
Position paper

Harmonization and fair competition for Extended Producer Responsibility Revision of the EU Waste Legislation / Circular Economy Package

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European Recycling Platform (ERP) welcomes the outcome of the vote in the Plenary of the European Parliament on the Waste Package as an important step towards a clear and harmonized legal framework for extended producer responsibility (EPR) in Europe.

As the only pan-European producer responsibility organisation (PRO) for WEEE, batteries and packaging, we advocate for the strict implementation of core principles such as clear, EU harmonized obligations and reasonable governance allowing entrepreneurial freedom and fair competition. We consider the consistent application of these policies as the best approach to meet recycling targets and to protect the environment. With view to the vote in Plenary and ongoing negotiations in Council, ERP therefore wants to highlight the following issues:

1. Entrepreneurial Freedom & Competition:

- Good practice through the years has proven that EPR achieves the best results in terms of environmental and economic benefits when producers are free to choose a PRO among **multiple competing producer schemes** (PROs). This helps reducing cost of waste management for the consumer, while at the same time increasing recycling rates.
- There should be a **clear set of rules defining operational and/or financial roles and responsibilities** as voted by the European Parliament, **instead of any organisational requirements for** producers binding them to a specific PRO and limiting the entrepreneurial freedom of PROs.

2. Fair Level Playing Field:

- ERP welcomes the vote of the European Parliament for a clear definition of **roles and responsibilities of all actors, general requirements for extended producer responsibility setups and quality standards for the recycling operations** on the basis of a harmonized EU guidance.
- Moreover, ERP supports the introduction of a **single independent national authority** that assures a reasonable governance. The independent authority should be introduced in every Member State – also in set-ups with a single PRO only – as voted by the European Parliament. Such an authority will generally assure conformity, help to avoid conflicts and unfair market practices between different actors and avoid the manifestation of **monopolistic structures** (as recommended by the OECD¹).

3. EPR Scope:

- ERP supports the idea to make **EPR mandatory** for at least packaging, WEEE and batteries as experience shows that it effectively increases recycling rates.²
- The WFD or implementing directives should **clearly define the scope of the costs**

¹ OECD (2016), Extended Producer Responsibility, Updated Guidance for Efficient Waste Management, <http://www.oecd.org/environment/waste/extended-producer-responsibility-9789264256385-en.htm>.

² OECD (2016).

covered by producers. The European Parliament has therefore rightly voted for a closed list of financial obligations. This balanced and proven solution must not be jeopardized, while it shall be further specified that listed cost elements must be limited to items and waste streams that are controllable for producers or PROs acting on their behalf.

- The introduction of **modulated fees** for producers might create incentives for producers but must be **relevant** to treatment / recycling and **based on harmonized criteria.** Besides, they must be **enforceable by authorities and PROs** through the definition of generally accepted evidence documents. Otherwise they would miss the intention, create heavy administrative burden or might even be open for misuse.
- In order to ensure high-quality re-use operations, a harmonized concept of **“recognised preparing for re-use operator”** as voted by the European Parliament is crucial and should be maintained in the text. Also all volumes collected for re-use shall be carefully documented, reported and counted towards the targets.

Summary of main topics

Reference	Parliament Plenary vote text	Council text (16.02.2017)
1. Entrepreneurial Freedom & Competition		
Recital 6c/8d WFD, Article 3 WFD	...producers bear the financial and/or operational responsibility...	EPR may include a producer’s financial but also operational and organisational responsibility ...
Article 8 (5) WFD	Information exchange platform shall discuss organisational features of EPR	Information exchange platform shall discuss organisational features of EPR
2. Fair Level Playing Field		
Article 8a (4) WFD	Introduction of an independent authority to oversee EPR implementation and verify compliance.	National authority only for schemes with multiple PROs.
3. EPR Scope		
Article 8 (1) WFD	Member States shall set up EPR schemes for at least packaging, WEEE, batteries and end-of-life vehicles	EPR is not mandatory: Member States may ...
Article 8 (3) WFD	PROs: have a clearly defined geographical, product and material coverage that is based on the sales area and without limiting these areas to the territories in which the collection and management of waste are profitable;	PROs: have a clearly defined geographical, product and material coverage [...] without limiting these areas to the territories in which the collection and management of waste are most profitable;
Article 8 (4) WFD	(Fees) ...in the framework of collective schemes, are modulated on the basis of the real end-of-life cost of individual products or groups of similar products, notably by taking into account their durability, repairability, re-usability and recyclability and when available, based on harmonized criteria in order to ensure a smooth functioning of the internal market.	(Fees) ... are modulated, where possible, for individual products or groups of similar products by taking into account their reusability and reparability as a contribution to waste prevention and preparation for reuse, and their recyclability;
Article 3 (16) WFD	"preparing for re-use" means checking, cleaning or repairing recovery operations, by which products or components of products that have become waste and have been collected by a recognised preparation for re-use operator are prepared (...)	

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, Packaging and PV panel compliance services and know-how.

For more information on ERP, please visit www.erp-recycling.org