Fédération Européenne des Activités de la Dépollution et de l'Environnement
European Federation of Waste Management and Environmental Services
Europäische Föderation der Entsorgungswirtschaft

FEAD position paper on a revised Commission proposal on Circular Economy

March 2016

Introduction

FEAD welcomes the publication of the European Commission's new Circular Economy Package. The transition from a linear to a more circular economy is vital if the European Union is to develop a sustainable, low carbon, resource efficient and competitive economy in the future.

FEAD believes that the Commission's proposals contain a number of positive elements, notably:

- The proposed new legally binding targets for recycling and landfill diversion, which are a central part of the revised package and which should provide private companies with much-needed legal certainty beyond 2020 when making important investment decisions on waste and resource management infrastructure.
- The emphasis on better implementation of waste legislation, including compliance plans for less well performing Member States, new provisions to be included in waste management plans, and an early warning system.
- The promotion of eco-design, notably in the Eco-Design Directive working plan for 2015-2017 and emphasis on incentivising eco-design in Extended Producer Responsibility schemes. This should improve durability, reparability and recyclability of products.
- The emphasis on ensuring that EU funded projects contribute to a circular economy and must be in line with the waste hierarchy, as well as the use of economic instruments by Member States to provide incentives for the application of the waste hierarchy.

The private waste and resources industry plays a key role in making progress towards a circular economy by providing secondary raw materials and energy for Europe's industries and consumers.

But strong leadership from EU policy makers is crucial to provide the right legal framework and direction of travel, on the basis of which the private sector can make the necessary investments for a more circular economy. This will in turn create many more jobs in Europe while making our economy more resilient and resource efficient.

However today, markets for secondary raw materials are weak with little sign of recovery. The creation of the circular economy and the protection of scarce natural resources can therefore not be left to market forces alone. Regulatory changes and economic instruments are also needed on the demand side to create more sustainable and resilient markets for secondary raw materials.

This paper sets out FEAD's vision of how the waste and resources management industry can play its full part in achieving a more sustainable and prosperous European economy, given the right policy framework and regulatory and economic instruments.

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1. Pull measures – creating sustainable markets for secondary raw materials

FEAD members wish to stress the importance of creating strong and resilient markets for secondary raw materials. Raising quality standards by itself will not create demand for secondary raw materials when commodity prices are low, as they are now and seem likely to remain. FEAD believes the revised package should have proposed a number of regulatory pull measures so as to correct existing market failures and stimulate the demand for secondary raw materials. Otherwise, given the current very low prices of raw materials, the collection, sorting of waste and reprocessing into secondary raw materials could become uneconomic.

The EC proposals to ban separately collected waste from landfill and to set binding recycling targets for municipal waste are very much welcomed. However, to stimulate the full circle in the circular economy market incentives are also needed to ensure that secondary raw materials can compete with virgin raw materials. Otherwise, where will the demand for this significantly increased supply of secondary raw materials come from? Secondary raw materials compete with low prices of raw materials from primary sources (caused in part by the drop in oil prices). In some respects, such as homogeneity, secondary raw materials are at a disadvantage to primary raw materials. Recyclers also face challenges relating to the application of the REACh chemicals regulation. In other words, while the economic and environmental advantages of secondary raw materials are politically recognised, they are not reflected in current prices for these materials and the Commission proposals should have contained more concrete measures to address this.

Of course, markets rise and fall and businesses must adapt to survive. But if Europe truly believes in the wider economic, environmental and social advantages of a circular as opposed to a linear economy, it must recognise that supply side measures on their own will not deliver a more circular economy.

That is why FEAD is calling for more emphasis on the demand side in the Commission revised proposals. The key measures recommended by FEAD are:

- Minimum recycled content requirements for selected products
- Minimum green public procurement requirements at EU level to boost purchase of recycled products and materials (e.g. in construction of building, roads, etc.)
- Eco-labelling rules to incorporate indications of recycled content and recyclability
- Fiscal measures, such as lower or zero rate of VAT on secondary raw materials which will be re-injected in the economy and on products that incorporate recycled materials.
- Ensure fair competition between virgin and secondary raw materials by financially rewarding the benefits of recycling i.e. reward for CO_2 reduction, encourage Members States to introduce a green tax shift in favour of activities supporting the transition to circular economy, internalisation of external costs of primary raw materials
- Cut administrative burden for trading high quality secondary raw materials in the EU

Until all products are designed for durability and reparability, sufficient demand for secondary raw materials in Europe needs to be triggered for the recycling sector to be an economically viable business model delivering high quality recycled materials, thereby increasing customers' confidence.

2. Harmonised and clear definitions, reporting and recycling calculation method

For the purpose of calculating whether the proposed targets have been attained, a clear and practicable calculation method is needed. Instead, the proposed definition of a final recycling process causes confusion with a subsequent production process. Whereas we very much support the need for traceability and effective recycling, the definition of final recycling process proposed in Article 3 par. 17a is in our view inaccurate. In order to report in a harmonised way and to ensure comparability between Member States, FEAD considers that the most appropriate point of measurement is after sorting. In addition, it needs to be made clearer whether the derogation proposed in Article 11a par. 3 refers to 10% of impurities in final bales or to sorting residues from the plant as a whole.

FEAD also sees the need to maintain a clear distinction between prepare for re-use and re-use, the latter being a waste prevention measure. The Waste Framework Directive only regulates waste, not products. Extending the definition of preparation for re-use to products, which have never been waste, would cause major problems for reuse organisations and lead to an increase of the overall recycling rate of municipal waste which is unrelated to better performance in recycling.

FEAD believes that it is important to stress that the purpose of defining the types of waste to which the new recycling targets would apply, as proposed in Article 3 par. 1a, is solely for reporting and calculating them.

3. Competition and innovation are vital for the circular economy

The private sector plays a pivotal role in waste management in Europe and its part should be recognised accordingly. The role of the public and private sectors in waste collection varies widely between Member States, and is a matter for Member States to decide (see Article 15 "Responsibility for waste management" of the Waste Framework Directive). FEAD members welcome that the Commission recognised the neutrality of the definition of municipal waste: "The definition of municipal waste in this Directive is neutral with regard to the public or private status of the operator managing waste."[1] To ensure the uniform application of neutrality of the definition of municipal waste across the EU, it should be made legally binding by including it in the legislative part of the proposal.

Furthermore, a recent study from the Commission confirmed that "Involving the private sector in collection and treatment can help reduce costs and reduce the management burden."[2]

Open markets and fair competition are of key importance to facilitate the move from a linear to a more circular economy. To do so, market based conditions and competitive tenders must be introduced in the whole value chain. Open markets and fair competition stimulate the most cost efficient customised services and solutions, and the best possibilities for innovation and investment. They also help SMEs to enter the market. A level playing field between private and public operators is crucial to maximise competitiveness within the sector and would help unlock more green growth and jobs in Europe.

4. Commercial and industrial waste

A truly circular economy will not be created if only municipal waste is taken into account. Commercial and industrial waste (C&I waste) should be included in the scope of the Circular Economy proposals as it is a much larger source of resources. FEAD believes that the Commission should examine the possibility of taking measures to incentivise a more circular economy for commercial and industrial waste in the future, and as a first step should require Member States to put in place better data gathering on commercial and industrial waste. To achieve a circular economy, the EU needs to know more about flows of commercial and industrial waste so as to ensure that these can be efficiently re-injected into the European economy.

Today, the absence of reliable statistics on C&I waste remains a significant barrier.

The EC should also assess how commercial and industrial waste can be clearly distinguished from municipal waste (household and similar waste) in order for the Member States to report to EUROSTAT in a comparable way. One method of doing so would be to set a maximum weight/quantity for municipal and similar waste to be collected on a weekly/monthly basis for this waste to qualify as municipal waste. Above that threshold, collections would be considered as commercial and/or industrial waste. Alternatively, the EC could set a yearly maximum threshold of municipal waste generation per capita, above which waste could only be qualified as commercial and/or industrial waste.

[1] Recital 6, Commission proposal (2015/0275 (COD)) on the Waste Framework Directive (2008/98/EC)
[2] European Commission, DG Environment "Assessment of separate collection schemes in the 28 capitals of the EU", Reference: 070201/ENV/2014/691401/SFRA/A2, p. 18

5. Minimum requirements for Extended Producer Responsibility

FEAD supports having minimum requirements at EU level and believes it is important to ensure that Extended Producer Responsibility (EPR) schemes operate on the transparency and polluter-pays principles. FEAD is of the opinion that the definition, scope and objectives of EPR should be market-oriented so as to fully exploit its potential to achieve a circular economy at best cost. EPR schemes should encourage manufacturers to use recycled materials; provide sufficient contract durations taking into consideration investments pay-back time; improve the governance of the systems between the different actors; and ensure fair and equal access to materials.

However, when it comes to financial contributions, these criteria should not be so prescriptive as to inhibit innovation and the operation of schemes which reflect differences between the Member States. The desired results will be delivered only if local conditions in the Member States are taken into account. In particular, Article 14 of the WFD states that Member States may decide that the "costs of waste management are to be borne partly or wholly by the producer of the product from which the waste came and that the distributors of such product may share these costs".

The discretion of the Member States in choosing the most appropriate national/local financial mechanism to achieve EU recycling targets ensures that Member States are free to look for the most efficient approach fit for their own market conditions. At the same time, Member States, when determining the best national/local financial mechanism, should take into account good practices, for example, a bonus/malus system, which incentivises producers to invest in "Design for the Environment". Therefore, fees paid by waste producers to EPR systems could be modulated by taking into account products re-usability and recyclability. In the end, it is of key importance that Member States take the necessary measures to ensure that the financial contributions paid by the producer are *sufficient* to comply with its extended producer responsibility obligations.

It will be important that any new requirements applied to EPR schemes at EU level do not disrupt existing well-functioning B2B markets for commercial and industrial waste.

6. The complementary role of waste to energy

The Commission will bring forward a new initiative on waste to energy this year as part of its forthcoming Energy Union. This is expected to stress the important role that energy from waste will need to play going forward for those waste types which are either recycling residues, or are unrecyclable for technical, environmental or economic reasons.

While separate collection and recycling of waste must be supported where technically, environmentally and economically practicable, the remaining materials (e.g. sorting residues) which cannot be fully reused or recycled should be treated in the most sustainable way, in line with the waste hierarchy. Moreover, energy recovery or incineration may be the overall most sustainable option for some waste including some containing hazardous substances of which the risks cannot be adequately controlled when recycled.

Waste to energy goes far beyond conventional waste incineration and includes processes such as biogas production from anaerobic digestion, SRF production, pyrolysis and gasification. FEAD believes that all these forms of energy recovery from waste need to be given equal opportunities. The ultimate goal should be a step by step reduction of residual waste but as long as there continues to be residual waste, energy recovery will play a role in the circular economy.

Conclusion

The achievement of a true circular economy will need to cover a full circle starting with eco-design thereby ensuring that the amount of waste which cannot be recycled is reduced to a minimum. Supply side measures alone such as recycling or landfill diversion targets will not deliver a more circular economy. Regulatory changes and economic instruments are also needed on the demand side to create more sustainable and resilient markets for secondary raw materials.