

ERP COMMENTS TO PROPOSED WFD AMENDMENTS ON TEXTILES

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Recently the European Commission proposed an amendment to the Waste Framework Directive (WFD) considering Extended Producer Responsibility (EPR) as key element to manage textile waste. European Recycling Platform (ERP) welcomes this initiative, since EPR has been widely acknowledged as the most appropriate way to address the challenges posed by the circular economy and has become a fundamental aspect of the waste management policy of the European Union. The reason for its success is its ability to achieve both downstream effects, such as promoting separate collection and recycling, and upstream effects, such as encouraging material efficiency, decarbonisation, and cleaner technologies.

With our global experience as Landbell Group and European Recycling Platform (ERP) operating 40 Producer Responsibility Organisations (PROs) in multiple countries and for multiple waste streams we would like to comment on the proposal:

1. **No concentration of market power**

ERP welcomes that the European Commission acknowledges the benefits of a competitively organised implementation of EPR. In Recital 18 of their above mentioned proposal they state:

“... Member States are encouraged to consider authorising multiple producer responsibility organisations as competition among such producer responsibility organisations may lead to greater consumer benefits, increase innovation, lower costs, improve collection rates, and increase choices for producers seeking to contract with such organisations.”.

➔ **The authorization of multiple producer responsibility organisations shall be required in article 22c making sure all Member States allow for a competitive PRO landscape.**

2. **Address parallel flows**

Parallel flows bypassing the actors obliged to collect under the Directive (producers or PROs) not only pose a risk to the environment, as they often lead to poor treatment, but also make it more difficult for obliged actors to achieve the collection targets, thus undermining the performance of the obliged collectors and ultimately the Directive as a whole. These parallel flows must be avoided, and it must be ensured that textiles available for collection finds its way to the actors responsible for collection. Alternatively, all actors collecting textiles, including those who are not obliged to do so, should also be required to report, and ensure proper recycling.

➔ **Textile stream reported in this way should count towards the fulfilment of mandatory collection targets placed on producers – if being set by Member States (the directive currently does not foresee collection targets).**

3. **Realistic calculation method for the collection rate**

The collection rate is considered to be the most relevant indicator of the collection performance of an EPR scheme. It is therefore important that the underlying calculation method allows for a fair

assessment of this performance. The benchmark against which the collection rate is compared should only be the amount of textiles that can actually be collected by the schemes, no more and no less. The calculation method proposed in article 22c (8) does not meet this standard. It relates the weight of waste textiles collected in a given calendar year to the weight of such waste textile that is generated and collected as mixed municipal waste. The textile waste appearing in mixed municipal waste cannot be monitored by producers or the PROs since this waste is not in their ownership (see also specific point on surveys below). Thus, producers or PROs have no control over the achievement of collection targets potentially set by Member States.

➔ The calculation method shall apply the waste available for collection approach as also discussed for other EPR waste streams such as batteries and WEEE.

4. Ensure effective enforcement

The effectiveness of the Directive depends to a large extent on proper enforcement. All stakeholders need to play by the same standards and contribute to the achievement of the Directive's objectives in order to ensure a level playing field. Existing and new legislation in Member States needs to be effectively enforced. Consequently, and as required by article 8a, Member States shall establish an adequate monitoring and enforcement framework with a view to ensure compliance of all actors involved in the implementation of the EPR schemes comply – in particular as regards EPR reporting, recycling quality, treatment standards, and uncontrolled waste flows including exports. EPR free-riders need to be systematically and regularly identified. Moreover, cross-border cooperation and mutual assistance between Member States and between the EU and third countries needs to be intensified through European or ideally global enforcement networks.

➔ Member States shall implement effective enforcement actions considering all actors in the EPR value chain and intensify cross-border cooperation within Europe and globally with third countries.

5. Independent body for compliance and a fair allocation of take-back costs

To ensure effective implementation of the Directive and to oversee the activities of PROs and other stakeholders, Member States should establish a body independent of private interests or a public authority, irrespective of the number of PROs in that Member State (also requirement of article 8a). ERP believes this body shall oversee the compliance of all actors - PROs, producers individually or any other actor. This body shall set clear PRO authorisation criteria being open to be met by any economic actor. What is already required by the Waste Framework Directive for setups with multiple competing PROs must therefore be extended to all markets, including those with only one PRO. Furthermore, in a multi-PRO setup, this entity should also be obliged to put in place an adequate waste allocation mechanism, as in the absence of such a mechanism, waste allocation between multiple competing PROs has proven to be difficult due to antitrust rules. The lack of waste allocation to PROs may also lead to waste hoarding or speculation by waste holders, and PROs under pressure to meet their targets may be forced to pay extortionate fees for access to waste.

➔ Article 8a shall be revised requiring Member States to establish an independent body irrespective of the number of PROs in the country overseeing compliance among all EPR actors and assuring a clearing of waste obligations among competing PROs.

6. Harmonize requirements and fee modulation

With a uniform approach, administrative burden on companies can be avoided and a clear operating environment in the internal market can be guaranteed. This is of particular importance for any design related aspects incl. criteria and mechanisms for a fee-modulation required by article 22c (a). These criteria shall be harmonised across Member States. Leaving fee modulation to PROs or Member States alone would have a significant negative impact on the internal market. If each Member State or even each PRO were to set individual criteria, this may lead to different design criteria across the European Union or even within Member States which would not only confuse producers, but also hamper the internal market. In addition, non-harmonised criteria would significantly increase the complexity of producer reports, creating a significant burden for all producers and in particular for SMEs. Thus, harmonised modulation criteria shall be set that improve the product design creating an EU-wide incentive and therefore an EU-wide impact.

The related mandate to the Commission foreseen in article 22c (4) shall be changed from a “may” to a “shall” requirement. Moreover, a fee modulation mechanism shall be foreseen that works in a competitive PRO environment.

➔ **Harmonised modulation criteria shall be set by the Commission via a delegated act creating an EU-wide incentive and therefore an EU-wide impact. Moreover, a fee modulation mechanism shall be foreseen that works in a competitive PRO environment.**

7. **Ensure effective awareness-raising campaigns**

Providing consumers with adequate information on how to return textiles is crucial to ensure a sufficient collection and proper recycling. The proposal lacks this for textiles and shall be included. Moreover and to increase the impact of these campaigns, they should be carried out nationwide and coordinated and funded by all stakeholders involved.

➔ **Awareness-raising campaigns targeting end-users shall be required to increase collection. Those shall be carried out nationwide and jointly coordinated and funded by all relevant stakeholders.**

8. **Support to research and development**

While ERP agrees to a requirement to producers and PROs as required by article 22a (4) to invest into R&D improving the sorting and recycling processes, it shall be defined what this means in financial terms e.g. relating it to the annual turnover ensuring and be a requirement to all actors collecting and treating textiles creating a level playing field.

➔ **Clear financial criteria on expected investments shall be set to all actors.**

9. **Mixed waste composition survey**

Households’ mixed waste is in the ownership of municipalities. PROs have no access and should not have access to this waste stream. Consequently, the implementation of the mixed waste composition survey as required by article 22c (a) should not be made the producers’ responsibility but should fall into the responsibility of municipalities.

➔ **Municipalities shall be required execute the mixed waste composition survey.**

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About ERP

European Recycling Platform (ERP) was founded in 2002 to ensure high-quality and cost-effective implementation of the WEEE, batteries and packaging directives for the benefit of its customers and the environment. In June 2014, ERP became part of the Landbell Group, an international supplier of service and consulting solutions for environmental and chemical compliance. ERP and Landbell Group have collected more than 5 million tonnes of packaging, more than 4 million tonnes of e-waste, and over 100,000 tonnes of portable batteries.

ERP is the first and only pan-European PRO authorised to operate in Austria, Denmark, Finland, Germany, Ireland, Israel, Italy, Norway, Poland, Portugal, Slovakia, Spain, and the UK. By passing on the advantages of multinational recycling operations to customers, ERP has proved to be the most competitive solution for companies in the countries where it operates for WEEE, batteries and packaging compliance, as well as take-back services.

