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FEAD position paper on “The value of the recycled material and the importance of free access”

The Commission is currently assessing options to review the **Packaging and Packaging Waste Directive**. This review will contribute to reaching the objective of the European Green Deal and the new Circular Economy Action Plan, to ensure that “all packaging on the EU market is reusable or recyclable in an economically viable way”.

In the ongoing revision of the Packaging and Packaging Waste Directive (PPWD), Eunomia informed stakeholders on the possibility of including the prioritization of access to DRS to the beverage industry players.

Moreover, three European associations representing the soft drinks sector (Unesda, NMWE and AIJN) are calling on the Commission to create a binding legal mechanism to have priority access to recycled plastics from their product and introduce the concept of “closed loop recycling” and “high quality recycling”. According to the beverage industry, this principle of “priority access” or “right of first refusal” should be introduced “through the governance of collection schemes (EPR and DRS through minimum requirements/guidelines)”.

A legal provision in the Packaging & Packaging Waste Directive (PPWD) that results in beverage producers to have a “monopolised” access to a “fair quota” of the recycled materials deriving from the containers, would lead to:

1. **Destabilisation of the Single Market rules and monopolistic control of recycled materials, going against free market principles**
2. **Devaluation of the work carried out by the waste management industries, which are already able to achieve high quality standards with collection systems and recycling plants**
3. **Increase in costs for citizens and risk of competition against door-to-door systems and duplication of investments**

Destabilisation of market

Today, the waste industry is continuing to invest and improve its processes in order to make waste management sustainable, valorising it through the production of secondary raw materials (End-of-Waste).

This process requires continuous efforts to maintain a high level of quality of products that are placed on the market and are subsequently subject to the rules of the free market.

Granting the beverage industry priority access (or the right of first refusal) to plastic recycled materials, at a cost that may be to their exclusive advantage, **undermines basic free market principles**, and does not allow players in a free market to compete on a level playing field and

advancing in innovation in both production of plastics and management of the waste.

We also believe that a further risk of market closure and monopolistic control may occur with the current development of EPR (Extended Producer Responsibility) schemes in certain Member States, for those waste streams for which there are no management difficulties (e.g. plastics).

Actually, Producer Responsibility Organisations (PROs) can be tempted to seize control and ownership of recycled materials to the sole benefit of their members (i.e. product manufacturers), thus creating a de facto monopoly. Such a tendency would be made even more pervasive by the introduction of a right of first refusal or any legal mechanism that would undermine the basic principle of the single market and justify this negative trend.

A shift from financial responsibility to operational responsibility would again risk undermining the free market. Legislation should ensure that any producer of products or organisation implementing EPR obligations on behalf of producers of products respects the rules of the free market.

Devaluation of plastic recycling

Recycling of waste requires several important preliminary steps which, starting from collection to sorting, are carried out by the waste management industry. Over the years, various efforts have been made and will continue to be made if the institutions continue to support the waste management industry.

It is important to emphasise that all efforts and investments in waste management, if not supported by an eco-design development of plastic products to make them fully and more easily recyclable, will not be sufficient to reach the targets.

Lower costs for the beverage industry could inevitably lead to a strong impact on the activities of recycling companies which, as they no longer have access to the free market, would have a disincentive to continue investing¹ in the sector.

A “closed loop recycling” and a “priority access” would not be welcomed by the whole waste management chain and would be seen as supporting single-use plastics.

Even though recent reports have illustrated that post-consumer recycled PET from beverage bottles is increasingly used by non-food sectors, this does not mean that bottles are downcycled, but in many cases are upcycled.

The production of many other plastic products can be multi-use rather than single use and this should be even better supported by the European legislation. They are part of a longer term circle rather than the throwaway culture that goes with plastic drinks bottles.

Imagining a “closed loop recycling” for all materials would severely damage the market and production processes, as all 'long-term' products would be excluded from being able to access recycled materials in the short term and would not be able to meet their recycled content targets.

Increase in costs

DRS (Deposit Refund System), especially the currently proposed ‘return to retail’ model, can be a good complement in specific situations (e.g., portable batteries), but it risks competing against door-to-door systems and duplicate investments.

The compulsory introduction of the DRS system (with the ‘return to retail’ model) entails additional costs and efforts for citizens and society, as well as a higher environmental impact

¹ In 2019, FEAD estimated that in the following 10 years, waste management industry was ready to invest 1 billion of euros.

because it means running two parallel collection system with overlapping waste streams. As a logical consequence, parallel collection systems unavoidably result in a higher financial burden, duplicated investments and higher CO₂ emissions, linked not only to the duplicated infrastructure and logistics but also to the citizens' behaviour, including transfers to return empty plastic bottles.

In search of an alternative with solutions to the above-mentioned negative externalities of conventional DRS systems, the Irish Waste Management Association (IWMA) identified Smart DRS (or digital DRS), which have the potential to deliver the same benefits as conventional DRS schemes in terms of materials captured, (largely) using the existing infrastructure and waste collection solutions. A study² commissioned to examine the environmental impact of operating a 'return to retail' DRS for PET bottles and aluminium cans versus a 'Smart DRS' for the same materials (using the existing recycling bins) determined that digital DRS perform better and have several advantages:

- lower carbon impact
- more convenient for the public, as they use their own recycling bins
- could include a wider range of materials (HDPE bottles, steel cans, cartons, ...)
- lower costs (up to one third of the "return to retail" model).

In addition, such digital solution would also avoid behavioural adaptation needed in citizens to establish a 'return to retail' DRS scheme. In any case, FEAD suggests not to impose a harmonised DRS digital system, but competent authorities to be invited to conduct a Life Cycle Assessment to evaluate the digital system and its efficiency both for citizens and the industry.

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²http://iwma.ie/wp-content/uploads/2021/05/210505-501.181.9_SLR-SmartDRS_CarbonStudy_BriefingNote-for-IWMA_Final.pdf