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Commission Proposal amending
the Waste Framework Directive
Packaging and Packaging Waste Directive
Landfill Directive
COM(2014)397 final

October 2014

In July 2014, the European Commission published the Circular Economy Package, which includes, among other things, a Proposal reviewing the targets set out in the Waste Framework Directive (WFD), Packaging and Packaging Waste Directive (PPWD) and Landfill Directive.

PlasticsEurope, as the voice of the European plastics material manufacturers, wishes to call on policy-makers to take the following aspects into account during the decision-making process:

- 1. Recyclable and *other recoverable* waste should be banned from landfills by 2025 at the latest – this is the only way to make sure that all waste (including plastics) which can be used as a resource is used as a resource**
- 2. Before setting new targets, the impact of the proposed change in the measurement point on the current recycling rates achieved by Member States first needs to be assessed**
- 3. Financial contributions into Extended Producer Responsibility schemes should be limited to aspects which the obliged industry can control**
- 4. National product design requirements will have a negative impact on the free movement of goods within the Single Market, reduce competitiveness of the European industry and hinder innovation and economic growth**
- 5. Before setting plastic packaging recycling targets for 2025, the Commission should assess the recycling levels achieved in the Member States by 2020**
- 6. Delegated Acts of the Commission decrease transparency and jeopardize the practicability and acceptance of future waste rules**

The European Union has acknowledged that there is a lack of proper implementation and enforcement of existing environmental legislation. Ensuring full implementation of EU waste legislation would contribute significantly to the aim of becoming a more resource efficient Union. Before suggesting new regulation, priority should be given to improving measures which support a better implementation and enforcement of EU Waste Legislation. We therefore welcome the Commission's idea of an Early Warning System and its attempt to establish a uniform statistical monitoring system. However, we fear that the proposed change in the calculation method will hinder reaching this objective.

The current Commission proposal focuses nearly entirely on the second and third levels of the waste hierarchy, namely preparing for re-reuse and recycling, with the aim to “*better*

reflect the needs of the circular economy” and move to a “*recycling society*”. However, one should remember that recycling is not an end in itself and that, as is the case for other waste management options, the potential resulting environmental, economic and social consequences need to be taken into consideration as well as technical feasibility. When it comes to plastic waste, for example, the amount that can be sustainably recycled has increased over the past decades due to improved identification and sorting technology. While future technologies will further increase the potential of mechanical recycling, the ultimate target for innovation remains to make feedstock recycling, i.e. chemical recycling, viable for plastics. Until then, however, in order to make full use of plastic waste as a resource and to end landfilling, energy recovery, the 4th level of the waste hierarchy, needs to be part of the equation. The Commission’s approach does not recognise the potential benefits of energy recovery sufficiently. Such benefits include the provision of valuable feedstock for efficient energy-from-waste facilities to produce electricity, heat and cooling or for use as fuel in industrial production, thereby saving virgin fossil fuel and contributing to energy security.

In addition, in contrast with the Commission’s current approach, practice in the most advanced Member States clearly demonstrates that only an integrated waste management system, in which both recycling and efficient energy recovery have a role to play, is able to successfully phase out the landfilling of valuable resources. Experience also shows that improvements in waste management follow a stepwise approach: in the current economic climate it is already a very ambitious step change for the majority of the Member States to significantly reduce landfilling over the next 10-15 years. This target should not be jeopardized by trying to take too many steps at once. At the end of the day, the first step to becoming a resource efficient society should be to eradicate the landfilling of waste which can be used as a resource. The decision as to which route such waste should take should be based on a full life-cycle-analysis of the overall impact regarding environmental, economic and social aspects, as laid down in Article 4 (2) of the WFD.

Therefore, PlasticsEurope recommends broadening the approach and including all recovery options necessary to successfully phase out the landfilling of waste which can be used as a resource within the next decade.

1. Recyclable “and other recoverable” waste should be banned from landfills by 2025 at the latest

Article 3 (2) (a) - Amendment of the Landfill Directive

Banning within the next decade the landfilling of waste which can be used as a resource has a huge potential: it will increase resource efficiency in Europe while at the same time foster growth and increase competitiveness. The current Commission proposal calls for a ban, by 2025, on the landfilling of recyclable waste alone. However, in order to unleash the full potential of waste, this 2025 deadline should apply not only to waste which can be used as a resource for recycling purposes, but to **all other recoverable waste**, including that which can be used as a resource for energy recovery purposes as well, such as plastics, paper, cardboard and wood. Only then will all recoverable waste no longer end up in landfills.

Seven EU Member States plus Norway and Switzerland already landfill less than 10% of plastic waste. Examples have shown that eradicating landfilling puts positive pressure on national and local administrations and acts as a powerful stimulus for recycling and efficient energy recovery. It also provides the legal certainty required for future planning and investments in the necessary recycling and energy recovery infrastructure. Needless to say that once a ban on the landfilling of recyclable and other recoverable waste is in force across the EU, the movement of such waste within the EU should be facilitated. Until now, policies and rules have seen waste as a problem and therefore focused on treating it locally. When

changing perspective and looking at waste as a valuable resource, then the rules of the market should apply, i.e. waste should be processed wherever this can best be done. A so-called “**Schengen area for waste**” would help to overcome the lack of infrastructure in some EU Member States or overcapacity in others.

2. Before setting new targets, the impact of the proposed change in the measurement point on the current recycling rates achieved by Member States first needs to be assessed

*Article 1 (8) (b) 4. - Amendment of the WFD
Article 2 (3) c) - Amendment of the PPWD*

There is a need for a harmonised EU method for the calculation and reporting of progress towards achieving the waste targets. **Using a single calculation method** will enable an accurate overview of the status in each Member State, allowing meaningful comparisons and enabling policy-makers to set realistic targets for the coming years. More specifically, when it comes to compliance with the target for municipal waste recycling, we recommend that the calculation method be reduced from the current four to only one.

Another issue is the **measurement point** at which waste is counted as recycled: Member States’ current recycling performance is based on the measurement point outlined in two Commission Decisions (2011/753/EU and 2005/270/EC) according to which waste targets should be calculated based on the “*input waste used in [...] the final recycling or other final material recovery process*”. The Commission now proposes to change this basis to the weight of this input waste *less the process waste*. The **impact of such a change has not been assessed** in the Impact Assessment. On the contrary, the Impact Assessment, including the higher recycling targets which were taken up in the proposal, is fully based on the input-only measurement point set out in the above decisions. In addition, the proposal to change the basis was not included in the Commission’s online consultation on the Review of the Waste targets in 2013, and therefore the relevant stakeholders have not been consulted.

With this in mind, we are concerned that proposing higher recycling targets without knowing what the current level of recycling would be in the Member States when using the new calculation method and measurement point, and consequently, what it would take to achieve these targets, could lead to a serious distortion of the European packaging market.

In the case of plastic packaging the **change in the measurement point would undoubtedly result in significantly higher costs for consumers**: the current plastic packaging recycling target of 22,5% (based on the input-only measurement point) would mean 13.5% if based on output, taking into consideration an average plastics recycling efficiency rate of 60%, as reported in a recent BioIS study (August 2013). The proposed increase in the plastic packaging recycling target to 45% by 2020 would thus actually more than triple the current target, while the 60% by 2025 would more than quadruple it. It is worthwhile noticing that based on the new measurement point, the most advanced Member State today (using reliable figures) would be Germany, with a 24% plastic packaging recycling rate (instead of 40% based on input-only). For Germany, the proposed targets would require an 88% increase by 2020 and a 150% increase by 2025. If one were to take into account what is “*technically feasible at the time of the revision*”, as stated in recital 14 of the proposal, the figure for plastic packaging recycling would therefore be closer to 25% rather than 45% or 60%.

Furthermore, the proposed **new measurement point will lead to quantity being the objective rather than quality recycling**. Producing high quality plastic recyclates requires more cleaning and separation steps than low quality recyclates and the recycling process consequently results in smaller yields and higher amounts of waste. The latter, on the other hand, achieve higher yields since they can leave plastics and other components together, melting the mixtures and pressing them into lower quality recyclates. Shifting the measurement point to what would be equal to the end of the recycling process, as proposed by the Commission, will thus favour low quality recyclates with higher yields and discriminate against the purer plastic recyclates. **This would lower the ecological benefits of recycling.**

Therefore, PlasticsEurope recommends that any change in the measurement point should first be subject to a thorough impact assessment and consultation with interested stakeholders. Only when a clear and comparable overview of what is currently being achieved at Member State level is provided, can new realistic targets be set.

3. Financial contributions into Extended Producer Responsibility schemes should be limited to aspects which the obliged industry can control

*Article 1 (6) (c) in combination with
Annex VII - Amendment of the WFD*

Considering the large differences in Extended Producer Responsibility (EPR) schemes currently being implemented across the EU, the Commission's proposal in favour of a very specific and very detailed EPR model raises concerns, the first being that the impacts of such an approach has not been assessed properly. Further concerns relate to the scope of such EPR: the proposal that EPR fees should "*cover the entire cost of waste management*" (in subparagraph 6) would lead to **potentially unlimited costs** for the obliged industry. This would be detrimental for the competitiveness of European industry, put jobs at risk and limit growth in Europe – without any proven benefit for either citizens or the environment. The proposal to take into account "*the true cost of the end-of-life management of individual products*" would further increase the costs and would require extensive data gathering and assessments which would lead to **more bureaucracy**. Finally, the idea that EPR should also "*support litter prevention and clean-up initiatives*" makes the obliged industry responsible for the littering behaviour of citizens, something which it **cannot control** and which would contradict the "polluter pays" principle.

Therefore, PlasticsEurope recommends to first define at EU-level the roles and responsibilities of the actors involved in EPR and to then set some true "minimum requirements" to secure a level playing field between the actors across the EU. Furthermore, all actors involved in EPR should only be made responsible for those aspects which they can control, and financial contributions into EPR schemes by producers or importers of products put on the market should take into account the revenues from the sales of secondary raw materials originating from the waste.

4. National product design requirements will have a negative impact on the free movement of goods within the Single Market, reduce competitiveness of the European industry and hinder innovation and economic growth

*Article 1 (6) (b) - Amendment of the WFD
Article 2 (3) (f) - Amendment of the PPWD*

In order to guarantee the functioning of the internal market for goods, it is essential to decouple product design-related measures from waste management legislation. Product

design requirements should always be harmonised at EU level, since only then can the free movement of goods across EU borders not be put in jeopardy.

When it comes to packaging, to compel Member States to unilaterally take “*measures to encourage the design of [a certain type of] packaging*”, would not only be in **contradiction with the internal market legal basis** of the PPWD, but it would also **increase costs significantly**: one same good would need a different type of packaging depending on the Member State it is sold in, and the benefits of economies of scale for goods manufacturers would no longer be available. Such a cost increase could lead to packaged goods no longer being shipped abroad to other Member States altogether. This would result in a decrease in competition from goods coming from other Member States, which would in turn lead to an increase in costs for the European citizen since the choice between competing products on the market would be reduced. In addition, allowing Member States to unilaterally take measures would create **legal uncertainty and thus hinder innovation** in the packaging area.

Furthermore, when **assessing the life cycle impact of packaging**, it is crucial that packaging is not considered in isolation. A life-cycle approach is needed: one that takes into account the functions and role of packaging in relation to the packaged good as well as the integrated packaging system. This should include all stages of a packaged good’s lifecycle, from responsible sourcing, processing, packaging, distribution, use-phase to the end-of-life stage.

Designing for recycling only does not necessarily optimise environmental impacts. A purely recycling-driven approach could have negative effects over the whole life cycle and may greatly reduce the environmental and performance requirements of a product during its use phase. Reducing material complexity to improve recyclability, for example, may lead to over-engineering of materials and result in an increase in weight, which would in itself increase overall environmental impacts, especially during the use phase. A life cycle approach is thus more relevant than one specifically focusing on the end-of-life.

Therefore, PlasticsEurope recommends that the reference to Member States having to encourage a specific type of product design should be deleted from the proposal and that design-related requirements should remain harmonised at EU level through recognised standards, and, when it comes to packaging, through the Essential Requirements of the PPWD.

5. Before setting plastic packaging recycling targets for 2025, the Commission should assess the recycling levels achieved in the Member States by 2020

Article 2 (3) (b) - Amendment of the PPWD

As mentioned above, focusing only on the recyclability of plastic packaging, without taking into account the benefits during the actual use phase, may result in the loss of plastic applications which are, when taking the full life cycle into account, more resource efficient compared to other materials.

When discussing packaging recycling targets, it is therefore paramount to remember that plastics are not a homogeneous material. There are 6 main families of plastics currently being used in packaging, i.e. PE, PP, PS, PVC, PET, PA, and several types of polymers within each family. The choice of plastics to be used in packaging depends on the specificities of the good to be packaged and the related performance requirements.

Unrealistically high recycling targets, which take neither the complexity resulting from these performance requirements nor the current efficiency of waste management processes into account, will put pressure on achieving high quantities of recycled material. This would inevitably negatively affect the quality of that material and is likely to result in very high costs with negligible environmental benefits.

Therefore, in order not to negatively affect the benefits of plastic packaging on the environment from a life cycle perspective, and not to hamper innovation in the area by setting unrealistic recycling targets for 2025, PlasticsEurope recommends that the Commission first assess the recycling levels achieved in the Member States by 2020 as well as the benefits in terms of the three pillars of sustainability compared to other recovery options.

6. Delegated Acts of the Commission decrease transparency and jeopardize the practicability and acceptance of future rules on waste

Article 1 (1) (22) - Amendment of the WFD

The Commission's proposal to broadly extend its competences regarding the setting of important rules on waste by using Delegated Acts would negatively affect the involvement of stakeholders, decrease transparency and put the practicability and acceptance of new waste rules at risk. In the case of the current proposal, amendments to the "*minimum requirements*" for EPR, in particular, should only be adopted via Implementing Acts, with the involvement of Member States.