

# COMMENTS ON THE INTERIM RESULTS OF EUNOMIA'S PPWD IMPACT ASSESSMENT STUDY

*PARIS/MAINZ, JULY 2021*

European Recycling Platform (ERP) would like to thank both the European Commission and Eunomia for the opportunity to participate in the recent stakeholder workshops and to comment on the interim results of the ongoing PPWD Impact Assessment Study. We appreciate the huge effort that has gone into the study so far.

ERP very much welcomes the planned review of the packaging essential requirements, adapting them to the latest technology and market developments, aligning them with the requirements on the modulation of EPR fees, and improving enforcement.

With this paper and based on our experience in operating producer responsibility schemes in 13 countries, we would like to share some ideas and raise some open questions on the measures proposed in the workshops and in the accompanying material. We will focus on the measures related to recyclability, overarching measures, and recycled content.

## **Recyclability**

### **Measure 21: Updates to the essential requirements**

With regard to the proposed recyclability requirements we would like to point out that at least for food contact materials and pharmaceutical applications meeting these requirements might be difficult with current mechanical recycling technologies. Therefore, it would probably be necessary **to amend the legal framework to provide legal clarity which recycling technologies** qualify. Member States seem to have different interpretations on the matter. Some only allow mechanical recycling to count towards recycling targets, while others intend to also acknowledge additional innovative recycling technologies such as physical, enzymatic, and chemical approaches.

### **Measure 22b: Defining recyclable packaging – Defined by use of design for recycling methodologies**

The proposed packaging assessment tool seems to be a solid foundation also for fee modulation in particular if harmonized. We also agree that a self-assessment is cost and time efficient. However, in order to provide a level playing field among producers and PROs, **it must be ensured that the information submitted is correct**, e.g. via regular and random checks by enforcement authorities.

### **Measure 23: Harmonisation of EPR fee modulation criteria in an implementing act**

**We fully support the proposed harmonisation of EPR fee modulation criteria** as we believe this is the most effective means for providing the necessary incentives for increased recyclability in a single market. Moreover, such a harmonisation would allow for an alignment with the baseline criteria (essential requirements). While the latter will probably be implemented identically across member states, the implementation of former is fully left

to national authorities or even producer responsibility organisations (PROs). This is not only creating complexity in reporting and enforcement, but is watering down the possible impact of the single market. Harmonization of fee modulation criteria would also assure a level playing field among PROs in the calculation and determination of modulated fees. For more information please refer to our [position paper on modulated fees](#).

## Overarching measures

### Measure 32c: Reporting of hazardous substances in packaging – Extensive reporting on all substances

With regard to the proposed extensive reporting of substances to EPR schemes we would like to point out that for PROs only those substances are of interest which are related to malus criteria in fee modulation. Therefore, **there is no need for reporting other substances to PROs**, also given the mixed packaging waste collection without sorting of brand or individual packaging. Moreover, such a reporting would probably double producers' obligations under the Waste Framework Directive (SCIP Database).

### Measure 42: EPR reporting harmonisation and consideration of packaging registries

We agree that a harmonisation of reporting data is of high importance, in particular when addressing packaging design which is usually not limited to national markets. However, **we see the need for further clarification regarding the scope of the proposed reporting** through PROs (e.g. volumes, fee modulation specific, substances, other).

When defining the frequency of reporting to PROs one needs to take into account that those, in turn, need to report to national registries and clearing bodies which probably can't be harmonized, e.g. due to the established clearing mechanisms. However, this is independent of the frequency in which member states report to the European Union.

### Measure 45: Reinforcement of the market surveillance authorities and enforcement

We fully agree that a more effective enforcement is necessary to ensure a level playing field among all relevant actors on all relevant levels, e.g. producers, PROs, and recyclers, in particular given the implementation of stricter design requirements and the modulation of EPR fees based on producers' claims.

Therefore, we recommend **to set up independent national authorities in all member states** which ensure proper implementation of legal provisions. In addition, we propose **to intensify cross-border cooperation and mutual support among member states and between the EU and third countries**, e.g. through global "enforcement networks", to combat free-riders and other non-compliant actors.

## Recycled content

### Measure 34b: Updates to the essential requirements – through mandatory RC reporting for all packaging

With regard to the proposed mandatory reporting of recycled content through PROs, **it needs to be clarified who would be responsible for validating producers' claims and what evidence documentation on the recycled content would be required**. PROs cannot be held responsible for false reporting by producers.

### Measure 35: Recycled content targets for plastic packaging

In our view, **the proposed targets for recycled content should relate to post-consumer plastics only** given the overall lifecycle of a packaging and the necessity to avoid incentives to cherry pick production waste.

Moreover, we would also like to repeat our recommendation **to provide legal clarity on the use of alternative recycling technologies** (see also our comment on Measure 21 above). It is crucial to define, the recyclates from which recycling technologies would be counted towards the recycling quotas – only those which have been mechanically recycled or others as well. Does Eunomia plan to propose setting a more secure legal framework to recognize innovative recycling technologies going beyond mechanical recycling such as physical, enzymatic and chemical solutions? If so, this should be aligned with the planned revision of the Waste Framework Directive and the ongoing review of the food contact materials rules by DG SANTE. The integration of alternative recycling technologies is probably required for e.g. food contact materials and pharmaceutical applications. Otherwise, these would probably need to be exempted from the targets.

## Contact

Dr. Thomas Fischer, Head of Market Intelligence & Governmental Affairs, Landbell Group  
Email: [t.fischer@landbellgroup.com](mailto:t.fischer@landbellgroup.com), Phone: +49 6131 235652436

## About ERP

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 high quality and cost effective implementation of the Directive, 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 3.5 million tonnes of e-waste, and over 80,000 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.

For more information on ERP, please visit: [www.erp-recycling.org](http://www.erp-recycling.org)

