

Proposal to review EU recycling and other waste-related targets Views from the packaging supply chain in Europe

EUROPEN is the EU industry association representing the views of the packaging supply chain in Europe, without favouring any specific packaging material or system. EUROPEN members include international companies spanning the packaging value chain (raw material producers, converters and brand owners), as well as six national packaging organizations, all committed to continuously improving the environmental performance of packaged products, through supply chain collaboration.

In July 2014, the European Commission published a proposal to revise recycling and other waste-related targets in the EU, including in the Packaging and Packaging Waste Directive (PPWD). The aim of the overall package is to encourage the transition towards a Circular Economy and sustainable growth through the use of waste as a resource. Whilst EUROPEN supports the overall aims of the Circular Economy package, it is unlikely that certain proposed measures in the reviewed PPWD and Waste Framework Directive (WFD) will effectively favour sustainable growth and cost-effectiveness. The proposed measures require revision if they are to truly promote a Circular Economy, preserve the Internal Market for packaged goods and ensure sustainable growth within a competitive Europe.

EUROPEN urges the European Parliament and the Council to make the following improvements:

1. Remove potentially unlimited costs on producers

The proposed Annex VII paragraph 6 would make producers responsible to pay for the undefined “*entire cost of waste management*”. This would impose a potentially unlimited and disproportionate financial burden on producers, beyond their responsibility or control, and should therefore be deleted. Instead, the following should be added at the end of paragraph 2 of Annex VII: “[...]; *this includes specifying the allocation of financial contributions for all actors involved based on their respective roles and responsibilities; and financial contributions by producers and/or importers shall take into account the revenues from the sales of secondary raw materials originating from waste*”.

Finally, in the absence of EU codified roles and responsibilities, EUROPEN strongly calls for EU packaging specific guidance on roles and responsibilities for all actors involved in the implementation of EPR for used packaging. This guidance should be based on clear legal minimum requirements for EPR schemes in EU legislation, in order to help meet national and EU recycling targets. Therefore, annex VII paragraph 7 on the minimum requirements should be assessed and clarified, where needed, to ensure a level playing field and fair competition among the different EPR scheme models in the Member States.

2. Set a clear and enforceable method for measuring and reporting packaging recycling rates.

EUROPEN recommends to define the point at which packaging recycling is measured as the “*input into a final ‘preparing for re-use’ or recycling process, after all sorting operations have been completed*”. EUROPEN’s recommended definition is based on cyclos/HTP’s expert impact assessment (see point 2

below), takes into account the Commission's intention to avoid miscounting or double-counting earlier in the collection/sorting process and meets the technical feasibility and administrative realities of packaging recycling processes for all materials.

EUROPEN also recommends deleting the proposal to subtract from the recycling rate materials discarded due to the presence of impurities and to maintain the current method of counting recycling of composite packaging towards the rates and targets of the predominant material.

EUROPEN urges the European Parliament and Council to conduct an assessment of the Commission's proposed recycling calculation method on existing recycling rates before any revised packaging targets are set. To ensure that future reviews of the packaging targets are scientifically grounded, Article 6 paragraph 5 of the current PPWD should be retained (clause to review the targets every five years based on the practical experience gained in Member States, scientific research and evaluation techniques such as cost-benefit analysis).

3. Refrain from setting mandatory national packaging design requirements which undermine the Internal Market

Provisions requiring Member States to adopt measures on packaging design (Article 2 paragraph 3f of the proposal amending the PPWD) should be deleted. National measures on packaging design may *de facto* create a patchwork of conflicting national packaging design requirements, despite the proposal's stated intention to ensure that such measures do not distort the Internal Market.

4. Ensure delegated acts are used only for non-essential elements

Delegated or implementing acts should not be used to amend the aims and objectives of the PPWD nor the minimum performance requirements for EPR. In addition the circumstances under which the Commission shall be empowered to adopt specific measures through delegated acts should be specified.

1. Remove the disproportionate financial burden on producers

Extended Producer Responsibility (EPR) is the producer's *full or partial* financial and/or operational responsibility for a product, extended to the post-consumer state of a product's life cycle, in order to help meet national recycling and recovery targets. In the context of the PPWD, EPR is a key policy tool used by virtually all Member States to organise the collection and sorting of used packaging in order to achieve national and EU packaging recycling/recovery targets, based on the quantities of packaging placed on the market.

EPR rules on the extent of the financial and/or operational responsibility of producers should be based on clarification of where their control and responsibility for meeting packaging recycling and recovery targets ends and where the responsibility of other actors (e.g. municipalities, public or private waste management companies, EPR schemes, citizens and national authorities) begins. Such clarity is necessary to establish for which aspects producers should be responsible versus other actors. These roles and responsibilities vary from one Member State to the next. For instance, in some jurisdictions municipalities control the separate collection, sorting and recycling/recovery of used packaging and the financial responsibility is shared, while in other jurisdictions producers control these activities and pay up to the full net cost of a collection and sorting system for separately collected used packaging.

By placing the undefined "*entire cost of waste management*" (which can go well beyond for instance a clear demarcated full net cost model of an EPR scheme) on producers without fully clarifying which actors should control and be financially responsible for what, the proposed Annex VII paragraph 6 places a disproportionate financial burden on producers that is beyond a producer's responsibility and/or control. This might also remove any incentive for other actors to be cost-efficient

in their respective waste management roles and responsibilities. This inequitable cost burden on producers risks discouraging competitiveness, investment, innovation and growth, undermining the objectives of the Circular Economy. It also risks entailing higher consumer prices of food and consumer goods.

Therefore, EUROPEN calls for clearly defined roles and responsibilities and the associated allocation of financial contributions of the actors involved in the implementation of EPR (e.g. producers and importers, compliance schemes, private or public waste operators, local authorities and social economy actors where applicable). Financial contributions of producers and importers should take into account the revenues from the sales of secondary raw materials originating from waste. Ideally, the roles and responsibilities should be harmonized in EU legislation. However, in the absence of EU codified roles and responsibilities, EUROPEN strongly calls for packaging-specific guidance of defined roles and responsibilities at EU level, based on clear EU minimum requirements for EPR schemes in EU legislation.

EUROPEN welcomes the proposed EU minimum requirements to address challenges in setting up and running EPR schemes and to ensure fair competition and a level playing field (annex VII, paragraph 7, WFD). To this end and in the absence of clear EU roles and responsibilities, EUROPEN will review paragraph 7 and will offer recommendations, where needed, to sharpen and/or clarify these requirements, including packaging-specific recommendations for the PPWD. Clear minimum requirements for EPR schemes are needed to help meet existing and higher legal recycling targets at EU and national level.

2. Harmonise calculation rules and establish a clear baseline, then set new targets

We recognise the Commission's wish for higher packaging recycling targets. However before any further discussion on increased targets the European Parliament and Council should first clarify what the impact of the proposed changes to the calculation method (Article 2 (3) (c) paragraph 2 of the proposal amending the PPWD) to measure national packaging recycling rates would be on current national packaging recycling rates. EUROPEN commissioned cyclos¹/HTP² to conduct an assessment³ on the impact of the Commission's proposed changes to the calculation method for national packaging recycling rates in nine EU member states⁴. Based on this assessment, EUROPEN recommends the following:

- **Define the point at which packaging recycling is measured as the “input into a final ‘preparing for re-use’ or recycling process, after all sorting operations have been completed”.**

EUROPEN continues to support harmonising the calculation and reporting method for packaging recycling rates and we support the objective of having robust data, so we welcome the Commission's intention to clarify the point of measurement, but we believe this part of the proposal needs further clarification.

The calculation method proposed by the European Commission can be interpreted in at least three different ways, according to cyclos/HTP and a survey of key stakeholders, representing a cross-section of industry associations, governmental institutions at EU and national level and EPR schemes. The Commission confirmed to cyclos/HTP that it intends recycling to be counted at the point of input to the ‘final recycler’.

The point of measurement for packaging recycling must remain based on input because measuring the output from a recycling process is neither technically nor administratively feasible. Many recycling plants process packaging and non-packaging materials together, and an output-based method would mean that non-packaging materials are counted towards the packaging recycling rate. This is contrary to the Commission's objective of improving the accuracy and comparability of reported recycling data. Counting the output from a recycling process also bears the risk of encouraging low quality recycling because recycling rates and targets are weight-based. Thus, recycling

¹ cyclos is one of the leading waste management and material flow consultancies in Germany. cyclos provides expert and consulting services on packaging, packaging waste and waste management topics

² HTP is an independent planning and consulting company for the recycling and renewable energy sectors. Using its knowledge of waste treatment and recycling processes, HTP also provides assessor and authorised expert services for companies, courts and government authorities.

³ cyclos/HTP (2014) Impact assessment: The European Commission's Proposed Changes to the Calculation Method for National Packaging Recycling Rates. Brussels: EUROPEN.

⁴ Belgium, Czech Republic, France, Germany, Italy, Poland, Spain, Sweden and the United Kingdom. The countries were selected based on geographical diversity, types of waste management systems, current recycling performance and representativeness in terms of economic and population indicators.

processes that produce a low quantity of high quality output would be disadvantaged compared to those that produce a high quantity of low quality output.

- **Delete the intended subtraction of the weight of “any materials which were discarded...due to the presence of impurities”.**

We understand that the Commission’s intention is to address the concern that in some circumstances, certain output from a sorting plant is counted as being recycled when it is in practice diverted to other waste management processes, such as energy recovery or landfill. EUROOPEN’s suggestion to define the point of measurement for packaging recycling as the **“input into a final ‘preparing for re-use’ or recycling process, after all sorting operations have been completed”** would address this concern without needing to subtract the weight of materials discarded due to impurities, which poses significant obstacles.

The only technically and administratively feasible way to assess the amount non-targeted materials – which EUROOPEN understands to be materials not intended to be present in a bale of material for recycling - is to apply standards. Industry or material standards (so-called specifications) are used by recyclers to define acceptable levels of non-targeted materials that are allowed into a recycling process. However, using specifications in a harmonised EU legislative context raises obstacles because there are no standardised specifications valid for all Member States. In addition, recycling processes differ depending on the material being recycled and the intended applications. Thus, the non-targeted materials that are accepted in a recycling process are different for each recycler. Furthermore, compliance with specifications is generally audited by spot checks and visual inspections. Analysing every batch of used packaging to obtain accurate data, as the Commission’s proposal would require, would place an unjustifiable burden on affected stakeholders and would be contrary to the Commission’s objective of simplification.

- **Maintain the current method of counting composite packaging towards the target of the predominant material.**

The individual materials of multi-material packaging are currently counted towards the recycling rates of the predominant material and the term “composite packaging” is defined in Commission Decision 2005/270/EC⁵. The Commission proposes counting each material separately towards their individual target when “*packaging is composed of different materials*” (Article 2 (3) (d) of the proposal amending the PPWD), but does not provide a definition so this could potentially include all packaging and the mingled use of terminology is likely to cause confusion.

In addition, any input into a final recycling process contains both single-material packaging AND packaging composed of different materials. The packaging then goes through a recycling process, at the end of which the different materials contained in the input are separated (as much as possible) into their respective material fractions. Also, materials from other origins (not packaging) might be added during the process. Therefore, it is impossible to measure recycling rates of the individual materials because the share of each packaging material fed into a final recycling process is unknown. Therefore, EUROOPEN recommends keeping the term “composite packaging” and maintaining the current method of counting composite packaging towards the target of the predominant material.

- **Fully assess the impact of any new calculation method for packaging recycling and related targets.**

The practicality and technical and financial feasibility of the new proposed calculation method should be tested to fully understand the effect on Member States’ current reported recycling rates and whether existing and revised targets are realistic and achievable. It is also crucial that the environmental benefits of further increases in recycling rates are accurately measured because there comes a point where the economic and environmental cost of further increasing the rate is disproportionate to any benefit achieved. Rates in certain Member States may already be approaching the limits of practical feasibility and benefits. Furthermore, EUROOPEN recommends retaining Article 6

⁵ Composite packaging is defined as “*packaging made of different materials which cannot be separated by hand, none exceeding a given percentage by weight*”

paragraph 5 of the current PPWD, which calls for a review of the targets every five years based on the practical experience gained in Member States, scientific research and evaluation techniques such as cost-benefit analysis to ensure that future reviews of the targets are scientifically grounded.

3. Remove national packaging design requirements to safeguard the internal market

Packaging plays a crucial role for society. It protects and preserves products as they transit through supply chains and ensures that consumers benefit from safe and high quality products and prevent waste. To preserve the integrity of the internal market for packaged goods, it is crucial that EU waste legislation does not require (or even encourage) Member States to adopt national measures on packaging design (Article 2, paragraph 3f) which potentially diverge between Member States. We welcome the proposal's intention to ensure that national packaging design measures would not distort the internal market, but such measures may *de facto* create a patchwork of conflicting national packaging design requirements. This scenario would undermine the success of the PPWD and add significant administrative, operational and compliance costs and complexity for operators, in particular for SMEs, producing and/or supplying packaged goods in more than one Member State, thus hampering innovation, investment and growth in Europe and potentially entailing higher prices for consumers.

EU measures to reduce the environmental impact of packaging should be assured by full and consistent implementation and enforcement of the existing Essential Requirements (ER) on packaging design in the PPWD. The ERs aim to meet the environmental objective of the PPWD and correctly place the obligation for compliance on the design experts placing products and packaging on the EU market. The ER, with their associated harmonized CEN standards, should remain the leading set of legally-binding EU design requirements for the permissibility of placing packaging materials on the EU Single Market.

4. Ensure delegated acts are used only for non-essential elements

Delegated acts are intended to supplement or amend certain non-essential elements of the basic act, so we are surprised to see that Article 2 paragraph 11 of the proposal would apply this principle to Article 1(1) - the aims of the PPWD. Similarly, Article 1 paragraph 21c of the proposal amending the WFD would empower the Commission to adopt delegated acts to amend Annex VII setting out minimum requirements for EPR. We regard both instances as fundamental parts of the legislation that should receive full scrutiny under the ordinary legislative procedure from the Parliament and Council before being amended.

EUROPEN views on the EU waste legislation review can be found on our website: www.europen-packaging.eu.