

Joint Statements on the Eunomia study on EPR fee modulation

June 2020

The organisations above representing the paper based packaging manufacturing, converting and recycling value chain support the use of EPR fee modulation as a way to accelerate the transition towards a low carbon circular economy. In particular, we:

- Support the net cost principle as the basis of any EPR fee, before considering any other form of fee modulation.
- Support the principle that recyclability, based on Design for recycling Guidelines, should be the main driver of EPR fee modulation. The more a packaging is recyclable, the more it will contribute to creating a valuable stream of secondary raw material. This value creation in turn will contribute to cover the costs of the collection and sorting. We have produced guidelines for the recyclability of paper based packaging. (http://www.cepi.org/European_recyclability_guidelines) and are conducting initiatives to turn the guidelines more operational. We also agree to the conclusion that any Design for Recycling assessment needs to be consulted within the recycling value chain.
- Agree that the level of granularity should not be further detailed than the proposed by Eunomia in the case of paper and board packaging.
- Support the view that beverage cartons should constitute an individual category under EPR schemes, as it is already the case in several EPR schemes across EU Member. An individual category for beverage cartons will also increase the availability of public data on recycling of BCs, while giving Member States more incentives to set national mandatory collection or recycling targets for beverage cartons as a way to improve its recycling rate.
- Support Eunomia's conclusion that EPR fee modulation is not the best tool to increase reuse or to incentivise recycled content. As correctly stated by Eunomia, EPR fee modulation should focus on the main objective, i.e. improving packaging recyclability. Should EPR fee modulation focus on other objectives (e.g. reuse or recycled content), this would disrupt the efficient operation of the market mechanism provided by EPR fees. There is already a strong market demand for recycled content in paper packaging and the value chain has declared to increase recycling further. It should be left to the market to decide in which product groups recycled content is most efficiently used.

On the other hand, we believe that some aspects of the Eunomia report should be further analysed:

- We believe that there should be a further evaluation of whether the EPR fee modulation based on recycling rates of packaging formats is necessary and feasible. Collection of data on recycling rates per packaging format will be very challenging both for authorities and industry.
- The concept of high quality recycling needs to be further discussed at high level, including stakeholder consultation before specifying it as a parameter for EPR modulation. The definition proposed by Eunomia is not adequate in our view since:
- GHG savings do not relate to the purpose of the EPR, which is to cover the costs of collection, sorting and treatment.
- The criterion proposed by Eunomia may incentivise the use of materials having an overall high carbon footprint, since it is for these formats that use of recycled materials provides more greenhouse gas savings compared to virgin materials. At the same time, this definition would discourage the use of packaging materials which already have a low carbon footprint (e.g. paper-based products, renewable materials). The definition provided by Eunomia risks to have the unintended impact to promote carbon intensive packaging materials.
- The concept of high-quality recycling should be rather intended at the reprocessing of waste and secondary raw materials into materials for which there is a market or demand and which can replace the use of virgin materials. To ensure consistence, such a definition should apply to both the Guidance on EPR fee modulation and of that on Separate collection. In the case of paper, the European Paper Recycling Council defines paper recycling as "reprocessing used paper to produce new paper". This is an open-loop recycling within the paper sector, where the use of recycled content in a specific market segment is self-regulated by a functioning market.

Cepi, CITPA, FEFCO comments on the Eunomia conclusions on the extension of household waste EPR schemes to industrial and commercial waste¹

The organisations above representing the paper based packaging manufacturing, converting and recycling value chains support the objective by the Commission to guide member states in implementing the requirements on EPR schemes according to the revised Waste Framework Directive. We believe EPR can be an effective tool for the household waste collection. It can be also used to address situations where the demand for recycled material is insufficient to ensure that the costs of collection, sorting and treatment of material are not covered by the value of the secondary raw material obtained from waste. Paper packaging from industrial and commercial sources does have a functioning market today resulting in very high recycling rates. It is therefore important to avoid that functioning markets are overburdened by application of household EPR schemes to industrial and commercial packaging. Instead, EPR should intervene, where there are market failures, e.g. where insufficient demand for secondary raw materials leads to a situation where the cost of collection is not covered by the value of secondary raw material.

- The scope and mandate of the report is limited to the prescription of art. 8 (5): The Commission shall publish guidelines, in consultation with Member States, on cross-border cooperation concerning extended producer responsibility schemes and on the modulation of financial contributions referred to in point (b) of Article 8a(4). In this report, Eunomia has also addressed the issue of the extension of the EPR to the commercial packaging as Directive 2018/8522 amends Article 7 of Directive 94/62/EC3 to make clear that extended producer responsibility schemes must be established for all packaging in accordance with Articles 8 and 8a of Directive 2008/98/EC.
- However, the issue of the extension of the EPR has been addressed without any prior consultation with the key stakeholders, and in a very superficial way, in points 2.6.4 and 2.6.5 of the report (only two pages out of almost 300).
- In point 2.6.4. the consultant also introduces terms like “commercial municipal” and “original producers of packaging and products” which are not defined in the EU waste legislation. Introducing new terms in a guidance document will only bring confusion to the market and inconsistency in the implementation across countries and EPR schemes.
- The same point 2.6.4 also suggests that municipalities should be given the “responsibility for the collection of all relevant waste in their area”. This will impact negatively the well-functioning systems for commercial and industrial waste and transferring the responsibilities, while at the same time will not bring any improvement to the effectiveness of the household waste collection and treatment.
- The consultant also suggests in point 2.6.3. that Members States “may choose” to expand the scope of EPR to include costs related to litter. The experience with the SUP Directive shows that defining the costs associated with litter is challenging and the control will be even more difficult. At the same time, the commercial and industrial waste streams are a valuable source of income for the waste holders and usually do not end up as litter.
- The report clearly promotes a transfer of responsibility of the financial cost of separate collection and waste management of packaging from the “holder” (supermarkets, commercial malls, office buildings, etc) to the “producer” (in most of the EU countries, the “filler”). This approach will be counterproductive and destructive to the existing schemes for industrial and commercial packaging waste, in which the “holder” benefits from the positive transaction of waste sold for recycling.
- The report clearly states the benefits of the existing systems but at the same time contradicts the statements and fails to provide any evidence to prove the concluding sentence about the “issues regarding the overall efficiency” of the current “polluter pays” situation: “Many Member States have competitive markets for collections, especially of commercial municipal waste. In such systems, the person responsible for the material at the point when it becomes waste (the “holder” of the waste), rather than the business that placed it on the market (the producers), pays for the costs of its collection, treatment and disposal. This approach offers a range of service provision for waste holders, who will individually contract with a waste collector. Competition between waste collectors

¹ The second part of the statement is supported by Cepi, Citpa, FEFCO, ECMA, Cepi ContainerBoard and PRO CARTON. ACE is not active on this aspect and therefore does not co-sign the statement.

also helps to control costs, **although there are issues regarding the overall efficiency of such systems**".

- The report fails to provide any evidence to prove the following statement about the "higher costs for the producers if the "polluter pays" principle is maintained for the "holder" of the waste in the commercial fraction: It may be appropriate to make different arrangements for household waste from those put in place for commercial and industrial waste. Member States can consider maintaining the current choice of collection providers, but requiring that the costs are met by producers; however, this system is likely to lead to higher costs for producers than are necessary.

Finally, it is important to state here that in some member states an efficient EPR-system for household packaging or industrial packaging or both exists. Those systems achieve recycling percentages that go above the set targets by the Commission and members states.