

EXPRA's position on the Circular Economy Package and the Waste Target Review

EXPRA (the Extended Producer Responsibility Alliance) calls on policymakers to safeguard and reinforce the primary role that **Extended Producer Responsibility** (EPR) has to play in the transition towards a circular economy. According to the OECD, *EPR is an environmental policy approach through which a producer's responsibility for a product is extended to the post-consumer stage of a product's life cycle*. We believe that the OECD definition should be formalised in European law.

EXPRA would like to put forward the following messages:

1. **The EPR principle should appropriately be incorporated into EU waste legislation through setting strong and clear minimum requirements for EPR schemes.** In a bid to avoid inefficiencies and conflicts of interest, these should cover clear roles and responsibilities of all actors involved in the scheme, allocation of separate collection, sorting and recycling costs falling under their remit and influence and fee structures, besides provisions to ensure transparency. An explicit EPR reference should moreover be included into the Packaging Waste Directive (PPWD), which is the key Directive for the packaging sector.
2. **New waste management targets should be based on reliable statistics and maintain the current measurement point for recycling.** It is arguable whether the higher targets proposed can effectively be implemented in the context of missing data and a lack of comparability between Member States. A data verification exercise should therefore be completed first. Besides, shifting the measurement of recycling to the output of the recycler will lead to a series of constraints, amongst which an increase in complexity of traceability, lower quality recycling and a drastic increase of costs across the system.
3. **Policy decisions under the Waste Target Review need to be supported by a quantitative cost-benefit analysis and enhance environmental benefits.** Packaging EPR has a major role to play in waste management improvement as the entire packaging chain is optimised from both an environmental and economic perspective. However, current estimates show that the current proposal could minimum double costs for collection, sorting and recycling, equivalent to cost increase of € 3 billion per year in the EU.

EXPRA's key messages in detail

Need for reinforced minimum requirements for EPR and an explicit EPR reference in the Packaging and Packaging Waste Directive (PPWD)

Minimum requirements for EPR

1. EXPRA welcomes the introduction of **explicit minimum requirements for EPR** under the reviewed Waste Framework Directive (WFD), which will encourage streamlined application across Member States.
2. A variety of stakeholders take part in a packaging EPR scheme (material producers, packaging producers, fillers and importers, retailers, local authorities, waste management companies, recyclers, consumers). Their roles with regard to collection, sorting and recycling should be clarified as their operations affect the remit of producers and importers, especially if they have a substantial financial responsibility to cover the costs for running this EPR scheme.
3. **EPR minimum requirements should therefore be further developed *inter alia* by:**
 - **Clarifying the distribution of roles and responsibilities** of the various actors involved in activities that fall under the financial responsibility of EPR schemes in order to have maximum effectiveness at lowest social costs, and to avoid overlaps, inefficiencies and conflicts of interest.

- **Specifying how costs and fee structures should be set.** Each stakeholder can only be financially responsible for the costs falling under their remit and influence. Producer Responsibility Organizations (PROs) should be held responsible for the collection and sorting of packaging waste at a cost level that is normal in the market (or an average cost level). At the same time, obliged industry can only be made accountable for the costs allocated to the collection and treatment of packaging waste within their dedicated collection systems. Paying for the packaging which is wrongly put in the residual waste collection system or ending up as litter will not drive the motivation for municipalities to improve their separate collection system.
- **Ensuring the transparency of the schemes** through procedures to recognise the financial contribution of the different actors involved, the geographical coverage of the schemes and packaging materials covered under their remit, the ownership of an EPR scheme, amongst other considerations.
- **Including a specific provision regarding minimum collection infrastructure for packaging arising at the municipal level.** Member States should be required to take the necessary steps to ensure and enforce that this infrastructure is effectively in place to enable separate collection by citizens, which is a pre-condition for any effective waste management.

Explicit EPR reference in the PPWD

4. EXPRA demands that legislators include an explicit reference as well as minimum requirements for **EPR in the EU Packaging and Packaging Waste Directive (PPWD)**, which is the key Directive for the packaging sector. This has been backed by the Commission's Ex-Post Evaluation of the Five Waste Stream Directives, which notes that EPR is subject to both the WFD and PPWD, and 'in need of further alignment as well as further development in both Directives'¹. Packaging is a very specific (waste) stream involving a high number of companies obliged by EPR legislation, needing a dense infrastructure especially for packaging arising at the municipal level and often becoming waste after a very short usage phase, in particular in the food sector. This requires **specific criteria** that cannot be generalised through the WFD.

Need for further Commission guidance

5. When applying EPR, there are important national and regional differences that need to be considered. EXPRA would welcome further Commission guidance to Member States on the application of EPR, **based on national best practices**. This could further contribute to promoting the optimal use of EPR schemes.

Need for realistic target levels and keeping the measurement point for targets where the sorted material is put into recycling

Issues relating to target levels

1. The Waste Fitness Check (WFC) confirms that **Member States report data that is not reliable, coherent and comparable**² and that they have different interpretations of recycling and recovery. The EUNOMIA Waste Target Review Study moreover explains that there is currently no consistent reporting methodology at European level and that the data is unreliable and not comparable³. These findings support EXPRA's own research findings that demonstrate that, on this basis, it is difficult to analyse whether all Member States comply with the current recycling targets under the PPWD, and whether higher targets, as proposed, can be realistic.

¹ Page 63

² Page 17

³ Pages 32, 38 and 51

2. EXPRA would welcome **additional measures to align the level of quality of Member State reporting** to the European Commission, which would facilitate the task of identifying the most cost effective solutions. These could take the form of alternative reporting, through which Member States explain their measurement system and the quality of the results.
3. The concept of “**preparation for reuse**” in the PPWD should be **clarified** before assessing the convenience of introducing combined targets.
 - EXPRA understands the definition of this terminology as follows: *Preparation for reuse can only be applied to packaging that has become waste. This packaging has to undergo some recovery operations, such as e.g. checking, cleaning, repair. After this, it leaves the waste status to enter the (new) product phase again.*
 - If EXPRA’s understanding of the definition is correct, the following elements within the current legislative review might have to be considered:
 - Preparation for reuse somehow stimulates reuse, but only in the waste stage and not in the product stage. The PPWD focuses on both the waste stage and the product stage.
 - There is no definition of the concept of preparation for reuse, which can therefore be interpreted in many ways. This does not contribute to consistency in Member States reports on their performance to the Commission.
 - Setting targets for preparation for reuse can lead Member States to focus on this concept, report artificially high results and therewith circumvent separate collection.

Measurement point

4. EXPRA calls on policymakers to **maintain and enforce the existing measurement point for recycling**, based on the input of the recycler entering a recycling process without significant losses.⁴
5. The Commission proposes to measure recycling at the output of the recycling process, unless the losses to the waste that is recycled are 2% or less. This might lead to the following **constraints**:
 - The measurement change will lead to **favour lower quality recycling** as low quality recycled products have a lower level of losses during the recycling process than high quality recycling like bottle-to-bottle.
 - By-products of a recycling process, which are usually recycled, are even harder to be traced, as they are sent to other recyclers sometimes even in other countries who cannot see the origin of the material without massive **administrative implications**. These monitoring requirements would introduce **another level of data complexity** that could further diminish the reliability of the data available today.
 - Given the international aspect of the recycling market and the usual mixing of various waste components in a recycling process, it is **not (always) possible to** allocate losses in recycling processes to individual (packaging) waste streams and **obtain complete, reliable and accurate data about recycling**.
 - **EPR schemes can only control the process of recycling to a little extent**. They cannot make decisions about the quantity and quality of output, and thus can hardly control the level of materials that are lost in the process of recycling.
 - Overall, if the increased recycling targets were applied, **packaging waste that is collected from households** would have to rise to **levels that are difficult or impossible to reach**. Assuming the usual losses in sorting and recycling, collection rates slightly **above 100%** would theoretically be necessary.
 - The **costs** of collection, sorting and sale of packaging waste will **more than double** if the proposed legislation for packaging recycling would come into practice.

⁴ COMMISSION DECISION of 22 March 2005 establishing the formats relating to the database system pursuant to Directive 94/62/EC of the European Parliament and of the Council on packaging and packaging waste: the current definition of point of measurement should continue to apply: *The weight of recovered or recycled packaging waste shall be the input of packaging waste to an effective recovery or recycling process. If the output of a sorting plant is sent to effective recycling or recovery processes without significant losses, it is acceptable to consider this output to be the weight of recovered or recycled packaging waste.*

6. EXPRA calls on policymakers to **evaluate alternative measures** with the potential to bring about **recycling quality and improve transparency of the recycling processes**. The introduction of certification programmes for recycling processes should be further examined.

Backfilling

7. The draft amendment to the backfilling definition includes, for the first time, the waste used for the purpose of construction as backfilling, when these two operations, particularly when using glass waste, are totally different.
8. The draft amendment in the calculation of the recycling targets should consider all waste materials which have ceased to be waste used for backfilling regardless of its origins. The **determining view should be the final use of the material, rather than its origin**. As such, EXPRA considers that all material used in backfilling after a recovery process, regardless of its origin, should be counted towards the recycling target as far as this process fulfills the definition of recycling and represents an environmental benefit, contributing to avoiding both, landfill waste and extracting new raw material.

Recovery and Recycling

9. EXPRA would like to see the provisions on **energy recovery** reinstated in the Directive proposal. Member States should, where appropriate, encourage energy recovery, especially to reduce the amount of waste going to landfilling as far and soon as possible.

Need for policy decisions that maximise environmental, economic and social benefits

1. The inclusion of more legally binding language for EPR in EU waste legislation, in particular in the PPWD, will promote cost-efficient solutions and boost environmental benefits. This is especially true given that:
 - The EU ability to reach waste management targets will depend predominantly on the extent to which effective and efficient waste management tools such as EPR are used. This has been recognised by the Waste Fitness Check (WFC) in relation to the PPWD.
 - Through EPR, the responsibility of producers for their products is extended to include the social costs of waste management, including the environmental impact of waste disposal. EPR moreover gives producers improved incentives to guarantee that packaging recovery and recycling are carried out in the most economically competent and sound manner. While other policy instruments tend to target a single point in the chain, EPR seeks to integrate signals related to the environmental characteristics of products and production processes throughout the product chain⁵.
 - Packaging EPR implementation has undoubtedly led to a better environmental performance of packaging, resulting in increasing amount of recyclable waste.
2. It is, at the same time, essential that the legislative review is supported by a quantitative cost-benefit analysis, based on verified and comparable data. This should be the basis for smart decision making leading to the highest economic and environmental benefits. Estimates show that the current legislative proposal will double costs for collection, sorting and recycling, equivalent to a cost increase of € 3 billion per year in the EU.

⁵ <http://www.oecd.org/env/tools-evaluation/extendedproducerresponsibility.htm>

About EXPRA

Founded in 2013, is the alliance for packaging and packaging waste recovery and recycling systems which are owned by obliged industry and work on a not-for-profit basis. EXPRA acts as the authoritative voice and common policy platform representing the interests of all its member packaging recovery and recycling organisations founded and run by or on behalf of obliged industry. For additional information, please visit www.exptra.eu

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