

**Brussels, 17 February 2017**

**EUROPEAN PARLIAMENT ENVIRONMENT COMMITTEE  
REPORTS ON WASTE LEGISLATIVE PACKAGE:  
“THE STRONGER THE INTERNAL MARKET,  
THE BETTER FOR THE CIRCULAR ECONOMY”**

On 24 January 2017, the European Parliament ENVI Committee voted on the draft reports of Rapporteur Bonafè on the Commission proposals for amending the Waste Directive and a series of waste stream specific Directives, including Directive 2012/19/EU on Waste Electrical and Electronic Equipment (WEEE).

In this position paper, Orgalime, which represents the interests as a whole of European technology manufacturers targeted by the WEEE, RoHS and Ecodesign Directives, presents its key observations on these EP ENVI Reports. Orgalime calls for the support of European regulators for its recommendations regarding the way forward, as outlined in this paper. These particularly aim at ensuring that one of the four fundamental freedoms of the EU, namely the Free Circulation of Goods in the Internal Market will not be undermined by the finally adopted Directives. Building the Circular Economy at the expense of one of the EU's greatest achievements would deeply undermine the European project as such, and confidence in the Circular Economy in particular and the attraction of the EU for manufacturing investment. It would therefore clearly undermine the jobs and growth agenda.

**1. We appreciate the clear progress made by the EP ENVI Committee in the following areas of these critical and complex pieces of legislation for a Circular Economy to develop bottom up and recommend supporting them in the further proceedings:**

- **A stricter approach to the EU's landfill policy (amendment 53 of ENVI Report on Waste):** we strongly support a complete landfill ban for waste that is recyclable and/or subject to specific EU waste management legislation, such as Directive 2012/19/EU on Waste Electrical and Electronic Equipment (WEEE) or Directive 2013/56 on Waste Batteries and Accumulators. As long as waste appliances are still landfilled, efforts made on the design of products will not translate into environmental gains nor in economic incentives but just into costs for manufacturers and consumers.
- **Defining the roles and responsibilities of all actors involved in the waste management chain (amendment 128 of ENVI Report on Waste):** making all actors handling waste respect the spirit of EU waste legislation is a prerequisite for achieving equity and fitness for purpose. Producers have to comply with their extended producer responsibility (EPR) obligations. To be most effective, they however often depend on the good will of other actors that (more often than not illegally) handle waste fractions, especially valuable ones for economic reasons. Giving unscrupulous market players a “carte blanche” to invoice any cost to producers is simply unfair and ends up being

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*Orgalime, the European Engineering Industries Association, speaks for 40 trade federations representing the mechanical, electrical, electronic, metalworking & metal articles industries of 24 European countries. The industry employs some 10.9 million people in the EU and in 2015 accounted for more than €1,900 billion of annual output. The industry accounts for over a quarter of manufacturing output and a third of the manufactured exports of the European Union.*

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destructive of EU manufacturing jobs. Therefore, we strongly support the EP ENVI proposal to define in a clear way the roles and responsibilities of all actors involved.

- **Better reporting of data from all actors collecting or treating Waste Electrical and Electronic Equipment (WEEE)** (*amendment 28 of ENVI Report on WEEE*): we fully support that all actors collecting and treating WEEE, in addition to producers, should provide accurate data gathering and reporting. The WEEE Directive sets targets for the collection of WEEE. Measuring and reporting accurate data from all actors involved in WEEE management is crucial for correct statistics.
- **Appropriate definition of “preparation for reuse”** (*amendment 87 of ENVI Report on Waste*): we fully support the clarification made on the distinction between “re-use”, which occurs before a product becomes waste, and “preparation for re-use”, which takes place when the product has already become waste. We also welcome the concept that waste should be collected by a recognised preparation for re-use operator.
- **Proper implementation and enforcement of the existing EU waste legislation**, notably in the area of waste shipments, recycling and recovery targets and waste treatment (*amendment 5 of ENVI Report on Waste*): Repair, reuse and recycling of products can be negatively impacted as long as waste appliances are still illegally shipped outside Europe. This is still the case for electrical and electronic equipment (EEE). Efforts made on the design of products will at best not bring benefits in Europe and at worst not translate into environmental gains, while inevitably giving rise to costs for manufacturers and consumers.
- **Promotion of industrial symbiosis** (*amendment 108 of ENVI Report on Waste*): we support the proposals to reduce waste generation and landfilling and to keep valuable materials in the value chain for the longest time possible.
- **More investment to be directed into the development of the waste infrastructure improvements** (*amendments 11 and 105 of ENVI Report on Waste*): much more innovative waste treatment technologies need to be taken up by the market in order for a Circular Economy to develop.

**2. Notwithstanding these important improvements, there is still some way to go to arrive at final amended Waste and WEEE Directives which do not risk undermining the Internal Market. We call upon the regulators, and the Council and European Commission in particular, to particularly resolve the following issues:**

- **The newly proposed article 9a on “reuse”** (*amendment 154 of ENVI Report on Waste*), in our view falls outside the scope of waste legislation since reuse is outside the waste hierarchy. Since reuse takes place before a product becomes waste, this amendment clearly treads into the area of product policy and would, if finally adopted, hamper the proper functioning of the internal market.
- **The following product related proposals in articles 8, 8a and 9**, if finally adopted, would in our view equally result in a major challenge to the functioning of the Internal Market:
  - **Article 8.2 on Member States Extended Producer Responsibility (EPR) measures:** The EP suggestions (*amendments 122 and 123 of ENVI Report on Waste*) for Member States to take appropriate measures that encourage producers to improve the design of products and components at national level gives rise to the risk of 28 different product standards in the EU, thereby undermining a level playing field for both, product manufacturers and recyclers. Product policy measures need to be fully harmonised in the EU to guarantee the functioning of the internal market for these products, while waste policy measures by nature represent minimum harmonisation measures.

Also, we caution against possible overlaps with the work ongoing under the Ecodesign Directive. In the context of its Circular Economy Action Plan, the Commission has issued a Material Efficiency Standardisation Mandate to European Standardisation Organisations with the request to develop generic standards, which cover ecodesign requirements related to material efficiency aspects (such as recyclability, recoverability and reusability, durability, reversible disassembly and end of life extraction time) for any product group listed in the Article 16 of the Ecodesign Directive. The appropriate Committees of European Standardisation Organisations have already taken up their work. In addition, in November 2016, the Commission has tabled a new ecodesign package as part of its comprehensive “Clean Energy For All Europeans” Package, including, among other, the new Ecodesign Working Plan 2016-2019. Therefore, we consider it neither necessary nor appropriate to address product design aspects also in the pending EU waste policy proposals that are based on article 192 of the EU Treaty and therefore not fully harmonised in the EU. Such proposals would hamper the free circulation of goods in the Internal Market, which is neither good for the environment, nor good for consumers or industry. Also, promoting end-of-life product parameters in waste legislation in isolation without embedding them into a wider life cycle perspective would clearly expose consumers to the risk of shifting environmental problems from the waste phase to other life cycle stages of the product. This would rather undermine than strengthen today’s success and credibility of the Ecodesign Directive.

- **Article 8.a.4.(b) on modulated fees** (*amendments 126 and 140 of ENVI Report on Waste*): the suggestion to tackle product related aspects under EPR schemes also bears the risk of disrupting the internal market, while it also creates a conflict of interest and raises concerns in the light of EU competition law. We remind regulators that the role of WEEE EPR schemes is to arrange for the physical take back and end of pipe management of WEEE on behalf of producers. In addition, it must be noted that producer responsibility can be transposed not only by means of EPR “schemes”, but equally in the organisational form of individual producer responsibility solutions. In addition, the suggested related creation of a **new platform** duplicates existing structures, notably the already existing and operative Ecodesign Consultation Forum and Ecodesign Regulatory Committee.
- **Article 9.1 on prevention of waste** (*amendment 146 of ENVI Report on Waste*): the proposal regarding the extension of the life span of products also erroneously treads into the area of product policy, for which specific EU legislation already exists.

**3. In addition to these Internal Market concerns, we also call for addressing the following issues of concern and improving related EP amendment suggestions:**

- **Article 8.a.4.(a) on financing obligations of producers subject to Extended Producer Responsibility Schemes (EPR)** (*amendment 139 of ENVI Report on Waste*): the proposal for a new article on EPR should not result in new obligations or additional financial burden on producers who already finance the collection of their relevant waste streams under the recast WEEE Directive or the Batteries Directive. We see no need of further harmonising producer financing obligations for WEEE for the purpose of a level playing field. The new Article risks being inconsistent with Directive 2012/19/EU on waste electrical and electronic equipment (WEEE) for which new rules have been adopted in recent years. Instead, we call for fair financing provisions that do not expose producers to unfair commercial practices.
- **Article 8.1 - proposed binding EPR requirements** (*amendments 120, 122 and 123 of ENVI Report on Waste*): the final Article 8.1 on minimum requirements for Extended

Producer Responsibility Schemes needs to be sufficiently generic and flexible at the level of a horizontal Waste Framework Directive to allow for accommodating the many different sector specific challenges, needs and issues case by case in appropriate manner. What suits one EPR scheme can be counterproductive for another one. Amendments 120, 122 and 123 of ENVI Report on Waste are in our view too restrictive and therefore should not be supported. In addition, considering the many specificities of the different waste categories in scope, we believe that “guidance” rather than binding requirements would be the more appropriate way forward. Such an approach would avoid unnecessary inconsistencies with already existing schemes for waste streams, such as WEEE, batteries or end of life vehicles. At the same time, it would move towards more harmonisation at the EU level for waste streams that remain unregulated today.

- **Article 3.1a - inclusion of WEEE in the definition of “municipal waste”** (*amendment 81 of ENVI Report on Waste*): the proposed definition of “municipal waste” should not cover waste electrical and electronic equipment (WEEE), which are already regulated under Directive 2012/19/EU on WEEE, nor batteries and accumulators or waste batteries and accumulators regulated under Directive 2006/66/EC. It should be made clear that this definition does not have an impact on the responsibilities of the producers of products subject to sector specific Extended Produced Responsibility (EPR) legislation. If WEEE and batteries were to be part of municipal waste they would still in parallel be subject to EPR and their specific Directives, which risks uncertainties regarding who is bearing what obligation. Instead, it should be clear that where waste stream specific EPR legislation exists, such as the WEEE or Batteries Directives, producers have the financial and organisational responsibilities and municipalities cannot manage these specific waste streams independently from producers. Furthermore, there should be no new obligations and no additional financial burden on producers who already finance the collection of their relevant waste streams under the WEEE Directive and the Batteries Directive.
- We regret that the EP ENVI Committee did not adopt the ITRE proposals (*ITRE opinion AMs 6 & 28*), which call on the Commission to **make existing EU harmonised standards for the treatment of WEEE binding**. Not only quantities of secondary raw materials matter for a Circular Economy to develop, but also their quality. This will decide if it is technically feasible and also responsible from an environmental and ethical point of view to use secondary raw materials in a next generation of products or not. Circular Economy implementation must allow product manufacturers to comply with existing product legislation, and chemicals legislation such as the REACH Regulation 1907/2006/EU or Directive 2011/65/EU on the restriction of the use of certain dangerous substances in electrical and electronic equipment (RoHS). Calling for a level playing field for the treatment of waste no matter where in Europe makes perfect sense. It is supportive of the acceptance of Circular Economy policy objectives.
- **Article 3.16 - proposed definition of “remanufacturing”** (*amendment 89 of ENVI Report on Waste*): we do not support the proposal to define “remanufacturing” as it does not reflect the real value and unique process of remanufacturing. Technical Directives (Machinery Directive 2006/42/EC) outline the conditions to meet by a new product, which is also to be fulfilled when a second-hand product becomes a “like-new” product. The proposed definition is therefore obsolete and only confusing.

European manufacturers represented by Orgalime remain committed to providing further input to the debate so that the finally adopted amended Waste and WEEE Directives reconcile environmental and economic ambition and are supportive of Europe and its internal market.

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