EXTENDED PRODUCER RESPONSIBILITY ALLIANCE

Strengthening EU EPR Minimum Requirements through the Circular Economy Act for a reinforced and sustainable Single Market

Expra Europe Asbl

OUR PURPOSE

- Advance circularity
- Reduce carbon emissions
- Support fair competition
- Protect people and the planet

Working together for a resource-efficient, circular Europe

11 KEY RECOMMENDATIONS

1 Recognise the public-interest role of EPR schemes

Allow Member States to designate EPR schemes as services of general economic interest (SGEI). EPR delivers essentials public environmental services.

2 Apply Article 8a of the WFD based on function, not form

Any system in which producers finance and/or organise waste management should, regardless of its form or label, be subject to the minimum EPR requirements.

3 Strengthen governance & prevent conflicts of interest

Define clear roles and responsibilities for all actors, linked to their influence in the system. those responsible for outcomes must have corresponding influence with safeguards to prevent conflicts of interest in decision-making and fund allocation.

4 Guarantee equal treatment of producers

Identical or comparable packaging should follow the same fee structure within the same scheme. No volume-based discounts.

5 Require financial guarantees to protect service continuity

PROs should maintain a guarantee sufficient to continue collection, sorting and recycling operations.

6 Improve transparency on ownership and decision-making

PROs should disclose ownership, membership, ultimate decision-making entities and governance structures.

7 Make producer contributions transparent and enforceable

Authorities should be able to verify contributions per unit or per tonne, while protecting commercially sensitive information.

8 Strengthen traceability of material flows and outcomes

Report quantities collected, geographic origin, sorting and treatment locations, and outcomes including reuse, recycling and disposal.

9 Link EPR costs clearly to services financed

Fees should transparently reflect collection, sorting, treatment, data, reporting and awareness costs. No overcharging or underfunding.

10 Ensure EPR funds are used for their intended purpose

Funds collected for a material stream should support that stream, with reporting by activity: operations, awareness, administration and R&D.

11 Establish timely EU coordination and national dialogue

Within 12 months, organise EU information exchange and require Member States to establish regular stakeholder dialogue.

OUR PRINCIPLE

Harmonise the rules, not the costs.

National flexibility on cost levels remains essential. The EU baseline should focus on fairness, transparency and environmental results.

A credible EPR framework is essential to fund collection, sorting, reuse, recycling and treatment ; and accelerate Europe's transition to a circular, climate-neutral future.

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Policy Recommendations on Minimum Requirements for Extended Producer Responsibility (EPR) in the Circular Economy Act

Background

The European Union is transitioning from a linear to a circular economy, aiming to retain materials within the economic cycle, reducing reliance on virgin resources from outside the EU. This shift enhances the EU's resilience, fosters sustainability, and contributes to climate neutrality.

Extended Producer Responsibility (EPR) has been identified as a key instrument to achieve these objectives. It has been implemented for several products and waste streams, including **packaging, waste electrical and electronic equipment (WEEE), batteries, and end-of-life vehicles (ELV)**. Additionally, EPR is expected to be introduced for other relevant waste streams, such as **textiles, tyres, and mattresses**.

Despite its benefits, the implementation of EPR across EU Member States remains highly inconsistent. Several challenges hinder its effectiveness:

- **Divergent Implementation**: EPR remains a **concept rather than a standardized model**, leading to fragmented applications by Member States that do not always align with best practices.
- **Infrastructure Gaps**: Many Member States lack the **necessary sorting and recycling infrastructure**, impeding the efficiency of EPR systems.
- **Transparency Deficits**: There is a lack of transparency in **financial and material flows**, limiting oversight and accountability.
- **Regulatory Weaknesses**: Some Member States not enough **capacity to enforce obligations** on producers and their affiliated Producer Responsibility Organisations (PROs).
- **Market Imbalances**: Currently, there are neither mechanisms to ensure **recycled materials compete effectively** with virgin materials, nor to make **repair and reuse financially viable alternatives** to single-use consumption.
- **Online Sales & Free-Riding**: The rise of **direct-to-consumer sales by non-EU producers**, facilitated by online marketplaces, has led to a drastic increase in **free-riding and non-compliance**, undermining EPR systems and other regulatory frameworks.

To address these challenges, EXPRA recommends the following policy proposals:

Designating EPR as a Service of General Economic Interest (SGEI)

The European Commission should consider classifying **Extended Producer Responsibility (EPR) as a Service of General Economic Interest (SGEI)**. At EU level, SGEIs are considered as essential services identified by public authorities as crucial to social, economic, and environmental welfare, necessitating regulation and public oversight. SGEI

status has been applied to sectors such as **energy, water supply, and public transportation**, ensuring their accessibility, affordability, and quality.

Applying the SGEI concept to EPR would allow Member States to **impose specific rules, obligations, and transparency measures**. This allows them to regulate and oversee private or public companies providing these services.

Implementation Measures

A. **Defining Public Service Obligations (PSOs)**

- **Universal Service Provision**: Ensuring **comprehensive waste collection, sorting, and recycling infrastructure** is available in all regions.
- **Price Regulation**: Establishing **minimum financial contributions** to cover essential costs and investments in EPR systems while preventing excessive fees.
- **Quality Standards**: Setting mandatory **performance benchmarks** for **collection, sorting, and recycling rates**.
- **Continuity of Service**: Safeguarding against **service disruptions** due to market failures or financial instability of companies and ensuring that all obligated companies treated equally.

B. **Enhancing Transparency Through Compensation Rules**

- **Cost Allocation**: Clearly separating **EPR-related activities (within SGEI framework) from commercial operations** to prevent misuse of funds.
- **Public Tendering**: Ensuring **competitive and fair** contract allocation for service providers.
- **Regular Audits**: Mandating **independent audits** to prevent overcompensation and ensure financial integrity.

C. **Ensuring Market Efficiency & Competition**

- Establishing **clear competition rules** while ensuring adherence to **public service obligations**.
- Regulating **monopolistic practices by defining fair pricing conditions** and equal market access.
- Preventing **abuse** of a dominant position that could distort competition or hinder fair participation.

Expected Benefits

- **Legal clarity and harmonization** across Member States.
- **Improved accountability and enforcement** of EPR obligations.
- **Stronger financial oversight** to ensure fair and effective cost allocation.
- **Enhanced recycling infrastructure and service continuity** across the EU.

Strengthening EPR Compliance in Online Sales & Marketplaces

The rise of **cross-border e-commerce** has led to an increase in **free-riding by non-EU producers** who ship products directly to European consumers **without contributing to EPR obligations**.

For instance, in Germany alone, **over 700,000 companies outside the EU are registered with the Central Packaging Registry**, with the vast majority selling through large platforms like Amazon. Across the EU, **over one million non-EU producers** sell products under EPR-regulated categories, while **less than 20 leading online marketplaces facilitate most of these transactions**.

This situation results in **significant financial losses for compliant businesses**, creates an **unfair competitive landscape**, and **undermines the objectives of EPR systems**.

Implementation Measures

A. **Obligating Marketplaces to Enforce EPR Compliance**

- **Mandatory Registration & Payment by Marketplaces**: Online marketplaces should be held **responsible for ensuring EPR compliance** on behalf of third country sellers using their platforms.
- **Consolidated Reporting & Payment**: To streamline enforcement, marketplaces should be required to **pool reports and payments** for their sellers.
- **Follow best practices**: Building on the existing models in **France, Spain, and Italy**, where marketplaces already play a role in ensuring EPR compliance.

B. **Introducing a Digital Compliance Code for Cross-Border Sales**

- A **unique digital code** should be generated for each purchase, **linked to the respective EPR system**.
- The **code should be displayed on the package**, allowing customs authorities to **scan and verify compliance before goods enter the EU**.
- The system should apply **to all shipments, including those below the €150 threshold**, preventing evasion through low-value transactions.

Expected Benefits

- **Substantially reduces free-riding and non-compliance** in online sales.
- **Simplifies enforcement mechanisms**, reducing the administrative burden on regulators.
- **Creates a fair playing field** for EU-based producers and importers.
- **Improves the financial sustainability of EPR systems**, ensuring contributions from all market participants.

Conclusion

To strengthen the role of **Extended Producer Responsibility (EPR) in the EU's transition to a circular economy**, two critical policy measures are recommended:

1. **Classifying EPR as a Service of General Economic Interest (SGEI)** to introduce **clear public service obligations, enhance financial transparency, and regulate market competition**.
2. **Mandating compliance by online marketplaces** and introducing **a digital tracking system for cross-border sales** to eliminate **free-riding by non-EU sellers**.

By implementing these measures, the **Circular Economy Act** can ensure that EPR operates **efficiently, transparently, and equitably across all Member States**, driving progress toward a **sustainable and resource-efficient European economy**.