

EUROPEN Position Paper on the EU Waste Management Targets Review Preliminary views

On behalf of the packaging supply chain, EUROPEN – The European Organization for Packaging and the Environment - is pleased to contribute to current EU regulatory discussions on the review of EU waste management targets and to share its preliminary views, in the context of the ongoing review of the EU Packaging and Packaging Waste Directive (PPWD).

EUROPEN may offer further comments and positions on the EU PPWD targets, as part of the ongoing EU waste review process, and intends to offer comprehensive positions linked to the broader 'fitness check' of the PPWD. The positions below are therefore preliminary views, including the support of a first set of considerations and challenges, in specific related to the EU PPWD targets review.

EUROPEN Position

EUROPEN shares the European Commission's views as expressed in its Roadmap for a Resource Efficient Europe, on the importance of ensuring the full implementation of existing EU waste legislation, including the Waste Framework Directive (WFD) and the Packaging and Packaging Waste Directive (PPWD), as a fundamental step in the transition to a resource efficient and competitive economy.

The PPWD is a fundamental tool for guaranteeing the free movement of packaged products. It is key for the effective functioning of the Single Market and also aims to optimise the environmental performance of packaging and packaged products, which provides economic, environmental and societal gains for European citizens and industry. In this regard, the review of the PPWD is an opportunity to identify the conditions required for ensuring a robust packaging waste management culture and infrastructure emerging in those Member States that are currently lagging behind. A revised PPWD will allow the Directive to remain relevant and effective in a changed regulatory and market setting, and will support the EU in meeting its aspirational objectives as set in the EU Resource Efficiency Roadmap.

EUROPEN therefore supports:

- 1. The PPWD as an appropriate and effective legislative framework for driving the recovery and recycling of all packaging waste.** Measures for packaging recycling and recovery should not hinder innovation and the free movement of packaged goods throughout the EU, safeguarded by the PPWD's Internal Market legal base. The PPWD also ensures regulatory security and predictability for companies investing in the packaging recycling and recovery value chains.
- 2. Maintaining the recovery and recycling targets for packaging waste in the PPWD** to ensure that the legal obligation to separately collect packaging for recycling/recovery continues. The PPWD targets should not be subsumed into the broader WFD targets. In addition, a separate regulatory approach for packaging is essential in order to address the specific requirements for packaging and packaging waste in terms of volume, consumer visibility, recycling value and market structure.
- 3. Full implementation and enforcement of the PPWD and WFD** in Member States where implementation gaps persist to meet current and future recycling and recovery targets¹. Full implementation and enforcement is a pre-requisite to ensure conditions for effective separate collection of post-consumer packaging. Studies demonstrate that the lack of implementation leads to missed opportunities in terms of environmental benefits and job creation (400.000 jobs could be created if the EU waste legislation was fully implemented²).

¹ The overall recovery rate in the EU as a whole is 76% (2010). Performance in EU-12 is lower (56%) compared with EU-15 (79%). The overall recycling rate in the EU as a whole is 63% (2010). Performance in EU-12 is lower (47%) compared with EU-15 (65%).

² BIO Intelligence Service (2011), Implementing EU Waste Legislation for Green Growth, Final Report prepared for European Commission, DG Environment, p. 34, <http://ec.europa.eu/environment/waste/studies/pdf/study%2012%20FINAL%20REPORT.pdf>.

4. **The consideration of clustering Member States with a view to setting targets that are achievable, realistic and take into account different Member State specificities.** Targets should be achievable and take into account different municipal waste management infrastructure and packaging waste reprocessing capacity. They should also have a proven environmental benefit and a realistic timeline for reaching them. In this respect, it would be useful to consider different scenarios to assess environmental and economic costs and benefits.
5. **Specified requirements for post-consumer packaging³ collection in the PPWD, for example by introducing separate post-consumer packaging recovery/recycling targets.** Collection of post-consumer packaging separately from organic or industrial, commercial and institutional (ICI) packaging waste is essential to ensure sufficiently high levels of both quality and quantity to make recycling and recovery economically viable and environmentally beneficial. This would also support the recommendations in the European Commission's roadmaps⁴ to apply incentives for citizens to separate household waste (e.g. pay-as-you-throw, landfill gate fees). As a prerequisite, an impact assessment would need to be undertaken to ensure this would not result in disproportionate costs or a lower net environmental performance.
6. **Minimum requirements in the PPWD for all EPR schemes for packaging waste, as well as their enforcement by Member States via authorisation procedures.** This would help meet existing and future packaging recycling and recovery targets across Europe. Minimum rules for all EPR schemes should cover areas such as scope (geographic scope, types of packaging material to be covered), transparency (material flows, cost, tendering procedures), consumer information, monitoring, reporting and audits, and financial solidity. *Read more in EUROOPEN's recommendations for EPR for post-consumer packaging in the EU.*
7. **Clarifying and harmonising definitions of key terms in both the WFD and the PPWD** like EPR, consumer packaging, separate collection, recovery, recycling, 'obliged industry' and 'obliged packaging', would help to meet targets.
8. **Harmonising rules for calculating and reporting packaging recycling and recovery rates.** This would ensure that data can be tracked and compared between member states effectively. Amounts of packaging placed on the market and post-consumer packaging separately collected and recycled or recovered should be tracked in order to accurately assess progress in meeting EU targets and objectives.
9. **Diverting valuable packaging material from landfills for recycling and recovery**, provided that there is integrated waste management planning in Member States to ensure that appropriate waste treatment facilities and capacities are located where needed. For instance, any landfill taxes in the 28 Member States could be applied at a progressive rate with a stepwise steady increase in the tax rate. This would provide stakeholders with a predictable timeframe and an economic incentive to adjust.
10. **The aspirational targets currently set in the 7EAP and the Resource Efficiency Roadmap, rather than the need for additional quantified waste prevention targets.** According to Eurostat data, continuous decoupling of packaging production and packaging waste going to landfill from economic growth is happening. In addition, a prevention target in the PPWD might have side effects on economic growth. Targets for reuse are feasible, necessary nor easy to measure. Producers employ reusable packaging where this is efficient, and the market will be the best guide.

Further considerations and challenges (*preliminary and non-exhaustive list*)

The need for the Packaging and Packaging Waste Directive:

The Packaging and Packaging Waste Directive (PPWD) has proven to be a successful and appropriate legislative framework for driving the recovery and recycling of all packaging waste (see point 1 above).

³ Primary and secondary packaging generated by households, away-from-home and at closed surroundings (e.g. small businesses, bars, restaurants, public events, schools) insofar as the type of packaging/volumes consumed are similar to households.

⁴ European Commission, Guidance on the interpretation of key provisions of Directive 2008/98/EC on waste, June 2012.

Packaging requires a separate regulatory approach tailored to its inherent characteristics (volume, consumer visibility, recycling value and market structure), but also taking into account the key role of packaging which is that of product facilitator, i.e. as part of the product and essential for functions such as distribution, storage, waste prevention and provision of information. It has a key role in developing the EU Single Market. EUROPEN therefore strongly supports the PPWD's internal market principle as its sole legal base. In our view the directive's dual objectives—to protect the environment whilst securing the free movement of packaging and packaged goods throughout the EU, as well as avoiding divergences in national policies—remain valid today.

WFD and PPWD not fully implemented yet:

The WFD is currently not fully implemented or enforced. In many cases, municipal waste is not collected nationwide and there is consequently very little separate collection of household waste, and in specific post-consumer packaging. For example, the WFD sets requirements for separate collection of paper, metal, plastics and glass by 2015. This will have to be implemented in all Member States to allow the re-use and recycling targets to be met by 2020, particularly in Member States where the recycling targets are currently met almost entirely through the collection of industrial and commercial waste.

As for the PPWD, low recycling rates for packaging waste in some EU Member States is mainly due to the existence of weak or absence of separate collection systems for household packaging waste.

Realistic packaging waste targets:

Industry, municipalities and other stakeholders have made substantial investments to ensure that packaging waste targets in Member States and at EU level are met and in many cases exceeded.

Higher minimum recovery and recycling targets are subject to certain caveats concerning feasibility, economic efficiency and maintenance of the provisions on the Single Market. There are wide variations in recycling performances across the EU due to differences in Member States' interpretations of definitions, waste legislation and its enforcement, waste management and recycling infrastructure and consumption rates. Therefore it is not feasible for all Member States to meet the same recycling targets, even with different deadlines.

EUROPEN considers that a tailored approach taking into account national specificities should focus on incentivising the lowest performing Member States to reach higher levels of recovery and recycling in order to achieve more level waste management performance across the EU. EUROPEN welcomes the Commission's initiative to take up bilateral contacts with 10 lesser performing Member States in this regard.

Minimum recycling targets should not exceed those currently achieved by the highest performing Member States as this probably represents the practical limits for recovery and recycling. For example, the Member States which achieved the highest overall recycling rates in 2001 have not continued increasing them at the same rates and in some cases the rates have fallen (Germany, 76% in 2001 to 73% in 2010; Belgium, 71% to 80%; Austria, 64% to 67% and Sweden, 63% to 54%). This would indicate that there are practical limits to recovery and recycling beyond which increased yields entail disproportionate costs with little or no net environmental gain. The best performing Member States are converging on recovery rates of around 90% and recycling rates of approximately 80%. These rates probably represent the likely *de facto* environmental and economic limits for recovery and recycling. Going beyond those limits would require significant additional investments in infrastructure and reprocessing capacity whilst achieving only minimal incremental yields of packaging materials.

Incentivise collection of post-consumer packaging:

Consumer packaging generally represents the largest amount of all packaging and it would therefore seem appropriate to consider the possibility of introducing a target for this specific waste stream in the PPWD. A prerequisite to the introduction of post-consumer packaging recycling and recovery targets would be to undertake an impact assessment to better understand how existing targets and their reporting would be affected. (See also in EUROPEN's recommendations for EPR for post-consumer packaging in the EU).

A level playing field for EPR schemes is needed:

Since the introduction of the PPWD in the 1990's, a growing number of competing EPR schemes have been set up at national level for managing waste from all packaging materials. These systems vary according to local

conditions and there is no legal framework to ensure a level playing field for the operation of competing schemes. Specific concerns related to this include a lack of clarity on how to apply EPR requirements and lack of clear definitions for EPR, in particular with regard to responsibilities. In addition, there are large differences between Member States in terms of the types of packaging covered, cost efficiency, the control and transparency of systems and the role of municipalities and obliged industry. (See more in EUROOPEN's recommendations for EPR for post-consumer packaging in the EU and EUROOPEN's position paper on EPR for post-consumer packaging).

A waste prevention target for packaging is not required:

Concretely, prevention targets are impracticable. Attempts to measure prevention have not been successful, as studies⁵ have shown. Quantified prevention targets in Dutch and Spanish legislation were abandoned some years ago. Enforcement was a problem because it is always unclear how targets can be translated to individual companies' performance, as this needs to take account of specific protection requirements related not only to the contents and distribution channels, technological feasibility and demand but also to the timing of replacement of manufacturing equipment.

The Commission's December 2006 report to the other EU institutions on the progress of implementation of the PPWD made the same point. In general, it concluded, packaging is not produced as a good in itself but as a tool to allow the distribution of other packaged goods. "Packaging is a cost factor, so preventing packaging is in the interest of the producer of the packaged good. Taking all the functions of packaging into account, it is often difficult to draw an exact line between the acceptable use of packaging as a marketing tool and unnecessary 'over-packaging'."

Targets for reuse are neither feasible nor necessary:

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. There is reason to believe that such quotas have sometimes been used to create trade barriers rather than to meet environment objectives.

The PPWD says that Member States may encourage reuse systems; they are not obliged to do so. This means that any measures taken must not discriminate against imports and any aid granted through state resources must not distort or threaten to distort competition by favouring certain companies or the production of certain goods. Reuse targets are difficult to measure. Data on the proportion of packaging placed on the market that is reusable is meaningless unless information is also available on how many times that packaging is actually reused.

Read EUROOPEN's response to the EU waste management targets consultation here: www.europen-packaging.eu/component/downloads/downloads/1374.html.

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EUROOPEN – The European Organization for Packaging and the Environment - is an industry association representing the interests of the packaging supply chain in Europe on topics related to packaging and the environment, without favouring any specific packaging material or system. www.europen-packaging.eu

⁵ For example: analysis of the evolution of waste reduction and the scope of waste prevention, Arcadis, October 2010.