

Position paper

Brussels
20 March 2017

EucoLight recommendations to the EU Member States with regards to the proposals to amend the Directive on Waste and the Directives on end-of-life vehicles and waste batteries and accumulators, and on waste electrical and electronic equipment

EucoLight, the European association of Lighting WEEE compliance schemes expresses its support to the European Parliament's report on the revision of the above-mentioned Directives (rapporteur: Ms Bonafè). We would like to emphasise the absolute necessity to have legally binding Extended Producer Responsibility (EPR) requirements in the EU legislation, as captured in Article 8 a.

Extended Producer Responsibility (EPR) is a main driver for Circular Economy.

With regard to the amendments to Directive on Waste

It is important that these minimum requirements for EPR nevertheless respect the subsidiarity and proportionality principles, leaving Member States to decide precise implementation in their national legislation according to their circumstances.

EucoLight particularly draws the attention of the EU Member States to the following key aspects relating to EPR:

Mandatory EPR requirements (Article 8 a):

Setting minimum EPR requirements across all applicable EPR regimes will ensure a level playing field for all actors involved and will support a high level of quality in collection and recycling of waste.

In our experience, when EPR schemes are set up it is essential to put in place safeguards against conflicts of interest between contractors and EPR organisations, as emphasised by the European Parliament (Recital 9 c (new) **Amendment 31 of the EP**).

Role and responsibilities of all actors involved in EPR (Article 8 a - paragraph 1 - indent 1):

Stating clear roles and responsibilities for all actors involved in an EPR scheme is of primary importance. Therefore EucoLight supports the adopt the European Parliament position which states that *“all actors involved, including producers of products placing goods on the market of the Union, organisations implementing producers responsibility on their behalf in the framework of collective schemes, private or public waste operators, distributors, regional and local authorities and (...)”*. All the latter are important stakeholders in waste management and bear responsibilities in EPR (Article 8 a - paragraph 1 - indent 1 - **Amendment 128 of the EP**).

Furthermore, we would recommend the inclusion of **“fulfilment centres”** in the list of actors. High levels of imports into EU territories are now channelled through fulfilment houses. However, in many cases, producers operating outside the EU and selling through fulfilment centres, are often able to avoid compliance with EPR legislation. If there is no economic operator within the EU, a fulfilment centre performs a crucial role, since it facilitates the making available of products on behalf of producers outside the EU. The inclusion of fulfilment centres in the Directive would make it clear that they have a role to play in ensuring that the product sold through them is compliant with applicable legislation.

Universal territorial coverage (Article 8 a - paragraph 3 - point a):

The Council Presidency is correctly assessing that there should be no geographical restrictions limiting the collection and management of waste to areas where it is the most profitable. In this context, we fully support the proposed inclusion in the Presidency Compromise text of Article 8 a - paragraph 3 - point a: *“has 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”* and the Article 8 a - paragraph 3 - point aa (new) of the Council Presidency: *“provides [...], an appropriate availability of waste collection systems [...] within the areas defined in paragraph 3(a)”*.

The European Parliament has also stressed the importance of guaranteeing no geographical restriction in the service by introducing in their Report **Amendment 133** (Article 8 a - paragraph 3 - point a).

Transparency on the financial contributions made by producers (Article 8 a - paragraph 3 - point d - indent 2):

The financial contributions paid by producers to EPR organizations should be made public but with respect to competition rules concerning the market share information of producers. That is why we welcome the European Parliament position that EPR schemes make publically available *“the financial contribution paid by the producers per unit sold or per tonne of product put place on the market”* (Article 8 a - paragraph 3 - point d - indent 2 - **Amendment 135**).

EucoLight therefore encourages Member States to support the Council presidency with their proposal which would preserve commercially sensitive information, as proposed in the Presidency compromise text under Article 8 a - paragraph 7 - point a): ***“The provision of information to the public under this Article shall be without prejudice to preserving the confidentiality of commercially sensitive information in conformity with the relevant Union and national law”***.

The coverage of the costs of waste management (Article 8 a - paragraph 4 - point a):

Producers need security regarding the scope of their financial obligations to comply with EPR obligations. Hence, creating a non-exhaustive list of costs to be borne by producers creates uncertainty and potential financing problems for the EPR model. Furthermore, each stakeholder can only be financially responsible for costs falling under their control.

EucoLight therefore recommends that Member States support the European Parliament position making use of a closed list and not an open list, as approved by the EP in their Report the following wording: ***“a) Cover the entire cost of waste management for the products it puts on the Union market, as follows”*** (Article 8 a -paragraph 4-point a - Amendment 139).

However, EucoLight has strong reservations about the Article 8 a -paragraph 4 - point d (new) proposed by the Council Presidency in the Compromise text stipulating that Member States may deviate from the financial responsibilities on separate collection and sorting by giving the possibility to ***“depart from the division of financial responsibility for separate collection as laid down in 4(a) while ensuring that the producers bear the predominant share of the related costs”***. This creates legal and financial uncertainty, since those references and the aim of the provision are not well explained to have an accurate assessment of the importance of the provision.

The role of public authorities (Recital 9 a (new) of the Council Presidency compromise text):

EucoLight concurs with the Council Presidency in recognizing the important role of public authorities in the organisation of municipal waste collection and treatment. It is however important to avoid any overlapping of duties between the EPR scheme and public authorities as regards the collection and treatment of municipal waste.

EPR schemes definition (Article 3 - paragraph 1g - point 20a (new) of the Council Presidency compromise text):

EucoLight agrees with the new definition of “Extended producer responsibility scheme” proposed by the Council presidency according to which an EPR scheme is ***“a set of [...] measures taken by Member States to ensure that producers of products bear financial or financial and organisational responsibility for the management of the [...] waste stage of a product’s life cycle”*** (Article 3 - paragraph 1g - point 20a).

With regards to the amendments of the Directive on end-of-life vehicles and waste batteries and accumulators, and on waste electrical and electronic equipment

EucoLight calls on the Member States to include clauses that will reinforce the quality, reliability and comparability of reported data based on reliable sources, in particular accurate data of products put on the market (POM) and for collection and recycling data. This is in line with the principle expressed in Recital 3 of the Commission Proposal COM(2015) 593 final amending the above-mentioned Directive and emphasised by the European Parliament (Recital 3 - **Amendment 6**).

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 members collect and recycle, in aggregate, 79 % of the lamps waste collected in the 18 countries in which they operate.

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).