

Position Paper

Brussels

11 October 2016

EUCOLIGHT PROPOSALS FOR COMPROMISE AMENDMENTS ON THE WASTE PACKAGE

The present proposal takes into account:

The draft report and the tabled amendments by the members of the ENVI Committee on the proposal for a directive on end-of-life vehicles, and waste batteries and accumulators, and on waste electrical and electronic equipment (Rapporteur: Simona BONAFÈ) and the draft report and the tabled amendments by the members of the ENVI Committee on the proposal on the Waste Framework Directive (Rapporteur: Simona BONAFÈ)

EucoLight, the European association of Lighting WEEE compliance schemes, has reviewed the draft report and tabled amendments on the proposals for the above-mentioned Directives, and has issued an initial Position Paper on September 28, 2016 with a recommendation of vote, and would like to make proposals for compromise amendments for specific topics that need to be addressed in the text of the Directive:

Previous comments to the proposal of compromise amendments

EucoLight agrees with amendments that align with the following principles:

- EPR is relevant for a Circular Economy and needs to be enshrined in the Waste Framework Directive through the adoption of minimum requirements for EPR schemes and organisations.
- Member states should ensure that no conflict of interest arises between the decision making body of an EPR organisation and any present or future waste management operator providing service to that EPR organisation.
- All actors involved in EPR should be listed: Distributors and consumers should be mentioned as relevant stakeholders in EPR.
- The financial contributions paid by producers to EPR organisations should be made visible to reach transparency and awareness but complying with competition rules and protecting individual producers' market share data.
- The cost for waste management should be visible in the price product to enhance transparency and awareness of consumers.

EucoLight strongly disagrees with amendments that:

- Would delete article 8a and therefore the minimum requirements from the Waste Framework Directive as proposed in **Amendments 661 and 662**.
- Would restrict or fail to guarantee that an EPR organisation covers the whole territory of a Member State as proposed in **Amendments 677, 679, 680 and 681**.
- Would make EPR organisations financially responsible for the management of waste that do not enter their area of responsibility (i.e. Littering) as proposed in **Amendments 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 798, 799 and 800**.
- Creates new “independent authorities” which overlap with existing Administrations already competent in the monitoring and control of EPR organisations, creating additional administration and costs as proposed in **Amendments 807, 809 and 811**.

Proposal of Compromise amendments

With regard to the proposal for the directives on end-of-life vehicles, on batteries and accumulators and waste electrical and electronic equipment:

- With regards to the costs to be borne by producers:

Proposal for a directive

Article 3 - paragraph 1 - point -1 g (new)

Directive 2012/19/EU

Article 12 - paragraph 2

Present text of Directive 2012/19/EU	Compromise amendment	Amendments replaced by the compromise amendment
Member States may, where appropriate encourage producers to finance also the costs occurring for collection of WEEE from private households to collection facilities.	Member States may, where appropriate, encourage producers to finance also the costs occurring for collection of WEEE from private households to collection facilities. <i>Member states shall take the necessary measures to ensure that the financial contributions paid by the producer comply with his extended producer responsibility obligations and cover the cost of waste management as defined in paragraph 1 of this article, for the products it puts on the Union market.</i>	82 dropped
Justification		
The inclusion of amendment 82 contradicts paragraph 1 of article 12 of Directive 2012/19/EU (WEEE Directive) on waste Electrical and Electronic Equipments. Paragraph 1 already details the nature of costs to be provided by EEE producers. If the amendment wants to provide guarantee that the financial contributions of EEE producers cover the nature of costs already included in paragraph 1 we propose the above compromise amendment.		

With regard to the proposal for amending the waste framework directive 2015/0275 (cod).

- **Distributors, retailers and consumers should be listed amongst those actors involved in EPR:**

Proposal for a directive

Article 1 - paragraph 1 - point 8

Directive 2008/98/EC

Article 8a - paragraph 1- indent 1

Text proposed by the Commission	Compromise amendment	Amendments replaced by the compromise amendment
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;	define in a clear way the roles and responsibilities of <i>all actors involved including</i> producers of products placing goods on the market of the Union, organisations implementing extended producer responsibility on their behalf, private or public waste operators, <i>distributors and retailers</i> , local authorities, <i>consumers</i> and, where appropriate, recognised preparation for re-use operators;	666, 667, 669, 670, 671, 672, 673, 674 dropped
Justification		
The list of actors involved in EPR should be extended to distributors and consumers who have a major role in EPR legislation and in all waste stream legislations under EPR have specific obligations to be performed.		

- **The reference to “quantitative targets relevant for the scheme” should be rephrased so to avoid misunderstanding:**

Proposal for a directive

Article 1 - paragraph 1 - point 8

Directive 2008/98/EC

Article 8a - paragraph 1- indent 2

Text proposed by the Commission	Compromise amendment	Amendments replaced by the compromise amendment
Define measurable waste management targets in line with the waste hierarchy aiming to attain at least 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/EC.	Define measurable <i>and realistic</i> waste management targets in line with the waste hierarchy aiming to attain at least <i>the applicable targets</i> 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/EC.	677, 679, 680, 681 dropped
Justification		
EucoLight objects to the initial Commission wording of quantitative targets “relevant to the scheme”, which in its view create legal uncertainty, and proposes to change it to “applicable to the scheme. The reasons behind: Based on the confusion of what “schemes” means in the proposal. If we read it from an EPR organization perspective, this wording creates uncertainty regarding the collection targets for EPR		

organizations where their targets are set by Member States. This is of particular relevance when substantiated estimates of waste from non-EPR sources are taken into consideration. In that scenario, the current wording could be unachievable. A relevant target could be understood as their “theoretical” target, which does not take into consideration any reduction in target as a result of the use of substantiated estimates. A fair level playing field could be to change the word “relevant” for “applicable”, as previously stated.

- **Geographical coverage of EPR organisations on the totality of the territory of Member States should apply:**

Proposal for a directive

Article 1 - paragraph 1 - point 8

Directive 2008/98/EC

Article 8a - paragraph 3 - point a

Text proposed by the Commission	Compromise amendment	Amendments replaced by the compromise amendment
- (a) has a clearly defined geographical, product and material coverage;	- (a) has clearly defined geographical, product and material coverage; <i>following non-discriminatory rules with regard to urban and rural areas.</i>	711, 712, 714 and 713 dropped
Justification		
Amendments that would restrict the coverage of an ERP Organisation within the territory of a Member State weakens the intention of the original text, and are in total contradiction of the need for full coverage of a Member States territory. To this end a compromise amendment based on amendment 713 is proposed.		

- **The financial contributions paid by producers to EPR organizations should be made public but with respect to competition rules and individual market share information of producers.**

Proposal for a directive

Article 1 - paragraph 1 - point 8

Directive 2008/98/EC

Article 8a - paragraph 3 - point d-

Text proposed by the Commission	Compromise amendment	Amendments replaced by the compromise amendment
- the financial contributions paid by the producers;	- the financial contributions paid by the producers, <i>per unit sold or per tonne of product placed on the market, without disclosing the financial contributions of individual producers;</i>	722, 723, 724, 725
Justification		
EucoLight agree to making the financial contributions of EPR organizations publicly available, since this adds transparency. We support making these contributions public but without disclosing the individual contributions paid by producers, which could disclose information related to the producer’s market share. To this end, we suggest to request the disclosure of this information in an aggregated way in order to avoid competition issues.		

- **Absence of conflict of interest within EPR organisations:**

Proposal for a directive
 Article 1 - paragraph 1 - point 8
 Directive 2008/98/EC
 Article 8a - paragraph 3 a (new)

Text proposed by the Commission	Compromise amendment	Amendments replaced by the compromise amendment
	<i>If organizations are set up for the collective implementation of extended producer responsibility, Member States shall guarantee the absence of conflict of interest between the decision making body of the organisation and any current or future waste management operator providing service to the organisation.</i>	727, 731 dropped
Justification		
Member States should verify that there is no conflict of interest between the decision making body of an EPR organization and any waste management operator that provides services to the EPR organization. We observe that 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 in the waste market by limiting the amount of waste that is made available to the independent recycling sector. So EucoLight is in favour of introducing this concept in the text by combining amendments 727 and 731 together.		

- **With regard to the nature of the costs to be covered by the financial contribution of producers:**

Proposal for a directive
 Article 1 - paragraph 1 - point 8
 Directive 2008/98/EC
 Article 8a - paragraph 4 - point a - introductory words

Text proposed by the Commission	Compromise amendment	Amendments replaced by the compromise amendment
(a) cover the entire cost of waste management for the products it puts on the Union market, including all the following:	(a) cover the <i>following</i> costs of waste management, <i>falling under its remit and influence</i> , for the products it puts on the Union market:	734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745 and 746 dropped
Justification		
<p>Except for the amendment 740, all the replaced amendments delete "entire" from the text proposed by the Commission. The reason is that each stakeholder can only be financially responsible for the costs falling under their remit and influence.</p> <p>For example, waste under EPR that is either littered or ends up within municipal solid waste, primarily because of inadequate use by the consumer of the existing infrastructures for selective collection should not be part of producer's financial responsibility.</p> <p>In this respect, producers cannot "cover the entire cost for waste management for products it put on the Union market".</p> <p>At the same time the wording "falling under its remit and influence" can be more explanatory and give a better justification of the proposal "contribute in covering the" (amendment 735), "a proportionate share of cost of waste management, in concert with the actors involved" (amendment 736), "either partially or entirely" (amendment 738) "all or part of the" (amendment 739).</p>		

- With regard to the cost of collection and recycling costs to be covered by the contributions of producers:

Proposal for a directive

Article 1 - paragraph 1 - point 8

Directive 2008/98/EC

Article 8 - paragraph 4 - point a - indent 1

Text proposed by the Commission	Compromise amendment	Amendments replaced by the compromise amendment
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 separate <i>collection from collection points, transport to sorting and treatment plants</i> , 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;	747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758 dropped
Justification		
This compromise amendment seeks to further strengthen proposed text by the Commission, taking into consideration that WFD gives a framework to all type of EPR schemes. The costs to be covered by producers are already covered and detailed by their specific waste stream regulation (i.e Packaging, WEEE, batteries...).		

- Aspects to be taken into consideration in the modulation of the financial contribution of producers:

Proposal for a directive

Article 1 - paragraph 1 - point 8

Directive 2008/98/EC

Article 8a - paragraph 4 - point b

Text proposed by the Commission	Compromise amendment	Amendments replaced by the compromise amendment
(b) 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 re-usability and recyclability;	(b) are modulated on the basis of the real end-of-life cost of individual products or groups of similar products, <i>inter alia</i> by taking into account their <i>durability</i> , re-usability, <i>ease of upgrade, refit or repair as well as</i> recyclability <i>and the presence of hazardous substances. In order to ensure the smooth functioning of the internal market, a set of criteria acting as basis for modulation and their measurement method shall be established for the European single market;</i>	779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789 and 790 dropped
Justification		
This compromise amendment has the purpose to cover the main issues considered by the amendments 779, 780, 782, 783, 784, 785, 786, 789, 790 about the parameter of durability, reparability and presence of hazardous substances. And to express the concern of creating different evaluation of these parameters in case of independent criteria decided by the Member States, present in the text of the amendments 779, 787, 788.		

- **Certain aspects of EPR dialogue platform should be more detailed:**

Proposal for a directive

Article 1 - paragraph 1 - point 8

Directive 2008/98/EC

Article 8a - paragraph 6

Text proposed by the Commission	Compromise amendment	Amendments replaced by the compromise amendment
<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>Member States shall establish a platform, <i>or make use of an existing equivalent mechanism</i>, to ensure a regular dialogue between the stakeholders involved in the implementation of extended producer responsibility, including <i>producers, organisations implementing extended producer responsibility on their behalf, distributors/retailers</i>, including private or public waste operators <i>and</i> local authorities and, where applicable, recognised preparation for re-use operators. <i>In order to facilitate the establishment of such platform by Member States, the Commission shall develop EU guidelines on extended producer responsibility stakeholders' dialogues.</i></p>	<p>817, 818, 820 dropped</p>
Justification		
<p>With regard to the dialogue platform on the implementation of the EPR requirements, a combination of amendments 817, 818, 820, all contain valuable elements is proposed. This is notably the case of the references to distributors/retailers as important stakeholders, to EPR organisations implementing extended producer responsibility on behalf of producers) and the need for detailed EU guidelines about the platform.</p>		

About EucoLight:

EucoLight is The European association of collection and recycling organisations for WEEE lamps and lighting. On behalf of its 19 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).