

Position Paper

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RECOMMENDATIONS FOR EXTENDED PRODUCER RESPONSIBILITY (EPR) SCHEMES TO ENHANCE THE MOVE TO THE CIRCULAR ECONOMY

1. Preamble

“EPR related waste” schemes are essential to enable producers to reduce the environmental impact of their products throughout the whole life cycle, particularly as they maximize take back, recycling and recovery of waste. Over the last 2 decades, EPR has allowed increase in collection and recycling rates for the benefit of the environment and of the recycling economy. Extended Producer Responsibility policies are embedded in the “Zero waste” economy proposed by the Communication on the circular economy of 2014 (Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: Towards a circular economy: A zero waste programme for Europe). To this end, EPR schemes will have major role in this future, as a reality of the EPR policies in the various Member States.

With some 15 years of experience as EPR schemes in the WEEE lighting sector, and with members in 15 different Member States, EucoLight members are pleased to contribute to the current debate on EPR and EPR schemes in the context of the on-going Circular Economy package, and in particular with regard to its legislative part to be public in October 2015.

Please note that we are supportive of the proposals presented by EXPRA, and in particular recommend that their amendments in relation to the operation of EPR under the Waste Packaging Directive are applied to all EPR schemes.

2. Purpose of the paper

To propose a number of recommendations for changes in the way EPR schemes are implemented, to strengthen the move to a circular economy, to reduce distortions in the waste market and, to ensure their transparency and cost effectiveness, with particular reference to the WEEE Directive.

3. General Statement

Our general view is that WEEE EPR systems work well; there is an effective market operating. However, there are a number of situations in which the legislation is inadequate, or the market does not function adequately, leading to unfair or suboptimal outcomes for recycling. We therefore make the following recommendations:

4. Recommendations:

1. Level playing field for EPR schemes

We recommend that EPR legislation ensures a level playing field at National level. This level playing Field should include, at least the following:

- **Basic Criteria for EPR schemes.** The EU level should be set the framework or minimum requirements for EPR systems in order to guarantee transparency and reliability in the performance of the scheme and in the collection and recycling reported data.
- **Accreditation/permit procedure.** These basic criteria should be reflected in the conditions established in the accreditation/permit procedure of EPR schemes (auditing, traceability, reporting etc...), which will facilitate the monitoring of the performance of EPR schemes in order to verify compliance and to ensure enforcement by the national administrations.
- **Definition of roles and responsibilities.** Ensure clear definition of the roles and responsibilities of the actors involved in the EPR policy. Producers (including online-sellers), EPR schemes, waste management companies, treatment plants, municipalities, distribution, any kind of waste holder, among others, have a “shared responsibility” in the process, and all of them need to take their responsibility all along the chain in order to achieve full implementation of the EPR policy on that waste stream.
- **Definition of financial responsibility:** The EPR directives all clearly define the extent of producer financing obligations. It is important to ensure that additional financing duties are not placed on the sectors.
- **Clear rules of enforcement:** Ensure adequate monitoring, enforcement means and definition of proportionate sanctions by the national administrations, in order to control the performance of EPR schemes and the existence of “free rider- producers”.

2. Avoidance of conflict of interest in EPR schemes

EPR schemes can have a significant influence on the transport and recycling market. We recommend that legislation be amended to prevent EPR schemes or the members of their Board from being in the same commercial grouping as companies providing waste recycling services, or waste transport/logistics services. Such vertical integration creates a number of distortions:

- **Impact on independent suppliers of logistics and recycling services.** Any obligated waste made available to such EPR schemes will be automatically allocated to the scheme's own, in-house transport and logistics operator. The waste will therefore never be made available to independent providers of waste management services, logistics services, and recycling services. This reduces competition and so distorts the market.
- **Impact on independent EPR schemes.** Vertically integrated EPR schemes can control access to the waste that independent EPR schemes may need to meet their EPR obligations. Without such access, EPR schemes may need to increase expenditure to access other waste.
- **Impact on Producers and consumers.** Both of the above can have the effect of increasing prices to obligated producers and, consequently, to consumers.

This safeguard has already been adopted in several Member States, including France and Spain. However, we consider that EU wide adoption would result in a much better functioning market.

3. EPR schemes must promote Economic sustainability and a self-control mechanism in their performance

We recommend that EPR legislation should ensure that:

- **The EPR scheme develops a sound financial management for all obligated costs**, so as to guarantee that the financial contributions and resources from producers (importers and online sellers, included) cover the entire cost of waste management over the whole lifespan of the product, taken into consideration possible revenues from the sales of secondary raw materials originating from waste.
- **The ERP scheme develops a self-control mechanism via third party audit in order to:**
 - o **a)** control the sound financial management of the scheme-calculation of the entire cost in order to secure the collection, treatment, recovery and environmentally sound disposal of waste arising from the products put on the market by the producers participating in the scheme;
 - o **b)** ensure appropriate collection and treatment is performed;
 - o **C)** certify reliability of the collection and recycling reported data.

4. EPR schemes should provide non-discriminatory services for producers

We recommend that an EPR scheme should be required to offer EPR services to Producers (included importers and authorised representatives) on an objective, transparent and non-discriminatory basis, in order to ensure equal treatment. Without this safeguard, there is a real risk that small producers will incur higher charges than large producers, and this could represent a barrier to entry effect for producers under EPR policies.

5. EPR schemes should run impartial tendering for collection and recycling

We recommend that EPR schemes be required to operate transparent and well managed tenders to ensure that logistics and treatment suppliers are selected on fair and objective criteria. Implementing these safeguards:

- **Prevents** that some logistics and/or recycling companies may not be able to access the waste controlled by EPR schemes, with consequential distortions to the market;
- **Drive efficiencies** in costs related to collection and recycling;
- **Allows** for innovation in treatment processes;
- **Adds transparency and impartiality** to the performance of EPR schemes.

6. EPR schemes should be only constituted as not-for-profit entities

The objective of EPR schemes should be the efficient and sustainable treatment of EPR related waste. To this end, we consider that all EPR schemes should be registered as not-for-profit entities. It is our view that the important nature of EPR services and the environmental safeguards required are not compatible with the commercial drivers associated with for profit entities.

7. EPR schemes should have access to waste guaranteed

We recommend EPR systems be allowed to have direct access to relevant waste in order to fulfil the obligations of their producers. In some Member States waste is controlled by waste management companies who will not necessarily make it available to EPR schemes, even though it may be needed to meet their Producers' obligations.

8. The Proximity principle in the Circular Economy Era

The increase of recycling rate in a circular economy approach will require large investments (R&D, treatment facilities), which are economically sustainable only if some waste streams are channelled to dedicated high technology facilities. This means that although the proximity principle is important, it should not be the only basis for the selection of recycling facilities.

5. Conclusion

EucoLight recommends that the above-mentioned minimum recommendations be taken into consideration in the waste legislative proposals of the upcoming Circular Economy Package. It is convinced that these important requirements will facilitate the efficiency of the collection and recycling of waste, and reinforce the role of EPR schemes in the circular economy.

ABOUT EUCOLIGHT:

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