

“Organizational” or “Operational” Requirements for PROs

Discussion of practical implications

from the point of view of a Producer Responsibility Organization (PRO / EPR)

As the only pan-European producer responsibility organisation (PRO) for WEEE, Batteries and Packaging, we advocate for a consistent implementation of core principles such as clear, harmonized obligations and a reasonable governance allowing entrepreneurial freedom and fair competition. We believe this is the best approach to meet recycling targets and to protect the environment. Ahead of upcoming triologue negotiations, ERP would like to provide further clarification on **why “operational requirements” for EPR schemes, as mentioned in the text voted by the European Parliament, would be more appropriate than “organizational requirements”**. Operational requirements provide the necessary freedom to the EPR schemes to operate, while ensuring a high quality of recycling.

At the moment, the Council text mentions in Recital 6c, Article 3) 20a and Article 8) 5a, that EPR may include a producer’s financial or financial and **organisational** responsibility for the management of the waste stage of a products’ life cycle. We believe that a reference to producers bearing the financial **and/or operational** responsibility, as voted by the European Parliament, would be more appropriate for the following reasons:

- a) **“operational”** responsibility directly relates to waste management operations which a **producer can delegate to a PRO** in order to fulfil its obligation to collect and treat products that it has put on the market in their waste stage, while staying **financially** in charge (via service contracts),
- b) **Instead, “organisational”** responsibility could be understood as requirement for producers to **establish, own or steer** a PRO.

Should some Member States interpret the “organisational” requirements as in described in (b) above, this would have several negative practical implications:

- **Producers would be bound to a specific PRO** and would not have the necessary freedom to change and choose a better one. Changing the compliance supplier (PRO) would become a major effort e.g. selling / buying shares triggers an M&A process, most producers might hesitate to incur. This would have a **detrimental impact on competition** and consequently on the quality of the service provided by the PROs.
- The **influence of the individual producer on a PRO as a shareholder is far less effective than the one as a customer** (who could change the compliance supplier e.g. if having doubts on the service quality), in particular if a PRO is steered by hundreds of producers, which would be the case for many waste streams if organizational responsibility would become a legal requirement.
- Good practice through the years has proven that EPR schemes achieve the best results in terms of environmental and economic benefits when **producers are free to choose a PRO among multiple competing producer organisations**. This helps increasing recycling rates and **improving recycling quality** while at the same time reducing cost of waste management for the consumer.
- It should be left up to the PROs and their **entrepreneurial freedom** how they organize themselves in the most efficient way to fulfil the legal objectives and the minimum EPR requirements of the Directive.
- The **compliance of any actor** incl. PROs should be monitored by an **independent national authority** to assure a proper enforcement and an overall level-playing field – not by producers as founders, board members or owners.

We strongly believe that a reasonable **flexibility and competition** in the PRO setup is a **key to deliver high-quality** and customized EPR services – more organizational requirements do not support that objective.

Thus, we hope that you will be able to take these arguments into account and to advocate for a change to “operational requirements” instead of “organizational” in Recital 6c, Article 3)20a and Article 8) 5a.

Contact:

Dr. Thomas Fischer, Head of Market Intelligence, Landbell Group

Mail: t.fischer@landbell.de, phone: +49 6131 235652 - 436

About ERP

The European Recycling Platform was founded in 2002 in response to the introduction of the European Union’s Waste Electrical and Electronic Equipment (WEEE) Directive. ERP’s mission is to ensure cost effective implementation of the directive, for the benefit of the participating companies and their customers. As of June 2014, the Landbell Group, an independent recycling and resource specialist, based in Germany, has become a shareholder of ERP SAS.

ERP is the first WEEE compliance scheme authorised to operate in Austria, Denmark, Finland, France, Germany, Ireland, Israel, Italy, Norway, Poland, Portugal, Slovakia, Spain, Sweden and the UK thus passing on the advantages of multinational recycling operations to the consumer. ERP has proved to be the most competitive solution for companies in the countries where operates now offering WEEE, Batteries and Packaging compliance services and know-how.

For more information on ERP, please visit