

STATEMENT

Environment Council: Packaging supply chain calls for circular economy that promotes sustainable growth and competitiveness

Brussels, 27 October 2014 – Ahead of the Environment Council meeting tomorrow in Luxembourg, packaging material producers, packaging producers, brand owners and national packaging organisations call on ministers to remain focused on how the European Commission's proposed Circular Economy package will contribute towards Europe's economic recovery and sustainable growth. This is crucial for the competitiveness of the packaging supply chain in Europe, which encompasses different material and packaging types and cross-sectoral packaged goods companies that are committed to improving the environmental performance of packaged goods.

The packaging supply chain, represented by EUROPEN, supports the overall aim to further transition to a Circular Economy, and believes that any new packaging waste targets must be achievable, comparable and measurable, taking into account current performances in the 28 Member States. Currently, it is unclear whether the proposed packaging waste targets can be considered feasible because, at the same time, a new calculation method has been proposed, which would impact Member States' current reported rates. **EUROPEN therefore calls on EU policymakers to fully understand the impact of the new proposed methodology for calculating packaging recycling rates on Member States' current reported rates before discussing new and restructured targets.**

Clarifying the baseline as well as the achievability of the proposed packaging waste targets are key concerns to the packaging supply chain because in most cases it is the producers/ importers who are legally obliged to help meet national recycling and recovery targets via Extended Producer Responsibility (EPR) schemes for used packaging. Producers have funded and managed many EPR schemes for over 20 years, and industry efforts have led to significant progress in optimising packaging and its end-of-life management, which is reflected in an overall EU packaging recycling rate of 64.6%¹.

New and competing EPR schemes have emerged over the last decade, with different ownership structures, legal requirements and rules. In order to reach current and new packaging recycling targets, EUROPEN therefore **welcomes the proposed minimum requirements on EPR**, which aim to achieve greater transparency and fair competition among these various EPR schemes in Europe. **In addition, EUROPEN recommends introducing packaging-specific minimum requirements for EPR in the Packaging and Packaging Waste Directive** to address the specificities and legal needs of EPR in a packaging context, in line with the other EU waste stream directives.

¹ [EUROSTAT 2012 data](#)

However, regarding the proposed financial requirements, EUROOPEN recommends setting clear limits to where the producer's extended responsibility ends, in order to avoid imposing potentially unlimited costs and a disproportionate burden on European industries that strive to contribute to the EU's jobs, growth, competitiveness and investment objectives. Therefore, **EUROOPEN cannot support the proposed obligation on producers/ importers to cover the entire cost of waste management and recommends clarifying the limits of EPR through EU guidance on the roles and responsibilities of all actors involved in the implementation of EPR, including local and national authorities.**

Finally, EUROOPEN reminds ministers that the Packaging and Packaging Waste Directive is a fundamental legal instrument for guaranteeing the free movement of packaged goods in the EU Internal Market as a safeguard against protectionist measures and/or market distortions. **EUROOPEN therefore calls on EU policymakers to refrain from requiring Member States to adopt national packaging design requirements or packaging re-use targets, which would undermine the Internal Market.**

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About EUROOPEN

EUROOPEN -- the European Organization for packaging and the Environment -- is an EU industry association in Brussels presenting the opinion of the packaging supply chain in Europe, without favouring any specific material or system. EUROOPEN members are comprised of multinational corporate companies spanning the packaging value chain (raw material producers, converters and brand owners) plus six national packaging organizations all committed to continuously improving the environmental performances of packaged products, in collaboration with their suppliers and customers. www.europen-packaging.eu

For more information, see below in annex or on our website [EUROOPEN's position paper on the EU Waste Targets Review](#) and [EUROOPEN Members list](#)

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

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. Clarify the meaning and impacts of the new proposed calculation method on existing recycling rates before setting new targets:** As it is currently worded, the meaning and the impacts of the new proposed calculation method for packaging recycling rates (PPWD - Article 2, paragraph 3c) on current national recycling performances are unclear. In addition, the feasibility, applicability and practicality of the restructured “recycling and preparation for re-use” target for packaging have not been properly assessed. EUROPEN therefore urges the European Parliament and Council to conduct impact assessments on these provisions before any revised targets are set. Once the feasibility of the new calculation rules and definitions have been properly assessed against the current recycling rates reported by Member States, the EU will be able to set balanced, realistic and achievable targets based on a clear baseline, scientific research and an in-depth cost-benefit analysis. To ensure that future reviews of the targets are scientifically grounded, article 6 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, should be retained.

- 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 on EPR, and 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*" 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 and also risks entailing higher consumer prices of food and consumer goods.

Therefore, EUROOPEN 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 set in EU legislation for harmonization purposes. However, in the absence of EU codified roles and responsibilities, EUROOPEN 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, but the European Parliament and Council should first clarify the meaning and what the impact of the proposed changes to the calculation method to measure national recycling rates would be on current national recycling rates, before any further discussion on increased targets. The Commission has proposed the following changes to the calculation method, which will affect the current nominal level of recycling rates achieved:

- **Counting at a different point in the sorting/recycling process:** It is EUROPEN's understanding that the point at which used packaging is counted under the Commission's proposal would be at the point of input into a final preparing for re-use or recycling process, minus the weight of material discarded during the process due to the presence of impurities, unless the discarded materials constitute 2% or less of the weight of the waste put into that process. However, it is unclear what this proposed methodology means and EUROPEN has neither seen a clarification nor justification for the 2% figure (Article 2 (3) (c) paragraph 2 of the proposal amending the PPWD).
- **Combining recycling and preparing for re-use figures:** 'Preparing for re-use' is proposed to be included in the calculation with recycling. "Preparing for reuse" is defined in directive 2008/98/EC as "checking, cleaning or recovery operations, by which products or components of products that have become waste are prepared so that they can be re-used without any other processing". Since most reusable packaging does not become waste between cycles and only becomes waste at the end of its life, the definition does not apply. On the other hand, some reusable pallets, drums and crates which are damaged do become waste and are then repaired for further use, but data on these instances is likely to be lacking. Since these types of packaging are relatively heavy, inaccurate estimates will significantly skew any reported achievements against any targets. Reuse of packaging can be a viable option for local or regional distribution, but has proved environmentally disadvantageous for longer distances. Where applied by Member States, reuse / refill quotas have tended to pose a barrier to trade within the EU and thus a barrier to the internal market objectives of the PPWD. The conclusion is that reuse/preparing for re-use targets are neither feasible nor suitable for packaging.
- **Separately counting recycling of individual materials of 'packaging composed of different materials':** The individual materials of multi-material packaging are currently counted towards the recycling rates of the predominant material. The Commission proposes counting each material separately when packaging is composed of different materials (Article 2 (3) (d) of the proposal amending the PPWD). This measure will affect multi-material packaging whose constituent materials cannot be separated by hand and packaging such as a glass bottle with a metal cap. Separate counting is not possible without making estimates which are, by definition, inaccurate.

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.

The packaging supply chain has not yet been able to ascertain how the necessary data could be obtained to calculate packaging recycling rates according to the proposed new method due to its lack of clarity and how it should be interpreted. EUROPEN is investigating if/how the new methodology could be made operational and would be happy to share the results.

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 places 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.