

Position Paper

Brussels
10 March 2016

AMENDEMENTS PROPOSALS TO THE CIRCULAR ECONOMY PACKAGE RELEASE BY THE EUROPEAN COMMISSION ON 2nd DECEMBER 2015, AND NOTABLY on the Proposal amending Directive 2008/98/EC on waste (COM(2015) 595)

EucoLight, the European association of Lighting WEEE compliance schemes has welcomed the Circular Economy Package released by the European Commission on 2 December 2015. It is particularly pleased to observe that the Commission considers Extended Producer Responsibility (EPR) policy a key tool for an efficient circular economy, and EPR schemes a main driver for reaching collection & recycling targets.

The Commission proposals include minimum operational requirements for EPR in a new article 8a of the proposal for a revised Waste Directive (WFD), which will impact the operation of national EPR schemes. These include principles such as the requirement to provide non-discriminatory services for all participants, transparency of financing by producers, and clear procedures for the procurement of waste services. EucoLight supports these measures, which will all contribute towards a beneficial level playing field for EPR schemes in Member States.

However, in some areas, greater clarity of intent is required. This is the purpose of the below amendments.

1. EXTENDED PRODUCER RESPONSIBILITY SCHEMES

Article 1. Par. 7, point c

<i>Commission proposal</i>	<i>Amendment proposed</i>
<p>(c) The following paragraph is added:</p> <p>'5. The Commission shall organise an exchange of information between Member States and the actors involved in producer responsibility schemes on the practical implementation of the requirements defined in Article 8a and on best practices to ensure adequate governance and cross-border cooperation of extended producer responsibility schemes. This includes, inter alia, exchange of information on the organisational features and the monitoring of producer responsibility organisations, the selection of waste management operators and the prevention of littering. The Commission shall publish the results of the exchange of information.'</p>	<p><u>Wording clarification</u></p>
<p>JUSTIFICATION</p> <p>The meaning and scope of “exchange of information” should be clarified.</p>	

Article 1. Par. 8, point 1

Article 8a - General requirements for extended producer responsibility schemes

<i>Commission proposal</i>	<i>Amendment proposed</i>
<p>(8) The following Article 8a is inserted:</p> <p>1. Member States shall ensure that extended producer responsibility schemes established in accordance with Article 8, paragraph 1:</p> <ul style="list-style-type: none"> - define in a clear way the roles and responsibilities of producers of products placing goods on the market of the Union, organisations implementing extended producer responsibility on their behalf, private or public waste operators, local authorities and, where appropriate, recognised preparation for re-use operators; 	<p>(8) The following Article 8a is inserted:</p> <p>1. Member States shall ensure that extended producer responsibility schemes established in accordance with Article 8, paragraph 1:</p> <ul style="list-style-type: none"> - define in a clear way the roles and responsibilities of producers of products placing goods on the market of the Union, organisations implementing extended producer responsibility on their behalf, private or public waste operators, distributors, local authorities, end users and, where appropriate, recognised preparation for re-use operators;
<p>JUSTIFICATION</p> <p>The list of actors for whom roles and responsibilities must be established and made explicit.</p>	

Article 1. Par. 8, point 1 (continued)

<i>Commission proposal</i>	<i>Amendment proposed</i>
<p>(8) The following Article 8a is inserted:</p> <p>...</p> <p>- define measurable waste management targets, in line with the waste hierarchy, aiming to attain at least the quantitative targets relevant for the scheme as laid down in this Directive, Directive 94/62/EC, Directive 2000/53/EC, Directive 2006/66/EC and Directive 2012/19/EU;</p>	<p>(8) The following Article 8a is inserted:</p> <p>...</p> <p>- define measurable waste management targets, in line with the waste hierarchy, aiming to attain at least the quantitative targets relevant for applicable to the scheme as laid down in this Directive, Directive 94/62/EC, Directive 2000/53/EC, Directive 2006/66/EC and Directive 2012/19/EU;</p>
<p>JUSTIFICATION</p> <p>Directive 2012/19/EU includes targets for Member States. Member States will be able to achieve those targets in two ways:</p> <ol style="list-style-type: none"> 1. By requiring extended producers responsibility schemes (EPR schemes) to collect WEEE that arises and 2. By making substantiated estimates of the WEEE that is collected through other routes - for example as scrap metal. See article 16(4) of 2012/19/EU. <p>As a result, recognising that considerable tonnages of WEEE are collected outside of the EPR schemes, it would not be possible for Member states to “attain at least the quantitative targets relevant for the scheme...”.</p> <p>The use of the word “relevant” may address these concerns, but we think this should be made more explicit in the text. The amendment aims at addressing this, by replacing relevant with “applicable”.</p>	

Article 1. Par. 8, point 1 (continued)

<i>Commission proposal</i>	<i>Amendment proposed</i>
<p>...</p> <p>- establish a reporting system to gather data on the products placed on the Union market by the producers subject to extended producer responsibility. Once these products become waste, the reporting system shall ensure that data is gathered on the collection and treatment of that waste specifying, where appropriate, the waste material flows;</p>	<p>(8) The following Article 8a is inserted:</p> <p>establish a reporting system to gather reliable and accurate data on the products placed on the Union market by the producers subject to extended producer responsibility. Once these products become waste, the reporting system shall ensure that reliable and accurate data is gathered on the collection and treatment of that waste specifying, where appropriate, the waste material flows;</p>
JUSTIFICATION	
<p>EucoLight welcomes the proposal: The importance of reporting reliable and accurate data cannot be emphasised enough. A possible calculation of target for Member States could be based on statistics and using this methodology with erroneous data could have detrimental consequences for stakeholders involved in Member States.</p>	

Article 1. Par. 8, point 1 (continued)

<i>Commission proposal</i>	<i>Amendment proposed</i>
<p>(8) The following Article 8a is inserted:</p> <p>...</p> <p>- ensure equal treatment and non-discrimination between producers of products and with regards to small and medium enterprises.</p>	<p>(8) The following Article 8a is inserted:</p> <p>...</p>
JUSTIFICATION	
<p>Full support on the above proposal. It is vital that EPR schemes are required to provide services on a non-discriminatory basis. We are aware of several Member States in which larger producers seek to negotiate better deals than small producers, when contracting with EPR schemes that are not EucoLight members. That means the small producers pay proportionately more.</p>	

Article 1. Par. 8, point 2

<p>2. Member States shall take the necessary measures to ensure that the waste holders targeted by the extended producer responsibility schemes established in accordance with Article 8, paragraph 1, are informed about the available waste collection systems and the prevention of littering. Member States shall also take measures to create incentives for the waste holders to take part in the separate collection systems in place, notably through economic incentives or regulations, when appropriate.</p>	<p>2. Member States shall take the necessary measures to ensure that the waste holders targeted by the extended producer responsibility schemes established in accordance with Article 8, paragraph 1, are informed about the available waste collection systems and the prevention of littering. Member States shall also take measures to increase the participation of the waste holders in the separate collection systems in place, notably through economic incentives or regulations, when appropriate.</p>
<p style="text-align: center;">JUSTIFICATION</p> <p>EucoLight recommends to delete the word “economic”. Whereas waste holders should be incentivized to take part in separate collection systems, EucoLight opposes financial compensation to them for handling their waste to EPR schemes. Communication actions / raising awareness are a key tool to incentivize waste holders to handle their waste to EPR schemes.</p>	

Article 1. Par. 8, point 3, c

<i>Commission proposal</i>	<i>Amendment proposed</i>
<p>3. Member States shall take the necessary measures to ensure that any organisation set up to implement extended producer responsibility obligations on behalf of a producer of products:</p> <p>...</p> <p>(c) puts in place an adequate self-control mechanism, supported by regular independent audits to appraise:</p> <ul style="list-style-type: none"> - the organisation's financial management, including the compliance with the requirements laid down in paragraph 4(a) and (b); - the quality of data collected and reported in accordance with paragraph 1, third indent, and the requirements of Regulation (EC) No 1013/2006. 	
<p style="text-align: center;">JUSTIFICATION</p> <p>No amendment. EucoLight welcomes and supports this wording: EPR schemes can indeed have a very relevant role to play in auditing the placed on the market data after transmission to the national registers.</p>	

Article 1. Par. 8, point 3, d

<i>Commission proposal</i>	<i>Amendment proposed</i>
<p>3. Member States shall take the necessary measures to ensure that any organisation set up to implement extended producer responsibility obligations on behalf of a producer of products:</p> <p>...</p> <p>(d) makes publicly available the information about:</p> <ul style="list-style-type: none"> - its ownership and membership; - the financial contributions paid by the producers - the selection procedure for waste management operators. 	<p>3. Member States shall take the necessary measures to ensure that any organisation set up to implement extended producer responsibility obligations on behalf of a producer of products:</p> <p>...</p> <p>(d) makes publicly available the information about:</p> <ul style="list-style-type: none"> - its ownership and membership; - the aggregated financial contributions paid by the producers without disclosing the financial contributions of individual producers; - the financial contributions paid by the producers per unit sold or per tonne of product placed on the market; - the selection procedure for waste management operators.
<p>JUSTIFICATION</p> <p>To add greater clarity. It is important to make it clear that the financial contributions to be disclosed provide detail of the rates charged by the EPR schemes. The current drafting would allow EPR schemes simply to publish their aggregated annual revenues received from all Producer members. Accordingly, we have made a further proposed amendment to reflect this concern.</p>	

Article 1. Par. 8, point 3, e

<i>Commission proposal</i>	<i>Amendment proposed</i>
<p>3. Member States shall take the necessary measures to ensure that any organisation set up to implement extended producer responsibility obligations on behalf of a producer of products:</p> <p>...</p>	<p>3. Member States shall take the necessary measures to ensure that any organisation set up to implement extended producer responsibility obligations on behalf of a producer of products:</p> <p>...</p> <p>(e) is not owned or controlled by a legal entity or a physical person supplying waste management as a commercial service.</p>
<p>JUSTIFICATION</p> <p>In order to avoid conflict of interests. In some Member States this requirement is already enshrined in national legislation. But in others, this is not the case, and this leads to distortions of the waste market, by limiting the amount of waste that is made available to the independent recycling sector.</p>	

Article 1. Par. 8, point 4, a

<i>Commission proposal</i>	<i>Amendment proposed</i>
<p>4. Member States shall take the necessary measures to ensure that the financial contributions paid by the producer to comply with its extended producer responsibility obligations:</p> <p>(a) cover the entire cost of waste management for the products it puts on the Union market, including all the following:</p> <ul style="list-style-type: none"> - costs of separate collection, sorting and treatment operations required to meet the waste management targets referred to in paragraph 1, second indent, taking into account the revenues from re-use or sales of secondary raw material from their products; - costs of providing adequate information to waste holders in accordance with paragraph 2; - costs of data gathering and reporting in accordance with paragraph 1, third indent. 	<p>4. Member States shall take the necessary measures to ensure that the financial contributions paid by the producer to comply with its extended producer responsibility obligations:</p> <p>(a) cover the entire cost of waste management for the products it puts on the Union market, including all the following:</p> <ul style="list-style-type: none"> - costs of separate collection from collection points, sorting and treatment operations required to meet the waste management targets referred to in paragraph 1, second indent, taking into account the revenues from re-use or sales of secondary raw material from their products; - costs of providing adequate information to waste holders in accordance with paragraph 2; - costs of data gathering and reporting in accordance with paragraph 1, third indent.
<p>JUSTIFICATION</p> <p>The activities of EucoLight members, funded by the obliged producers of Lighting products already cover the entire cost of lamps waste management from collection points, such as Civic Amenity sites or distribution. However, if this obligation was extended to the cost of collection from individual households, the financial impact would be huge. It would also have a hugely disproportionate environmental cost to collect a single waste lamp from a household. Accordingly, we have proposed a change to the text that reflects this situation.</p> <p>EucoLight recommends to erase the word “entire” since EPR schemes can only be financially responsible for the cost falling under their remit and influence.</p>	

Article 1. Par. 8, point 6

<i>Commission proposal</i>	<i>Amendment proposed</i>
<p>6. Member States shall establish a platform to ensure a regular dialogue between the stakeholders involved in the implementation of extended producer responsibility, including private or public waste operators, local authorities and, where applicable, recognised preparation for re-use operators.'</p>	<p>6. Member States shall establish a platform to ensure a regular dialogue between the stakeholders involved in the implementation of extended producer responsibility, including private or public waste operators, distributors, local authorities and, where applicable, recognised preparation for re-use operators.'</p>
<p>JUSTIFICATION</p> <p>The list of actors for whom roles and responsibilities must be established and made explicit.</p>	

Finally EucoLight recommends the European legislator, Council and European Parliament to implement the following key principle:

1. EPR schemes need to be officially accredited by the Member States authorities according to a transparent procedure before being allowed to act on behalf of producers.
2. The Members States should foresee that the requirements laid down under this article of the present Directive apply equally to collective and individual EPR schemes.
3. Member States authorities must enforce these requirements and set penalties.
4. Members States should report the enforcement of the requirements laid down in the article of this Directive to the Commission.

2. CALCULATION METHOD FOR RECOVERY TARGETS

EucoLight supports the efforts of the Commission to establishing common rules for reporting recycling rates (as referred to in the recital 17 and in the modification proposals of article 11 to the Waste Framework Directive), in order to ensure quality and uniformity of rules. However, EucoLight understands that some concepts have to be further clarified in order to avoid various interpretations.

For example, what does the concept “input to the final recycling process” refer to? Does it mean recycling targets based on:

- i. The input-mass sent to the recycling treatment plant/preparation for re-use facility or
- ii. The destination of the output fractions after first treatment of WEEE?

The Commission should take into consideration in this process of establishment of common rules, that specific methodologies for recycling and recovery calculation are already worked at CENELEC level for specific waste streams as WEEE.

3. QUALITY OF STATISTICS

EucoLight finds it crucial, and therefore supports, the objective to improve the quality, reliability and comparability of statistics. EucoLight recommends that in case the Commission uses or creates statistics, those figures must be confirmed by Member States with the main stakeholders impacted by those statistics.

- About EucoLight:

EucoLight is The European association of collection and recycling organisations for WEEE lamps and lighting. On behalf of its 16 members, EucoLight engages with everything related to the WEEE Directive, legislations and standards affecting the collection and recycling of WEEE lighting.

EucoLight is the voice of European WEEE compliance schemes specialised in managing the collection and recycling of WEEE lighting; working to make the circular economy a reality for lighting products.

Founded mid-2015, EucoLight has quickly embarked into constructive dialogue with relevant stakeholders to provide expertise in the field of management and treatment of WEEE lighting and to promote the positive role of Extended Producer Responsibility schemes on the environment and society.

For more information, visit the EucoLight website www.eucolight.org, follow EucoLight on Twitter @EucoLight or contact the Secretary General, Marc Guiraud (marc.guiraud@eucolight.org).

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