits of the system that we are responsible for, and everything needs to be properly lined up.

Regarding the connection challenges that we have at the moment, a big change came in 2010. Prior to 2010, if someone wanted to connect renewables, the grid capacity had to exist at that point. In 2010, that changed, and it was more about connect and manage. The focus was to make the connection in the short term, and then to deal with the network implications over time. That model had a lot of success, because there was significant growth in renewables generation. The challenge now lies in the scale of that as it comes through.

The network investment is effectively playing catch-up, and that goes back to the fundamental point that we need strategic investment, or rather a strategic expansion of the grid, so that, when the developer of a wind farm or whatever form of generation wants to connect in, there is something available. That probably goes alongside some of the reforms that Jack Presley Abbott has been talking about. Perhaps he would like to pick up on some of the detail.

**Jack Presley Abbott:** On connections?

**Steven McMahon:** Yes.

10:30

**Jack Presley Abbott:** We still need to do all those steps—the planning, the grid connection and the procurement of the equipment. The question is just whether the process could be more streamlined.

I have spoken about grid connections recently. As I have said, if a party is looking to connect today, it is behind all the other parties in the queue that have already applied to connect. Again, it is about whether those parties further up the queue will deliver, and, if not, how we remove them as quickly as possible. If parties are ready, even though they are behind others in the queue, could we, in some way, expedite delivery of their connection without causing detriment to the others in the queue?

We just need to think a bit more agilely about how we manage those connections. At the

moment, it is first come, first served—we just go through the process in an orderly way. The question is whether the networks and the system operator could manage that process more agilely, with support from us, to deliver those assets more quickly by parties that are ready today.

**Liam Kerr:** Thank you.

**The Convener:** Thanks, Liam.

I have been quiet but I will now ask a question at the end.

We have seen the length of time that it took to build the Beaully to Denny power line, and I have watched the building of the substations at Beaully and Blackhillock—which are getting bigger and bigger—and seen the problems caused to, and the consternation of, local people who live near them or see them.

Would the correct signal be to transmit that energy as hydrogen in underground pipe networks, which seem to require less infrastructure and are less of a scar on the landscape? Should everyone put out that signal, or is that too simplistic?

**Steven McMahon:** That is a good question. It is not economically viable to have all electricity infrastructure running underground—the cost would be prohibitive. Also, we probably do not have the confidence at the moment to rely purely on hydrogen. However, hydrogen certainly has a role to play. It is about looking at things in totality. The question is what the system needs for reliable and proven operability to deliver that net zero system.

There could be opportunities, especially with regard to the future of gas networks, which could potentially be converted into hydrogen networks over time. A lot of innovation work is going on around that, in which we explore whether it can be done, and done safely and viably. We keep an open mind around those questions.

**Jack Presley Abbott:** We have an electrified system that will increasingly become electrified. As Steven has said, there is a role for hydrogen—especially in hard-to-decarbonise sectors and, potentially, in other roles, such as managing the power system. However, we need to remember that an efficiency drop takes place when converting electricity to hydrogen. Every time you convert electricity to hydrogen and back to electricity, you lose some of that useful power. We should use hydrogen when we need it, but we need to balance that efficiency and those losses against the point that, if we just need the electricity, we want to get it from one point to the other.

**The Convener:** You are right, Jack. There are transmission losses, too, as you generate and

move electricity around the countryside on power lines. However, I understand the difficulties of putting a 400kV line underground—we discussed that point in relation to the Beaully to Denny line. It is possible, and things are moving forward, but just because you have what you have does not mean that it is right for the future.

On that note, I suspend the meeting for five minutes to allow a change-over of witnesses. Thank you very much for attending.

10:33

*Meeting suspended.*

10:41

*On resuming—*

## Deposit Return Scheme

**The Convener:** Our next item of business is an evidence session with Circularity Scotland as part of our consideration of the deposit return scheme. I refer members to the papers for this item. Circularity Scotland will have a crucial role as the scheme administrator, and today's session is about hearing more about that role and about overall preparedness for the scheme's launch. I am pleased to welcome David Harris, the chief executive; Irene Steel, the chief finance officer; Simon Jones, the chief operating officer; and Donald McCalman, the programme director, all from Circularity Scotland. Thank you for accepting our invitation.

I also welcome Fergus Ewing, Maurice Golden and Brian Whittle, who are in attendance for this session. I will offer you a brief opportunity to ask your questions near the end of the session, so that committee members can ask their questions first.

I believe that David Harris would like to make an opening statement.

**David Harris (Circularity Scotland):** Thank you very much, convener, and other members of the committee, for the opportunity to speak to you this morning. We recognise the parliamentary, business and public interest in the deposit return scheme and in us as the scheme administrators, and we welcome the opportunity to appear before you today.

Collectively, the four of us who are sitting before you today have more than 100 years' experience in recycling, packaging, the drinks industry, fast-moving consumer goods, logistics and the retail sector.

Irene Steel, our chief financial officer, has managed financial operations for Marks & Spencer, Heineken and the Edrington Group, and was most recently finance director of Genius Foods. Simon Jones, who is to my far left, is our chief operating officer. He has 25 years' experience in retail and logistics and has worked across the United Kingdom with Tesco and DHL. To my right is our programme director, Donald McCalman, who has managed major transformation projects across utilities, financial services, entertainment and the public sector. As chief executive, I bring extensive experience from leadership roles in the plastics and recycling industries.

The Deposit and Return Scheme for Scotland Regulations 2020 place new legal obligations on producers and retailers to ensure that the scheme objectives are met. The legislation is in the

category of producer responsibility, which means that producers have to take more operational and financial responsibility for the containers in which their drinks are sold. In simple terms, each producer must collect and process 90 per cent of its containers to ensure that the fees and deposits are paid to retailers. In practice, individual producers cannot operate independently to achieve that, so Circularity Scotland has been established solely to deliver those responsibilities collectively on behalf of all producers who appoint us as their service provider.

I am sure that, during today's proceedings, we will cover the detail of how we were set up and are managed and operated.

We would like to say at the outset that we are proud to be involved in administering the deposit return scheme, which will make Scotland a cleaner, greener place to live by ensuring that materials are recycled to the highest standards and by reducing litter.

10:45

At the outset of the session, I offer my personal assurances that I understand that all of you, as elected members, will have engaged extensively with businesses and producers in your constituencies, some of whom may have concerns about the operation of the scheme. The team at Circularity Scotland is working incredibly hard to implement solutions to common concerns from businesses and to work through the scheme implementation on a one-to-one basis with individual businesses, as appropriate. We have a team who are resourced, ready and willing to help, so if businesses in your constituency are concerned, please put them in touch with us.

To provide some information about Circularity Scotland's constitution, we are an independent, not-for-profit, membership-based organisation. Our members include drinks producers, retailers and trade associations. Together, they account for more than 90 per cent of the scheme articles sold and returned in Scotland. We are governed through a membership agreement that all members sign, which sets out our guiding principles. Our members vote on the appointment of our directors, who are all individuals of substantial industry experience.

We were tasked with building the infrastructure for the deposit return scheme, which will be the largest waste management operation in the UK. We were charged with doing that within 15 months and without any start-up resource. From that point, we have secured £100 million of investment, have a team of almost 50 and, together with our contractor Biffa, will be creating 600 jobs.

Although the deposit return scheme is new to Scotland, the idea is not new in other parts of the world. We have sought to learn from the growing amount of international experience. The deposit return scheme represents a major shift in Scotland's approach to recycling and it will have an impact in every part of the country. We know that you have legitimate questions about the implementation of the scheme and we look forward to answering those questions to the best of our ability.

We understand that there is some confusion about the role of various organisations in the development, execution and regulation of Scotland's deposit return scheme, and we welcome the opportunity to attend the committee to help clarify the objectives of Circularity Scotland.

**The Convener:** Thank you very much, David.

I remind members that we are trying to get to the nub of the problem and to identify the issues. As convener, I note that there have been quite a lot of interesting responses in the chamber, which are best for the chamber. This session is about delving down into the nitty gritty of the problem and I hope that members will support me in achieving that.

I will start. There is a pretty high bar for membership of Circularity Scotland—10 million containers on to the market, 20 million containers on return, trade associations representing companies that place more than 10 million. What slightly concerns me is how the smaller person—the smaller producer or retailer—can feel that they are represented and that their views are heard in Circularity Scotland. It seems to be a big scheme with big players, ignoring the little players. David, do you want to answer that?

**David Harris:** I will ask Donald McCalman, who was involved in setting up the company, to provide a little more detail. However, the first part of the answer is that our membership involves trade associations, three of which represent convenience stores at the small or SME end of retail. Also, if we look across the trade associations on the producer side, we have the Wine and Spirit Trade Association and the Society of Independent Brewers, which are much more geared towards small companies. There are also people such as the British Beer and Pub Association and the British Soft Drinks Association, which, as nominee, are representing many small, SME-sized businesses.

It would be helpful if Donald gave some more clarity around how the business was brought into being and how those rules were set.

**Donald McCalman (Circularity Scotland):** If we go back to before the company was

established, the deposit return scheme has always been set up as an industry-led initiative. Before the legislation was laid, four organisations, four producers and three trade associations got together to start thinking about how industry would respond to the new obligations coming its way. Three of those organisations were trade associations representing a broad range of organisations in terms of size.

That group came up with the general model of the membership criteria in order to reflect the fact that, although large organisations probably have more say they also have more of a role and a commitment to make with regard to the overall recycling targets. The model also ensured that the smaller organisations had a vehicle to express their views, as well.

That model was, in essence, codified into what the convener summarised. Of our 32 members, something like six or seven are trade associations. Those trade associations represent some of the smallest brewers and retailers in the country, which absolutely have their views heard to the same extent as others around the table through the very competent and vociferous presence that their trade association has as a member of the company.

**The Convener:** I hear what you say, but if I was a convenience store in a local village, I am not sure that I would feel that I was getting the representation that I needed. I will come back to that, if I may, at the end.

The first set of questions comes from Jackie Dunbar.

**Jackie Dunbar:** Good morning panel. I have a number of questions and I plan to leave it in your hands as to who is best to answer them.

My first questions are about the challenges that have been flagged up in the gateway reviews with regard to transitioning the DRS from being Government-owned to industry-led. Will you explain how the transition is working? Are you confident that the different roles in the scheme—including those of yourselves, SEPA, Zero Waste Scotland and Government—are clear? Do businesses know where to go to get the support that they need?

**David Harris:** Clearly, we have clarity about where our responsibility lies. We are industry's vehicle for meeting industry's responsibilities under the regulations. It is the job of Government to set the regulations, while SEPA's job is to enforce and regulate; it is our regulator. Whether they are a member, a producer who registers for us to be their scheme administrator, or someone who registers with us as an operator return point, we answer to them. They are our customer; they are our master, in that regard.

Overall—by which I mean across society—we have found that there is a lack of clear understanding as to how those roles are defined. We seek, at length, to communicate that. We have communicated extensively; we have websites, we write to affected businesses, we seek to find affected businesses and we have online marketing and a marketing campaign to communicate with businesses, so that they understand where we fit into the scheme. We have also been on the road; we have held conferences and road shows and spoken face-to-face with 1,500 businesses that are affected to get the message out and help to clarify.

Being open, we have found frustrating the level of media coverage that does not deal with the facts of the work that we are trying to achieve or exactly what our role is. We are not an arm of Government. We are here because industry has accepted its responsibilities. We are working hard and we keep expanding our communications capability to do everything that we can to enable people to understand that. That is why we do not say lightly that we have a team sitting in Glasgow waiting to talk to any of your constituents who are concerned. We want to take businesses by the hand and support them through the process.

**Donald McCalman:** I will add one more point. Those of you who read some of the earlier gateway review reports will have seen the recommendations about establishing a joint communications group made up of the Scottish Government, Zero Waste Scotland, SEPA, the regulator, and ourselves.

It is fair to say that, in the early days, there was an element of missed co-ordination. Those organisations, to a greater or lesser degree, wanted to have conversations with businesses about the specific roles that they play, because they have very clear, separate, defined roles. We took the view that we have to co-ordinate that, because, to take the convener's example, a small convenience store wants to have a relatively simple, straightforward, consistent series of messages as we go through the process of working out what the scheme is about and getting live. We have therefore stepped in and we are co-ordinating, organising and ensuring that there is a consistency of message, timing and media to bring some simplicity to that.

However, the individual organisations have very separate responsibilities. For example, SEPA, as the regulator, is clearly there to ensure that all parties adhere to their new obligations. We work closely with SEPA, but it also regulates us, so we have to keep an element of separation.

**Jackie Dunbar:** I, too, have been contacted by small convenience stores. One of the questions that they have raised with me—I actually

understood this point, because I am a former grocery stock controller—was about point-of-sale labels. They say that they are still trying to find out what those labels have to say. I am talking about the shelf labels with the DRS information on them. The stores have asked whether, if something costs £1, the labels have to say that it is £1 plus 20p for the DRS or whether the labels have to say that it is £1.20, which includes the DRS.

Stores are still trying to get confirmation on that. I know that people in the outside world will think that that is a simple thing, but those stores have systems and programmes behind the scenes, and they need the information now so that they can be ready for 16 August. Can you give some clarity today?

**Donald McCalman:** There are a couple of ways of responding to that. There are around 35 provisions in the regulations, and they impact different people at different times. We pick up on two of those provisions, which are important and sit in the middle. We have responsibilities to ensure that we deliver the producers' obligation to collect 90 per cent of their containers.

There are, absolutely, new obligations on retailers to ensure that, when consumers are in a shop, they understand that there is not a 20p increase in price but a 20p deposit that they can get back. The Government has put those obligations on those organisations. We do not have a role—we do not have any control or influence over the retail side.

Those organisations are getting a lot of help from their trade associations, and SEPA has also provided support and has a comprehensive website. We do not have the ability to influence or control those shop operations. That is a new obligation—the Government has said, "Retail, you have to comply with this." The regulator and trade associations are probably the best sources of advice and support, because those organisations understand how a retail environment works.

**Jackie Dunbar:** If you cannot give that advice, who can I say that those stores need to contact for advice so that they can start getting their systems in place?

**Donald McCalman:** We are working with a number of trade associations across the convenience sector. They are expert in understanding how the regulations affect the retail side, and we think that they would be an excellent source of advice. Ultimately, SEPA is the regulator and has a role to ensure that regulations are made available to and understood by everybody. It has an excellent website, which would also be a good source of advice.

**The Convener:** I am slightly scratching my head on this. What is the advice? What are

retailers supposed to do, apart from consult with somebody else?

**David Harris:** Donald McCalman will correct me if I am wrong, but the issue that we have is that trading standards and SEPA have not agreed on the correct approach.

**The Convener:** Sorry, but hold on. I apologise to Jackie Dunbar for jumping in on her question.

Circularity Scotland is running the scheme. If somebody rings your office, as people have been advised to do to get the information that they need to run the scheme, and the answer is to ring SEPA or whoever else you suggested, that is not advice—it is passing the buck. I am sorry, but I am confused. Help me, please.

**David Harris:** We are not able to make that decision about what the correct approach is, because it is between trading standards and SEPA, as the regulator, to agree on the correct approach for shelf-edge labelling and pricing labelling on multipacks. We do not have the authority or power to make that decision.

**The Convener:** I am totally confused, then, about how the scheme works, if we do not know what we are doing at the outset.

**Donald McCalman:** Convener, you said that we are running the scheme. That is a short statement but, to be pedantically clear, we are not running the entire deposit return scheme. We have a responsibility to deliver a large part of it on behalf of the producers who have the legal liability. The legislation that the Scottish Government has introduced places additional obligations on the retail sector, for example, to act as a return point. That is not within our scope—that is not what we were set up to deliver.

11:00

**The Convener:** Sorry, Jackie—I will come back to you after this question.

The other day, I went into a shop—which will remain nameless—to buy 24 small bottles of water for £3 in total. There will be an additional 20p for each bottle. My maths suggests that the deposit will be more than the cost of the water. However, we do not know how that will be labelled and shown to the consumer, who is being told that there is not an increase in price. I am sorry, but I am totally confused.

**Donald McCalman:** For the vast majority of retailers, things are relatively straightforward. The regulations are quite clear that, at the point of sale, retailers need to make it clear to the consumer that there is a 20p deposit, so it will be obvious that they will get that 20p back once they return the empty container. That is exactly how more

than 50 other deposit return schemes around the world work. Hundreds of millions of consumers live and operate in that environment.

There will absolutely be a change for everybody in Scotland—there is no doubt about that. We have had a couple of different deposit return models, but they have had a narrow focus. We are talking about a nationwide scheme. It sounds complicated, but it is pretty straightforward. There are absolutely some technical issues to be resolved with regard to how shelf-edge labelling is handled. I know that some stores use digital mechanisms. SEPA, the Scottish Government and trading standards are discussing where the deposit information should sit with regard to the price on a price-marked pack, and the matter is close to resolution.

**Jackie Dunbar:** I am confused, because what you have just said suggests to me that retailers should know what to put on the label, but they tell me that they do not know what to put on the label. Do they need to list the 20p cost separately or together with the price? To me, that is a simple question.

**Donald McCalman:** I agree that that is a simple question, which SEPA, the Scottish Government and trading standards organisations have been asked for some time. It has been owned for resolution by the Scottish Government, and the Scottish Government is close to resolving it. I do not think that there is any doubt whatsoever that that is not an ideal position. Government officials have been working on the matter for some time, and they are close to resolving it.

**The Convener:** I am going to push you to go to the next question, Jackie, having identified a flaw in the system.

**Jackie Dunbar:** I was just about to move on to the next question. Thank you, convener.

Another question that has been raised with me is about the collection of containers from small retail sites—by that, I mean the manual uplift of containers, not vending machine uplifts. Do you know, or is it in your gift to know, how often such collections will happen? I realise that that will depend on how many containers are brought back, but what are the criteria for the uplifts? Will they be once a day or once a week, for example? That will have an impact on the space that local stores have available.

**David Harris:** I ask Simon Jones, who is in charge of the logistics operation, to answer that question.

**Simon Jones (Circularity Scotland):** We recognise that collections are important, and we want to create a meaningful and efficient schedule

that matches people's requirements and is as cost effective as possible.

Currently, we are asking people to register so that we can understand what their schedules look like and where we need to go to collect containers. We recognise that there is a big issue relating to space for small stores in particular. We are trying to ensure that those guys have the ability to put down their estimated number of returns when they register with us. The collection frequency will be calculated from that estimate. If they do not agree with the suggested collection frequency, they absolutely have the opportunity to put in some free text to say why that is an issue. Invariably, the reason will be space. At that point, customer services and Biffa will get in touch with those guys to create a schedule that suits the needs of those businesses.

We are absolutely trying to work with the small guys as well as the big guys to ensure that we create a collection schedule that suits their needs. If there are further issues, the smaller guys have the opportunity to apply for an exemption. If they are in a rural location, that is obviously not ideal for them, so we want them to get in touch. We will then visit them and try to understand how we can help them to meet the needs of their shop and their collection needs.

**Jackie Dunbar:** Am I right in thinking that stores can get an exemption only if they are 400m from a bigger retail store?

**Simon Jones:** There are also exemptions for health and safety, fire safety and food safety. It depends on the size of the store. If it is 100m<sup>2</sup> or less, it can apply for a size exemption. If it is 280m<sup>2</sup> or less, it can apply under food-to-go, fire safety or health and safety.

**Jackie Dunbar:** Thank you for the clarification.

I have been told that there will be an app for mobile phones for the manual take back of containers. Do you know when that will be up and running so that small retailers can get a grasp of it?

**Simon Jones:** It is in the final stages of development and testing, and it should be available at the end of May or the beginning of June. It will be rolled out for people to be able to see what it does.

**Jackie Dunbar:** How do you assess how well prepared you are for the August launch date? What is your level of confidence that you will be able to go live? Are there any milestones that you still need to reach in order for that to happen?

**David Harris:** There is a great deal to do. We did not set the timetable; we were given a timetable. From the point when that was set, we had to find the money to run the operation,

establish the partners, and put the contracts in place to build the infrastructure. We have been working around the clock to deliver for 16 August, and we continue to do so. We have a path to being ready.

As you would imagine, there are many milestones in delivering information technology systems and the various elements of logistics infrastructure, but that is happening. Counting centres are being set up, machines are being installed, and vehicles are on the way. That is actually happening in the physical world.

We are constantly looking at refining what will be available on day 1. The scheme will build up over time. As you would expect, we have a significant project management team in place to manage and measure that.

Would Donald McCalman like to talk more about how we manage the process?

**Donald McCalman:** Certainly. There is a multiworkstream programme that includes IT, communications and commercial operations—all the things that you would expect. We have a great team of project managers and programme managers, and we have all the traditional tools that you would expect to see for risk management and contingency management. Our partners, which are, obviously, heavily responsible for large parts of delivery, have equally competent and strong teams. We have assurance over them through regular steering group meetings. We have an integrated plan. There is everything that you would expect to see in a large and complex delivery.

There are risks ahead of us. We have plans in place to address those risks and, as David Harris said, we are confident that we are going to be ready to go on 16 August.

**Jackie Dunbar:** Okay. Do you want me to go on, convener?

**The Convener:** There is a whole lot of supplementary questions. If you will excuse the expression, you have let the cat out of the bag.

**Fiona Hyslop:** I want to take you back to the first question. The name Circularity Scotland implies that the process will be circular and end to end, but you have said in your answers that you are responsible only for the producers. You offloaded retail responsibility to SEPA, trade associations and the Scottish Government. Are you implying that a similar organisation should have been set up for retailers that would do something similar to what you do for producers?

**David Harris:** It is important that I clarify that point. When we talk about responsibility resting with SEPA or trading standards, for example, we are talking about a specific point about the rules

around labelling, which is very much outside our scope.

We are run 50:50. Half of our organisation is the return point side—retail and hospitality. When there are votes on membership matters, 50 per cent come from producers.

As part of discharging the responsibilities for a producer, it is our responsibility to provide that service to the retailer. The retailer has an obligation to operate a return point; it is the producer's responsibility to service that return point and manage the interface with the retailer.

The regulations place responsibilities on retailers, just as they do on producers. A retailer has responsibility for meeting its obligations and operating a return point. If there are issues within that retailer's business, we cannot make decisions for it, but we are keen to support it. We have a customer service team and, whether we are talking about the largest retailer or the smallest convenience store, we are keen to be in a dialogue with it. Whether there is an issue with exemptions or on the service and collection side, the team is there to talk to the retailer and support it, so that there is integration between us.

**Liam Kerr:** Good morning, panel. I have a brief question that arises from Jackie Dunbar's question about your preparedness for 16 August. What contingency planning are you doing for the scheme if it is not ready to go live on 16 August?

**David Harris:** The timetable has never given us a great deal of time contingency. When we were appointed as the scheme administrator, the deadline for the scheme was July 2022. In our application to be the scheme administrator, we made it clear that we could not deliver that. Following that, we made representations to Government around how we saw the scheme going live. We identified that the period September to October 2023 was deliverable, although that contained a degree of risk and did not allow for a great deal of contingency. That is the timetable that we are now working to. The risk has not gone away, and the contingency has not grown.

On the issue of the planning that we are doing for contingency right through the programme, we are looking at what alternatives we can put in. It is worth stressing, particularly in looking at the operating side of the business, that we are building an infrastructure to cope with returns at 90 per cent. That will not be the case on day 1. When the scheme ramps up, there will be a fairly extensive period when the level of contingency that is built into the scale of the infrastructure, in addition to the lower volumes at start-up, will, to a degree, give us some cover. We cannot buy extra days, but we are continually applying more resource. On the IT side of the business, for

example, we keep building up the resource, which means that, in effect, we have additional teams covering some elements. However, we have an immovable object in terms of the date that we need to hit.

**Donald McCalman:** I will make an additional point. To turn things round slightly, Mr Kerr, when you have such an immovable deadline, another programme technique is to start looking at your scope. Unashamedly, there are things that we perhaps set out to say that we would have in place for go live. We have had a long, hard look at what we do and do not need, and there are some things about which we have said, "Guess what? We don't really need this for go live." To take the pressure off a tight timeline, we have moved some things out. There were some reports that we might have liked to have for day 1, but we decided to bring them in shortly after go live, because there are more critical things that we need to ensure that we deliver right across the scheme.

**The Convener:** We move on to questions from Mark Ruskell.

**Mark Ruskell:** Maybe we could wind back a bit. There have been a lot of concerns among certain businesses. You have addressed some of those, but what do you see as the outstanding concerns?

**David Harris:** This is a massive, complex project that touches thousands of businesses, so there are legitimate concerns. At no point do we dispute that those concerns exist. At the moment, a lot of concern is coming from smaller producers. We have 670 producers who have appointed us to be their scheme administrator, and 630 of those are small businesses. They are preparing and they have decided to use Circularity Scotland's services to meet their obligations under the scheme. However, that does not mean that we are not listening to the other small producers and businesses that are out there. I am personally committed to the project that we are working on not damaging businesses. We will therefore continue to do everything that we can to support them.

Irene Steel can say more about what we are doing in practice to support small businesses.

**Mark Ruskell:** I think that what we struggle with as a committee is understanding what the real issues are that have yet to be addressed. There are issues around communication, which you raised earlier, and there are perhaps issues that have already been addressed but have not been communicated. I am really interested to know which issues you are still working on.

11:15

**Irene Steel (Circularity Scotland):** We are working with producers and retailers of all sizes. At the moment, we are running solution working groups for the end-to-end invoicing process. We are supportive, and we are collaborating with large and small retailers, wholesalers and producers to ensure that, across the supply chain, there is a commonality and an understanding of how the invoicing works when, for example, items are placed on market, when they go into a depot, when VAT is applied and when VAT is not applied.

That is an example of something that is not exactly within our remit, but it is absolutely in everybody's interest, and we are happy to facilitate it. Clarity across the supply chain on the different stages of invoicing is one area that we have identified, along with many of our members, and we are working through that with them at the moment.

**Mark Ruskell:** That is one area. Are there others?

**David Harris:** In the first instance, Irene Steel is leading workshops with concerned businesses to ensure that we fully understand their issues. One of the big issues that was raised, particularly by small businesses, was about the cash-flow impacts of the scheme. We have put in place measures that are designed to address that, and we believe that they do so, but there are still concerns coming from small businesses. One of them is about invoicing. There is also the general level of readiness. Many small businesses do not have a great deal of resource to be ready for 16 August. There has been a lot of political discussion about that area recently, and we are still looking at measures that can address some of the concerns. Under the compliance approach that SEPA has put in place, in effect, if a small business is not ready, SEPA will look at what it is doing and whether its position is reasonable.

Looking at the scheme more broadly, given that there is a cost to producers, there are concerns about what it will cost them and about knowledge, visibility and understanding of that cost. To an extent, it comes back to the governance point that the convener raised. Our constitution sets out a number of things, but one is that all businesses are treated the same, so being a member does not give you a privilege. Everybody gets the same deal and the benefit of the level of investment that is being made behind Circularity Scotland.

Ultimately, it is a feature of the regulations that have been passed that the cost of running the scheme goes back to the producer, but our remit and our commitment is to be cost effective in running the scheme. That is why we sit in the point of conflict between the retailers, who want a higher

fee, and the producers, for whom the fee is the greatest cost. We have to manage that conflict, which puts us in a pressure point situation, as we are trying to find a compromise.

A lot of the talk with producers around registration has been about understanding what liability they are signing up for. For every container that they put on the market, their liability is the cost of running the scheme divided by 2.5 billion to 3 billion. That is the extent of it. Today, obviously, we are working with forecast costs. We made a forecast last August that gave a relatively high producer fee, but we have subsequently been able to redesign the scheme and indicate a reduction of up to 40 per cent in the producer fee. We recognise that that is still a forecast, because we will know what the costs are only at the point when we go live. However, that reduction gives confidence in the abilities of the whole of the industry—we cannot manage it all ourselves, so I am talking about us in the middle and the industry—to manage the costs efficiently.

Furthermore, if we look at the actual cost of putting the scheme in place, as we sit here today, our costs are below budget. If we judge ourselves by the results that we are delivering, we are managing our costs effectively. We are working tirelessly—particularly Simon Jones's and Irene Steel's teams—to ensure that the infrastructure that we build can operate efficiently and then grow in efficiency as the scheme goes live.

However, I am afraid that, although producers can place trust in us to manage the scheme, the fact is that the cost of operating a deposit return scheme will become a cost of doing business for a producer of drinks. That is probably one of the most significant areas that many producers remain concerned about.

**Mark Ruskell:** Okay. I want to focus on a couple of specific areas. What might the challenges be with the cut-over period, when scheme items and non-scheme items will be in circulation? Can you also offer some thoughts on how a grace period for small producers might work? It feels as if having items that are in the scheme and items that are outwith it would be complex.

**David Harris:** I will pass the question about the cut-over period to Donald McCalman, who has been very involved in that work. The scheme has faced the challenge of the cut-over since the beginning. I will ask Donald to talk about it in more detail.

On a grace period for small producers, we really want to help small businesses with the transition to the deposit return scheme. Everything that we do with deposit return could have unforeseen and potentially unpredictable adverse consequences,

and we have to be careful that small producers, who might be relieved at having a grace period, do not find that they are commercially disadvantaged.

Where a small producer supplies a big retailer, the big retailer has a lot of power and it wants things to be simple. I flagged that point when I was speaking to small producers. I said that I thought that they had to be careful about what they wished for with some of those elements and that, although they might be pleased that they did not have to address deposit return quickly, they might find that their business would be disadvantaged from a sales point of view.

I ask Donald to talk about how the cut-over will work.

**Donald McCalman:** When we ran the road shows and the conference, I was the lucky person who talked about cut-over. I refer you to my YouTube channel, which contains the full presentation. The cut-over process is long and complicated. I will not go into the full detail of it, but in essence it is the process of moving producers, retailers and everybody who is involved in the supply chain from the current way of operating to a world where the deposit return scheme is fully embedded and consumers are fully aware of purchasing items with the 20p deposit.

One of the unique elements of the scheme is that we will have types of containers that will be sold only in Scotland and we will continue to have containers that are sold across the UK. That situation presents challenges, and we are not shying away from that. One of the challenges of cut-over is to help producers, retailers and consumers to understand that there is a transition—that some products will not attract a deposit as they are ramped down and flushed through the supply chain, but that new products that are coming through will be deposit bearing and they will need to be identified separately.

The legislation has been reasonably well designed to try to accommodate that situation, and consumers can expect to see signs on shelves that say, "Retailers have an obligation to do this" or "These items are not in the scheme—they are gradually being sold through". That will take a bit of time—two or three weeks—depending on the turnover of those goods. We understand that there is a strong requirement to support consumers, in particular, during that phase. We have already started to design that campaign, in conjunction with retailers and producers. We will manage that process carefully and get to the other side.

The reason for the ability to have both UK-wide and Scotland-specific containers is, again, to support smaller producers, given the costs that are associated with changing labels and changing the

whole supply chain. The policy officers recognised that point from day 1.

We will deal with the matter. It is something a bit different for Scotland. Other schemes have danced around it, if you like. However, we have spent a lot of time working right across industry to develop a plan and we have published the guidance on that. We will manage it closely and help consumers get to the DRS operation once we are past the cut-over.

**Mark Ruskell:** As you said, it is a transitional period, which is par for the course with many other DRS schemes. However, if there was a grace period for small producers in the middle of that, what complexity would it cause? For example, if some small distilleries are in the scheme and some are not, a convenience store might have a complex shelf of regional whiskies, with some being in the scheme and some being out of it. How will that work? I appreciate Mr Harris's point that larger retailers might just say, "Forget this—it's too much". What other issues might the grace period create for small producers and those in retail and wholesale?

**Donald McCalman:** We have touched on some of them. The cut-over period will be temporary. We know that there will be different ways of treating stock, but that will be for a defined period. Clearly, more design work will need to be done if the Government decides to go in that direction. A grace period for smaller producers could be interpreted as saying, "Your products will continue to be outside the scheme."

The biggest challenge in all of that is to bring consumers along with it. One of the fundamental policy objectives is to change consumer behaviour, just as the behaviour of hundreds of millions of other consumers across the world has been changed. People will pay 20p, they will bring their empty container back and they will get their deposit back. If some containers or products are outside the scheme, there will be a different message, and we will have to be really careful to support consumers in that process.

As David Harris said, we should also ensure that there are no unintended consequences as far as small producers are concerned. Retail is a slick, streamlined, automated process and it does not like things that are a bit different. It is for retailers to decide what to do, but they would rather have consistency, which certainly supports the consumer side of things.

It is a challenge. If we end up going in that direction, we will work with industry to figure out a way to manage it, collectively, as best we can.

**Mark Ruskell:** The map of return points is a very specific aspect of the scheme, but it is important, particularly for people in rural areas.

When will we have certainty on what the map will look like? In response to Jackie Dunbar's question, you spoke about the collection schedules, which will be hugely important to small rural stores that might not have much storage capacity. When will the map that shows where people can expect to be able to return their cans and bottles appear?

**David Harris:** We will see a growing network. I do not expect all potential return points to be up and running and functioning as return points on 16 August; I expect to see an adequate network so that we, as consumers, can interact with the scheme effectively. Many stores will simply operate a manual point while they assess the situation, or they will come on stream as we go live.

We are primarily concerned with ensuring that there is enough provision for the consumer to be able to access the scheme. It is vital that everyone who is paying out the 20p deposit can return their container in their local area without being inconvenienced.

I ask Simon Jones to say a little more about the mapping and the work that is being done to build the network.

**Simon Jones:** Obviously, we require people to register. We have a list of retailers that ranges from the small ones to the large. From a mapping perspective, whether you go for three retailers or the nine major retailers, before we get to the convenience guys, the spread is pretty much covered geographically. The small independents, particularly in rural areas, enhance that ability for people to return.

As you would expect, the central belt is very condensed with retailers, which causes us a logistical problem with the number of collections. In that regard, we would look for exemptions to be taken. However, when we map out the large retailers and then add in the small ones, we get a good geographic spread across Scotland. There will always be places where someone lives that do not have a store. In those instances, we need to consider how we can support those communities at some point in the future.

**Donald McCalman:** We have the benefit of learning a lot from the more than 50 other schemes that have already gone live. One of the more recent ones that went live was in Slovakia—I always get it confused with Slovenia. The scheme there went live on 1 January last year. Even now, the Slovaks are adding to their return point network as retailers decide that they want to be part of the scheme or, indeed, realise that a scheme is in place.

It is an ever-evolving process. Our registration capability will stay open permanently—

**Mark Ruskell:** But—[*Inaudible.*]

**Donald McCalman:** Of course, retailers may decide to apply for an exemption. They may recognise that they will qualify for that because the return rate that they expected has not come to pass. There are a lot of unknowns, and we will not collectively understand the dynamics of where containers will come back until the scheme is live.

**Jackie Dunbar:** Some of the processes that you have spoken about are complicated and some are not. What support have you asked for from the Scottish Government and other agencies to try to help you to get through those processes?

11:30

**David Harris:** We are in constant dialogue with Government as well as the regulator about the operation of the scheme. The word “pragmatism” has been used a great deal. On what SEPA has issued in the past few weeks about its approach to regulating the scheme as it comes into being, the main issue is to ensure that, wherever possible—even at this stage—we are able to simplify the regulations and make the scheme more deliverable for industry. In many respects, common sense should be used in interpreting the regulations within the enforcement framework that SEPA has issued to ensure that businesses are able to make commonsense decisions about what works for them.

Small retailers, in particular, understand their market and their locality and know the right thing to do. We are keen to work with them as much as we can so that they operate return points in ways that work for them and they can give the service that they want to give. If it is not right for a small retailer to be a return point, we are keen to support them. That is why we welcomed the change on the exemptions.

On the practicalities, we are working for industry. Industry is paying for the scheme, so we are very much mobilising resources across organisations such as Biffa, Reverse Logistics Group and PwC, which are building IT systems to make sure that we will have all the capability that we can harness. I think that the IT build is happening on three continents to make sure that we throw all the right resources at that.

We are very much working with Government. I am happy to talk in those terms today. The more common sense we can use in interpreting the implementation of the regulations, the better. We should let businesspeople make the right decisions for their businesses.

I go back to the point about having an adequate return network. The market will decide that for us. The stores know what is needed. In rural areas in

particular, they are there to provide a service, and they understand what they need. We simply want to support them with a service that enables them to do that.

**Liam Kerr:** Is Circular Scotland concerned that, following the passing of the original deadline for registration, a significant number of smaller producers that currently market products in Scotland still have not registered? If they do not do so by the launch date of 16 August, will they still be able to sell in Scotland?

**David Harris:** That is where the updated guidance from SEPA is very important. If you have a small distillery with a shop, you sell all your products in that shop and, on 16 August, which is day 1 of the scheme, you are not operating a deposit return scheme, what is the plan? Are you committed to becoming compliant with the scheme? What is your plan for doing so?

On what is difficult for a small business, the businesses that we are dealing with are not used to being regulated by SEPA. If people have been regulated by SEPA for the past 20 years, they can read the documents and understand them better. Technically, businesses have to be registered with the scheme administrator or directly with SEPA on 16 August to sell in Scotland. A document has been set out that you can interpret—I use that word carefully, because the document gives guidance about having a plan in place.

**Donald McCalman:** I said that I would not speak on behalf of the regulator. SEPA is very aware that a lot of organisations that it is about to deal with have never dealt with it before. Recently, SEPA published guidance on how it would regularly support and ultimately enforce. As David Harris said, the pragmatic view that it is taking—again, we are speaking on its behalf; you may wish to have it directly in front of you at some point—is that, if people are committed to complying but are struggling for whatever reason, it will support them. We have interpreted that as meaning that people have to aim for compliance with regard to the dates, but if there are genuine reasons why they have not been able to comply, SEPA will continue to support them so that they can be compliant. We will keep open our registration window for as long as it takes.

There might be genuine reasons why a company has not been able to register in time. As far as my interpretation is concerned, there is no shutter. If there are requirements that need to be supported by SEPA, the organisation can be helped by it to get through, register and continue to trade. Nobody wants to close down trade for those organisations.

**The Convener:** I am slightly confused. Will you clarify the position so that I understand it? SEPA

enforces regulations that the Parliament put in place. Are you saying that SEPA does not have to abide by those regulations? Can it apply them as it sees fit, if it thinks that an organisation is moving in the general direction that is wanted? That is not my understanding of how the law works, but is that what you are saying? I am interested in hearing you repeat the point.

**Donald McCalman:** I say with respect that that is not what I said. SEPA regulates under the laws that the Parliament has laid down, but its approach to regulation is not black and white. Like a lot of regulators, it has a desire to support organisations in becoming compliant with regulations. Believe you me, SEPA is clear that it will absolutely stick to the letter of the regulations, but it has a pragmatic role in supporting organisations to get to compliance.

Businesses need time to adjust to the change, and SEPA's pragmatic view is that, if an organisation intends to comply with the regulations but is struggling for whatever legitimate reason, SEPA will support it. If the people in a business say that they will ignore and try to find ways round the regulations, they will have a very different conversation with the regulator.

I make it clear that SEPA interprets the regulations as laid down and approved by the good people in the Parliament, but it supports businesses to get to compliance, which is what everybody wants.

**The Convener:** Thank you for clarifying that. I am sorry for treading on Liam Kerr's toes.

**Liam Kerr:** I will ask a question on another point shortly but, to be absolutely clear, I will reflect back what Donald McCalman just said. If I had a business that was not registered by 16 August, I might not be able to sell my products in Scotland. Is that the case? I ask you to answer that when you take my next question.

Mark Ruskell asked interesting questions about the support package of measures that has been put in place to help smaller producers to participate in the DRS. Notwithstanding those support measures, do you project that small, perhaps artisan, businesses will go out of business as a result of the scheme, perhaps because of the obligations that it places on them, which the deputy convener detailed?

**David Harris:** On compliance by 16 August, as the regulations stand, a business must be registered with SEPA or the scheme administrator on 16 August to be able to sell in Scotland. Donald McCalman described the scope, in terms of how the regulations are enforced, for supporting businesses that are not fully compliant on 16 August to become so.

We will have the opportunity to continue to register businesses. As an organisation, we are committed to working with businesses to address what concerns them about registering for and operating the deposit return scheme. That links into the question whether those businesses will still be here, given the complexity of bringing the scheme to life.

I will ask Irene Steel to come in. We are spending time with organisations that represent small businesses so that we understand what issues have not been addressed that we can fix and find solutions for. That is very much about being practical, finding the problems and addressing them.

**Irene Steel:** I say at the outset that our intention is that no businesses will suffer financial harm from the scheme. As David Harris said, the scheme has a cost, which all producers contribute to, because the scheme represents a change in how we recycle materials.

The objective of the whole board and executive team in Circularity Scotland is to support all businesses through this. As a result, we have been holding solution-based workshops with the associations that represent smaller producers. The dialogue has been going on for some time, but we have increased the intensity of our discussions and we are coming up with the solutions that are required. To give an example, although no commitment has been given yet, we are exploring having a threshold of smaller volumes for wine importers, which would be a pragmatic and commonsense measure that we could adopt for a short time.

We are absolutely committed to working with such organisations to get solutions that will help businesses to navigate their way through the change. The ideal result will be that no businesses are adversely affected by the scheme's implementation.

**Liam Kerr:** I will come back in later.

**The Convener:** Okay, thanks. I come to Collette Stevenson.

**Collette Stevenson:** I have several questions. Recently, I was invited along to a small distillery in my constituency that produces whisky and gin, predominantly, and which has a variety of concerns. Staff have attended the roadshow, but they felt more confused after it. A lot of their questions were not answered.

I would like to touch on some of the things that the witnesses have spoken about. The distillery's bottles, which are all wrapped, are exquisite; they are absolutely beautiful—in fact, on what has been said about the circular economy and single use, when I visited the distillery, bottles were being

used as lampshades and candle holders. The big concern for the distillery, as a small producer, is that it will incur costs for each bottle, although the likelihood is that those items will not be brought back. Some suppliers just fill their bottles back up, rather than recycling them. The distillery also pointed out to me that, because its bottle is so beautiful, the likelihood is that it will not become an item that litters our streets. Perhaps you could touch on that.

I would like to take you up on your offer to visit that producer to answer some of its questions. It also asked about the import label. The producer has consulted HM Revenue and Customs, which said that the import label is actually about fraud. Further, because the bottles are wrapped, what would happen with relabelling? Can you come up with solutions there? I would be keen to hear your comments on that.

**David Harris:** You have just outlined a compelling case of a producer that has tiny volumes, for which, potentially, we could seek a route to get it exempted. We are keen to explore such situations. Notwithstanding that, because that route does not exist today, what we are doing, primarily, is looking at a sticky-labelling solution, in effect, to provide a low-admin, practical option for low-volume producers. We are talking about producers of fewer than 25,000 units a year, so they are not in the handmade category—the volume is much higher. I ask Simon Jones to comment.

**Simon Jones:** A lot of small producers that do not invest in labels also do not barcode, particularly the small whisky and gin guys. People do not want a barcode on the bottle, either, particularly if it is an attractive one, so we are in the process of finalising a solution that will allow a producer to order a GS1-compliant barcode. We will provide labels that the producer can provide to the consumer with the bottle, so that, should the consumer wish to claim their 20p back, they can apply the label to the bottle and take it to a machine or a manual return point to get their money back. However, if they choose not to return the bottle because they want to turn it into a lampshade, or they do not want to take an extra sticker off, that is their prerogative. We absolutely want to make sure that the small producers do not have to invest in heavily labelling their bottle or changing its dynamic; we want to give them a simple solution that allows them to offer the consumer their 20p back.

**Donald McCalman:** I will quickly answer the two other questions that Collette Stevenson asked. On consumers keeping the bottles, a scheme administrator has been appointed, and responsibility for achieving 90 per cent passes over to the scheme administrator in totality.

Therefore, the distillery would not have to worry about having a 90 per cent return rate; that would be taken care of by us. On the point about refillables, if the company is marketing the bottles as a refillable product, which is a very environmentally friendly approach, those are out of scope of the scheme and it would not need to take part.

**Collette Stevenson:** As far as I am aware, the company is being told that it needs to take part in, and comply with, the scheme.

**Donald McCalman:** It can consult SEPA, which ultimately determines whether companies are within the scheme's scope. It has options.

11:45

**Collette Stevenson:** I also want to ask about how the fee structure for producers has been set up. Did you consider how costs would be distributed across businesses? Did you consider the environmental impacts of different materials? Are producers still raising concerns about the fee structure following the changes that have been made to the support package?

**David Harris:** In our dialogue with producers, we had a lot of adverse feedback in August about the original fees, which were quite high and reflected a set of estimates at the time. Following the revisions that we made in November, the feedback pretty much across the industry has been that, although producers would, of course, prefer lower fees, they are now at a realistic and reasonable level.

We have given a clear message about our commitment to developing efficiency. I would like the fees to come down over time, as we become more efficient. In an inflationary world, that is obviously a challenge, but people should be clear that we have an absolute commitment to keep improving the scheme.

Having taken feedback from the industry, we have tried to reflect the different operating costs for different materials. Glass is more expensive to handle. We do not have a choice about whether glass is included in the scheme. The regulations require its inclusion, so we have to collect it. It costs more to handle glass, and that is reflected in the fee. We have reflected the differential costs of operating with various materials, and we have also reflected the different values of materials. When they are baled, aluminium cans are extremely valuable; glass is not. That is another feature of the fees.

I stress that the fee structure has been set up to be flat, in effect, on a per-container basis. If we ignore any fixed costs that a producer might have in relation to systems or anything that their

company needs to do, we can see that one of the benefits is open access. You do not have to be a member or a major producer that can provide funding to sign up with us. We are completely self-funded. All companies will pay the same price, regardless of whether they are the smallest or the largest drinks company in the world. The big guys will share their buying power with everybody across the spectrum.

Right now, we are relying on a lot of estimates and assumptions about what will happen when the scheme goes live. How will the costs build up? What containers will be placed on the market? Will there be changes in the nature of containers placed on the market as a result of the scheme?

When the scheme goes live, we will become data rich very quickly, which will enable us to assess the drivers of costs and whether we have the most appropriate fee structure. We will have the scope to evolve the structure, with an eye to the cost drivers and ensuring that the scheme is fair, with producers paying a fair fee for their share of the costs that are created.

**Collette Stevenson:** I have a final question. There have been various reports in the media, including on social media, about the potential for cross-border fraud. What have you done to prepare for that? To what extent do you think that such fraud will occur?

**David Harris:** A function of the scheme is that it is being implemented in Scotland, which has an open border with England. We do not have the power to compel producers to label or differentiate Scottish market products. We expect a great many of the products placed on the market in Scotland to be treated as such. If I could change one thing today, I would give us the power to enforce that labelling, but we do not have that power—that is the nature of the world that we live in.

However, as you would expect, a great deal is being done to address and manage that risk. I will ask Irene Steel to talk about that. We cannot eliminate the risk, but we can do things to manage it.

**The Convener:** I will pause that discussion, because I think that we will delve into that issue slightly later. I am trying not to tread on anyone's toes.

I will bring in Monica Lennon.

**Monica Lennon:** Thank you, convener, and good morning, panel. It has been quite an interesting session so far. I will probably pick up on Collette Stevenson's questions about small producers because that is where my interest is today. However, I was quite struck by your comment at the start that we have more than 100 years of relevant experience in front of us today.

On the one hand, that is reassuring, but many small producers are still not getting access to the answers that they need, so I am hoping that we can make some progress on that today.

Sticking with small producers, I think that Collette and I have been speaking to the same local businesses, but they are not alone. The example that I have in mind is a small producer who did not sign up before the deadline. They have not signed up yet. They attended one of your in-person roadshows, but they left it feeling very frustrated. It seems that other small producers share these concerns. I think that we all want a more circular economy, but we do not want people going round and round in circles trying to get very basic answers and being passed between Circularity Scotland, SEPA, trading standards and, of course, the minister. The business that I am thinking of said that the minister did not reply to them, but I think that David Harris said that the business that Collette Stevenson described might actually be exempt, because it operates on such a small scale at the moment and it is trying to heavily promote refill and reuse. If it is exempt, who would tell it that, and why has it not been able to get that information so far from Circularity Scotland, SEPA or the Government?

**David Harris:** There is currently no exemption. However, that is one of the requests that has come forward in the workshops that we have been holding with small producer representatives, and we are supportive of it.

We cannot repeat this enough: if you are speaking to small producers or to any business that has concerns, please get them to call us. A huge amount of misinformation or poor interpretation of either our role or the regulations is fed back to us constantly, particularly through the website.

If somebody engages with us to support them, we do not seek to pass them off to SEPA or send them away to read the regulations. We have a customer service team who have been doing this for probably six months now, and they have built up a huge amount of knowledge in supporting the hundreds of small businesses that have either signed up to the scheme or are still talking to us about it. Obviously, it concerns me if producers who have attended workshops left feeling concerned that they did not get answers, because we are committed to addressing their questions.

The first thing is to make sure that people—

**Monica Lennon:** Can I just interrupt you there? First, I thank your customer service team, which clearly has a busy and challenging job to do.

The small businesses that we are talking about are heavily invested in their local communities, in their workforces and in securing people's jobs and

growing their businesses; they are also thinking about net zero and sustainability. They are not shy about picking up the phone to or emailing MSPs and asking people to come out. How many times do they have to phone and ask the question before they get an answer? Also, is it right to pass them to SEPA? Is there an opportunity to get SEPA, Circularity Scotland and others involved in the same room, given that the problem seems to be that people are getting passed from pillar to post?

**David Harris:** If that is happening, please do not put them in touch with customer service—put them in touch with me, so that I can get to the bottom of the situation.

This is a big change. A lot of these businesses have never been regulated and, as you said, they are committed to their community. Many of them are already there, in terms of being green and meeting their responsibilities. The regulations have come along and they are caught by them. We did not catch them, but we are the one organisation that has been created to provide an answer.

All I would say is that if people who have spoken to us are not happy and are approaching you, please contact me directly, because I want to speak to them and get to the bottom the situation. We have grown this company from nothing to 50 people in six months, so if something is not working, I want to know about it so that we can fix it.

**Monica Lennon:** I am sure that you have made a very genuine offer, but, from what you have said, you have a lot of operational stuff to roll out, and I wonder whether every single problem and query having to be channelled to you, as chief executive, to get an answer is a good way to do business. I do not ask that to be cheeky in any way.

If that is where we are at right now and we have gone beyond the original sign-up date, are you feeding that back to ministers and discussing it with the minister, Lorna Slater? You have picked up that there should perhaps be a case for exemption. You are correct that that is not in the regulations right now. Are you feeding that back to the Government?

**David Harris:** We are constantly in dialogue with the Government about the evolution of the scheme. Donald McCalman talked earlier about managing the scope of the scheme. As you would expect, anything that we can do to make it more manageable or implementable, we are in dialogue about. We are talking not only to producers but to everybody who can have a say in sorting it.

As I have said, we started this business from nothing, and we have had to build it very quickly. I have had reports many times that people cannot

speak to us to get answers, but we have a customer relationship management system, so I can go back and check what discussions have taken place. We have had a lot of incidents in which huge amounts of time have been spent. I am not suggesting that those are the businesses that you are talking to, but people might not like our answers. Much of it is that people do not want to operate a deposit return scheme, but we cannot make it go away. We have spoken to people who have not been happy with where they have got to, so they have written to their MSP or MP, who has contacted us.

We need to know. We have a great team of people who are all learning fast in a new business, but only by knowing where there is a deficiency will we be able to go and fix it. That is why, if there is a problem, I urge people to report it to me so that I can talk to the team and deal with that incident. Every time that I get a letter from an MP talking about a business, the first thing that I do is go to customer service and say, "Right, have these people spoken to us? What have we discussed? Where was it left?" to try to ensure that we are closing down problems as they arise.

**Monica Lennon:** What are you doing to be more open and transparent, because this is about confidence and trust and people being able to get information and clarity? Donald McCalman mentioned a YouTube video; I am sure that there are lots of resources out there. However, when you capture those inquiries, does it all go on your website and is that information being shared so that people do not have to keep coming to you with bespoke inquiries? You might have done that already.

**David Harris:** Donald, do you want to pick up on the comms point?

**Donald McCalman:** There are a couple of things in there.

Like any organisation responding to queries, when we see regular types of queries, we update our website. Some of the queries are related to the legislation. SEPA updates its website. As I said before, we are organising, collaborating on and trying to co-ordinate all the various communications that happen to ensure that there is a growing body of support and evidence. We are producing guidance documents more and more frequently—I think that another two or three have gone live in the past few days.

There is a group that we have not mentioned yet, which, again, relates to the gateway reviews. We genuinely do not have the answers to some of the questions that are asked of our team. For example, we do not know the detailed approach for how VAT will be addressed, but we are working very closely with the Scottish Government, which

is on point to address that. There is therefore an organisation or group that was set up by and is chaired by the Government that includes representatives of retailers, producers, Circularity Scotland, SEPA and Zero Waste Scotland.

It is the system-wide assurance group, and it is the body that ensures that all the hard problems and questions, many of which sit outside our remit and scope, are logged and dealt with. Some of those sit with the Government to address, some sit with SEPA and some sit with Zero Waste Scotland, which is why there are representatives on the group of all the organisations that are affected by the DRS. It is another forum that was set up by and that is chaired by the Government in recognition of the fact that there are a lot of different moving parts, not all of which sit with us or SEPA, for example. The Government has therefore put itself in the middle of that group and is using it as a forum to support the resolution of questions.

**Monica Lennon:** I will return to the point about those beautiful bottles that can be reused for lamps, candles and so on. I think that we have both spoken to the same business, which is concerned that the bottles have to be returned for recycling—they have to be smashed. Now that you have a bit more knowledge about that, and given that the Parliament will be considering a circular economy bill, do you think that there needs to be more flexibility around the type of situation that we have described?

12:00

**Irene Steel:** We are collaborating and working really closely with SEPA, the Scottish Government and the organisations that represent the small businesses that are involved. We are coming up with solutions to the specific issues that they are raising and working out how we can bring those solutions to life within the current legislation, perhaps over a phased period.

Since my time in Circularity Scotland, small producers have been a priority and we have dedicated an enormous amount of resource to working on the answers that they are looking for. It is about working with governance. Given the legislation as it is, we need to on board those small producers. If there are specific issues, such as those that were raised by your constituent, we can investigate them, come up with a pragmatic solution and take that to the Government as a suggestion from the trade bodies, SEPA and Circularity Scotland.

**Monica Lennon:** That is very helpful. Thank you.

**The Convener:** I have been getting dirty looks from some people around the table who want to

ask more questions. I will repeat what I said—I am going to let the session run on a wee bit so that the members who are not part of the committee can ask their questions. They do not have to worry—I will let them in in due course.

Before I bring in Liam Kerr to ask his next questions, I have a question for David Harris, which might be of help. David, you talked about an exemption scheme and the ability to exempt small businesses. Would it be helpful to tell us when those guidelines need to be in place in order to make it work? This month? Next month?

**David Harris:** Time is not on our side. As you will have gathered, we are working at an incredible pace and are throwing a lot of resource at getting to the bottom of what can be done to address the concerns of those small businesses. We have been through a month during which the level of political uncertainty has made life difficult. Many industries saw the narrative that was out there and slowed down, but we have kept pushing hard and have not sat back. Given that narrative, the sooner that decisions are made and we can deal with certainty and plan accordingly, the better.

**The Convener:** In simple terms—and I am sure that whoever needs to be watching the committee meeting will be watching it—you are saying that you need the answer now.

**Liam Kerr:** I would like to go back to collections and space, which is an issue that Jackie Dunbar asked about earlier. What do you advise smaller or rural retailers to do if particularly large deposits come back or there is a local event and their space gets overfilled? What is the contingency plan if a more frequent uplift is needed than that of the usual collection schedule? What should those retailers do?

**Simon Jones:** There is an opportunity for on-demand collection. The retailer should contact us, and we will arrange an on-demand collection. If the retailer knows about the event, they can get in touch with us in advance. For example, we are already working with the guys that organise the Edinburgh fringe to ensure that there is suitable collection available for the fringe in August. The more notice that people can give us of events, the more that we will be able to plan and come up with a solution. It might be that we can get a mobile reverse vending machine in place for that event, for example. We will aim to work with them to support that.

If there are more returns than expected or someone turns up to a rural community with a van full of bottles, under the legislation, the retailer can say, “No, that is too much”, and explain that it is not within their scope to take that much back. I appreciate that that might be difficult, but they have the right to do that.

We will do everything that we can to support retailers with collections, whether by offering them ad hoc or by ensuring that the frequency is sufficient. We also understand that there will be an element of seasonality in certain rural areas.

**Liam Kerr:** Perhaps when you respond to my next question, you will confirm whether there would be an extra cost to the retailer for an ad hoc pick-up.

David Harris, I saw recently that the collections have a value. If that is right, is the retailer liable if the products are stolen? If so, are there insurance products available to cover the risk?

**David Harris:** The payment of the deposit back to the retailer is based on the items that are collected and counted. Therefore, there is an issue for security if you have a small store, because you cannot just leave it in the car park. We are not an insurance provider, but I have heard that there is some challenge around the additional risk being covered by insurance. However, to be clear, from where we are sitting, we need to collect the material to pay the reimbursement of the deposit, so the responsibility for the security of returns on site rests with the retailer.

**Liam Kerr:** Therefore, the risk is on the retailer. Simon Jones, I will put the question to you, and you can come back to me on the cost of ad hoc collections. You have obviously signed a deal with Biffa, which will collect the products. What key performance indicators has CSL put on Biffa to protect businesses from poor service, if that were to happen, and from any impacts on regular collections happening on schedule, such as strikes? Given this committee's remit, what obligation is there on Biffa to be net zero?

**Simon Jones:** I will reply to your previous question first. All collections are free. As part of the producer pays principle, the producer funds the scheme, in effect, so there are no charges for any collections, whether that is for hospitality or retail. An ad hoc collection is free of charge as per all other collections.

With regard to Biffa being net zero, the technology and infrastructure right now is not where we would want it to be in order to run electric and hydrogen vehicles. It is very expensive, and it is not the best solution right now. We have invested in vehicles—top-loader vehicles for glass and primarily panel vans for small collections—which are much more efficient; they will be Euro 6 engines. We are working to ensure that, when we come round to the replacement of those vehicles, we will get to a position of asking, “Are we ready for the infrastructure for electric and hydrogen vehicles and can we upgrade?”.

To get to net zero, the solution is predicated on using as much existing mileage as possible. We

are also using retailers for backhaul. Therefore, any empty running that takes place between retail outlets and main recycling hubs will be done primarily by retailers, and the rest will be picked up by Biffa. However, it is tasked with moving towards being carbon neutral.

With regard to KPIs, we will be managing the system in the day. The current collection frequency is based on in-day collections, taking into account retailers' operating hours and any collection restrictions, because we are mindful that, particularly in cities, you cannot just put a bin on the street. Biffa will be managed on a daily, weekly and monthly basis, to ensure that it is meeting KPIs. Any concerns that we have should be raised directly with Circularity Scotland, and we will come back and challenge Biffa in those meetings.

Should strike planning ever be a concern, we would work with Biffa to deal with that. We know from our recruitment process that Biffa and the DRS division that has been created are not unionised environments, so we do not expect that to be an issue, but you never know.

There has been some bad press for Biffa in the past. The DRS division is a completely separate division that has been created to deliver the deposit return scheme.

**Fiona Hyslop:** How has the Scottish Government kept you updated or informed in relation to whether a United Kingdom Internal Market Act 2020 exclusion will be granted? Have you sought or received any guidance from the Scottish Government or sought independent legal advice on how to prepare for different scenarios? Bearing in mind the fact that hundreds of millions of pounds of private company investment has been put into the scheme to go live on 16 August, is there a risk of legal action for compensation from any of those private companies, or whoever might be concerned, in relation to a refusal of that exclusion?

**David Harris:** I guess that our knowledge of the internal market situation is no different to what is in the public domain. Obviously, when we speak to Government, we ask for updates on the situation, in view of what is likely to happen. Together with our partners, we seek any information that we can get on where that might go. I am not sitting here today thinking that I know anything that is not in the public domain. When the issue came to light, the first thing that I did was call our lawyers to explain precisely what the situation is, as you would imagine. My understanding is therefore that the regulations are good, robust and legally enforceable in Scotland, but that there would be a challenge if we tried to enforce them with a business south of the border, which is why the exemption is required.

When we looked at how we expect the situation to play out, the legal advice was that the risk of it not being in place was low. However, I recognise that the scheme has become politicised, which increases the level of risk. If it goes live on 16 August, there might be some exceptions, but we expect that the majority of producers will operate the scheme because the regulations will be in force in Scotland. They recognise their responsibilities and will act in a responsible way, on the understanding that the exemption will be achieved at a later point.

There will be detailed planning for that and for whether the producers, retailers and our partner organisations that have made investments will come back to recover funds. If the scheme does not go live, people will be looking to recover an awful lot of investments.

**Fiona Hyslop:** You said that you want to know where there are deficiencies. The Scottish Grocers' Federation has written to the committee in the past week on many outstanding issues, which you must know about because it will have told you. Why does it still have those concerns? Can they be resolved by 16 August?

Retail handling fees have gone from being cost neutral to actual costs incurred. Reimbursement is no longer being made every seven days; it has been moved to being made monthly, which might affect cash flow. Collections might not be made every day, and there are obviously concerns about that. The planning regulations for reverse vending machines are benefiting supermarkets, but there are difficulties with more localised collection. There are also concerns about the terms and conditions when signing up being an open chequebook and people being expected to sign up to the scheme when all those other concerns are still outstanding.

Why is the Scottish Grocers' Federation still writing to the committee to express its concerns that those issues are outstanding? How do you intend to resolve them in time?

**The Convener:** A full but short answer would be appreciated, David.

**David Harris:** We continue to work through all the issues. We have lists of issues coming through from various organisations. At the stage that we are at in building the scheme, of course there are still issues to be resolved.

I am happy to discuss the return handling fee in more detail. Our members set out an agreed method for that, and the Scottish Grocers' Federation is one of those members that signed our constitution, which instructs us on the process that must be used to calculate a fee that aims to put the retailer in a cost-neutral position that is based on the costs that are to be recovered in the

regulations. That has been done using an extensive process involving consultation with retailers.

On payment terms, the majority of return points will be paid seven days after we count the returns. When we issued the agreement, which is the document that sits between the retailer and the scheme administrator, we set out that, for automatic return points, we will seek payment 30 days after return. The return immediately triggers that payment 30 days later. It is not a difference between seven and 30 days; it is collection, then counting, plus seven days to 30. That is because the vast majority of automatic return points will be operated by the biggest retailers. They have long payment terms with their suppliers and will therefore get a cash-flow benefit as the scheme goes live.

12:15

We recognise that a number of small retailers are investing in those machines. We have spoken to trade associations and are working our way through them—I am speaking to one currently, but I will not say which one—to ensure that we are able to address the concerns of the smaller retailers that might be impacted by the measure.

One of our challenges is that we are, in effect, conducting a commercial negotiation between some of the biggest companies in the world under public scrutiny. Therefore, we are having to work on issuing draft contracts and putting the terms out there to get in a position with very large companies that does not exploit the small producers that are feeding into the system. We are having to find compromises. We have seen with small producers that we can compromise. We will do the same, where possible, if there are issues with convenience retailers, and we will work through the issues that are on that list as best we can.

**The Convener:** I now come to members who are not on the committee. I will start with Maurice Golden, then go to Fergus Ewing and Brian Whittle.

**Maurice Golden (North East Scotland) (Con):** I will follow up some of Monica Lennon's lines of questioning. I think that Mr Harris has mentioned twice that Circularity Scotland is in constant dialogue with Government. I have some questions about whether topics have been discussed to which I simply ask for a yes or no response—I will not ask you for any further details around what was discussed.

As Mr Jones has alluded to, Biffa has bought almost 200 vehicles to transport the deposit return containers. Those are not net zero; they are conventional petrol and diesel vehicles that are

pumping out emissions. My simple question is: has the minister raised that issue with Circularity Scotland?

**David Harris:** No.

**Maurice Golden:** Thank you. We have seen reports on Biffa's environmental record. It was fined £1.5 million for illegally dumping waste abroad, with a judge describing its actions as "reckless, bordering on deliberate." Has the minister raised any questions with Circularity Scotland on Biffa's environmental record?

**David Harris:** We have discussed Biffa at length. I do not recall whether that specific issue has been raised.

We selected Biffa through an extensive tendering process. We looked at its ability to manage the collections and the operating system for the deposit return scheme in Scotland. We also looked at its ability to provide the investment that we required, as a shell company at the time, to meet the obligations that we had been given.

At the end of that process, which included a vast range of companies, large and small, we reached the conclusion that, in Biffa, we have the right partner. We were aware of the issues that had arisen. To be clear, Biffa will have no control over where materials are going; it is providing a logistical operation.

**Maurice Golden:** My intention was not to raise further issues about Biffa. However, as you have raised the tendering process, I will ask about waste collections. Is it not the case that the way in which the tendering process was run meant that only a large multinational business could feasibly win the bid?

**David Harris:** We looked at a range of operations; companies of a broad range of sizes came forward.

To be perfectly clear, when we got to the end of the process, we selected Biffa because it had the resources to put the investments in place. That was particularly driven by the operating centres that the new facilities need to have put in place. Within the contract, Biffa is obliged to use existing movements as much as possible—that is, to contract with existing local providers.

I am happy to talk in more detail about the work that we are doing to make sure that that takes place. There is more to this than just appointing one contractor. It is about having a contractor to run the system and, in doing that, it must use what is already there as much as possible.

**The Convener:** Maurice, I have taken you as far as I can on that. I need to go to Fergus Ewing for his questions.

**Fergus Ewing (Inverness and Nairn) (SNP):**

One of the main concerns about the DRS is that the public will have to pay more than 20p extra for individual beverage items. Mr Harris, can you provide any assurance to the public, who will be increasingly concerned about that? I refer especially to those who are elderly, infirm and do not have access to a car and, therefore, will have to hulk heavy, bulky goods back to a shop that may be some distance away from their home.

Can you give assurance about what level of price inflation there will be above the 20p? Some industry figures tell me that it will be 40p, others that it will be around 30p and some that it will be even more than 40p. Can you give any assurance about what the average increase will be above the 20p?

**David Harris:** The only thing that we have any control over is the fee that we charge the producers. Whether the producer passes that to their customers is the producer's decision. Likewise, whether the retailer applies a mark-up to that fee is entirely a decision for the retailer.

Irene, do you want to come in?

**Irene Steel:** Absolutely—

**The Convener:** Sorry, I will let Fergus Ewing come back in on that. Somebody has to pay, I guess.

**Fergus Ewing:** Indeed. I will quote from an interview in *The Herald* with your good self, Mr Harris, in which, if you are accurately quoted, you said:

"If we take into account the fact that there are costs for operating this system, and you anticipate that the producers will seek to pass that on, it will find its way down the chain."

You have already admitted that there will be cost inflation above the 20p. I am saying that, as we move towards the scheme coming into effect—if it does come into effect—members of the public, particularly the poorest, will be increasingly worried about the impact that it will have in the middle of the worst cost of living crisis in living memory.

**David Harris:** The comment in *The Herald* was in response to the question whether, if a cost was applied across an entire market, I would expect that a producer would seek to recover it from their customer, be that a wholesaler or retailer. The answer is that I would. It is not my decision so I cannot give any guarantees on that but, if you apply a cost increase universally across the market, common sense says that that is what will happen.

**Fergus Ewing:** Okay—I will move on. Time is short and I want to cover three brief but important issues.

The British Glass federation advised that the scheme would result in a diminution—a reduction—in the amount of glass recycling into new bottles and jars. The reason for that is that there is no remelt target and that Biffa has procured and will use crushing machines, which means that the glass will be crushed into fragments so small that they cannot be recycled into bottles or glass. That means that the carbon saving that comes from recycling into bottles, which is 580kg per tonne, will be reduced to around 4.5kg per tonne, which is a reduction in carbon savings of more than 99 per cent.

Given that, back in 2017, Zero Waste Scotland estimated glass recycling into bottles and jars as being between 70 per cent and 90 per cent, is there not a serious concern? British Glass's advice was taken by the UK Government, which then exempted glass from its proposed DRS. You do not set the policy, Mr Harris—I understand that—but you will operate it. Is there not a real concern that the scheme will result in less recycling of glass, not more?

**David Harris:** As you kindly said, we did not set the policy to include glass. I ask Simon Jones to talk about what we are doing on managing glass and ensuring that recycling takes place.

**Simon Jones:** Biffa has not purchased crushing machines for glass. We expect natural breakage. The people who might use crushers are in hospitality and we are engaging with the hospitality industry to understand how we can adapt those machines, which are primarily for space, to ensure that fragments are larger than 10mm—or no smaller than 10mm.

We are working with glass reprocessors in Scotland to understand what size they can realistically process back into cullet and we are working to understand what they do with anything that does not make it into back into cullet. I need to check and will write back to the committee, but we are talking about 98 per cent being likely to be recycled with 2 per cent potentially going into aggregate.

**The Convener:** It would be helpful if you would write to the committee to answer that question. I will get the clerks to ensure that it is relayed to you, as it was on the record.

Mr Ewing, you were always difficult to keep to time when you were sitting at the far end of the table. I urge you to ask only one further question; otherwise, you will upset Mr Whittle, who is sat right next to you.

**Fergus Ewing:** I would not want to do that, convener.

I will ask my final question. Plainly, small companies throughout Scotland, whether

producers, retailers or in the waste management sector, are now worried that their businesses will be seriously adversely affected. Some will have to close; some will issue redundancy notices—which some are already planning to do—and close depots.

Mr Harris, they have recently read reports that you have a salary of £300,000. That is a matter of public concern, as you said at the beginning. Do you recognise that anger and concern? Can you clarify for me whether £300,000 is the total remuneration or whether there are pensions and other benefits above that, and is it correct that you work part time because you have very substantial other commercial interests, to which, presumably, you have to devote some time? Will you answer those questions and perhaps give an indication about how many hours per week you devote to the job of CEO of Circularity Scotland at a salary of £300,000?

**David Harris:** I confirm that that is my salary. I confirm that I work full time in the business. At the moment, I work in the region of 80 hours a week on Circularity Scotland.

I was asked to do the job. Industry approached me and asked me to take the job on. The board set my pay. It made the offer and I accepted it, partly because I have had to recruit other people to run my one other business so that I can devote to this one the time that is needed. I was asked by industry to do the job, and I gave my word that I would do it and deliver what was asked of me. That is why I am devoting so much time to it and why I am allowing others to take care of the other business that I own.

**Irene Steel:** I will just add that, on the back of our membership body and the way in which our corporate governance is organised, you can imagine that, because of the level of professionalism of those member bodies, we have a similar level of governance in our own business. The appointment and remuneration process is approved by the board and through the remuneration committee, and it is put to members for their approval. All of that is done through a commercial lens.

**The Convener:** Before we move on to the next question, I want to clarify that I did not mishear something. I think that you said that you work roughly 80 hours a week, but did you answer Mr Ewing's questions about any other payments, such as pensions? Sorry, I may have misheard.

**David Harris:** I receive a pension contribution at the same level as every other employee of the company.

**The Convener:** Okay.

**Brian Whittle (South Scotland) (Con):** Good morning. It is good to see you again, Mr Harris. I was considering our conversation of last week and the implications of what you had to say. I am looking at it practically. Since then, I happened to meet up with constituents of mine—an elderly couple who get their groceries delivered by the supermarket. They already recycle. They have a glass bin, a plastics bin, a general waste bin and a garden waste bin. Those are collected by the council. They will be unable to return the items that will be subject to a 20p charge, which will no longer be collected by the council. Obviously, they will be out of pocket.

Given that, as you said, you will be ramping things up from the start, a significant number of people will be in a similar situation and unable to take part in the deposit return scheme. I recognise your role as an administrator, but is it not the case that the practical realities of the scheme are such that people in that situation—which includes those who, as my colleague Mr Ewing said, are probably among the poorest in society—will have to pay for the scheme, as it ends up? They are the last people in the line.

**David Harris:** The issue of how to deal with home deliveries has been one of the problems of implementing the regulations. I ask Donald McCalman to talk about where we sit at the moment, when it comes to that situation.

**Donald McCalman:** Certainly. The legislation, as passed by Parliament, made it very clear that online retailers who deliver remotely have an obligation to go to consumers' houses and collect those empty containers. I think that it is the first scheme that has attempted to do that at scale; one or two other schemes do it on a partial basis.

It is a new piece of challenging legislation, and that obligation sits fairly and squarely with retailers. That point has been known and laid out for about two and a half or three years. Retailers have spent a lot of time trying to figure out how to meet that obligation and they have been unsuccessful, which was another reason why the minister recently announced an intention to modify the legislation. I think that the Government will delay that particular part of the implementation.

The Government is still directly engaged with retailers to figure out how some of that functionality and capability can be delivered, and retailers are still working out how to deliver that obligation, which entirely sits with them. Our obligation is to go to the retailers' delivery depots and collect the empty containers from there. We are working as far as we can to support that design effort, but retailers have yet to deliver the design solution.

12:30

**The Convener:** Brian, I was going to let you ask one further question, because everyone else had two.

**Brian Whittle:** Thank you, convener. What we are discussing here are the practicalities of the scheme—we are looking at people's ability to get their deposits back and to recycle product. In that circumstance, neither of those things would have happened.

**The Convener:** I was hoping to get answers on a huge number of questions, one of which was whether you get a refund of your 20p or a credit against your shopping, because the refund might be critical at certain stages to certain people instead of a credit against the shopping. Those questions are still to be answered. The committee will have to consider what further work it wants to do on the matter, which we will do briefly in private session.

I thank the panel, therefore, for the evidence that it has given to the committee and ask witnesses to leave quickly so that we can consider what has been said.

12:32

*Meeting continued in private until 12:36.*

This is the final edition of the *Official Report* of this meeting. It is part of the Scottish Parliament *Official Report* archive and has been sent for legal deposit.

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