

Ecopreneur.eu position on the draft Simona Bonafè report on amendment of the Waste Directive

Brussels, 9 June 2016

Ecopreneur.eu welcomes the first draft report by Simona Bonafè dated 24.5.2016 on the proposal for a directive of the European Parliament and of the Council amending Directive 2008/98/EC on waste (COM(2015)0595 – C8-0382/2015 – 2015/0275(COD)). For the changes we propose see below, N.B. the bold text in the Bonafè amendments is not repeated in the Ecopreneur.eu proposals. An explanatory statement for some of our text proposals is given at the end.

About Ecopreneur.eu

[Ecopreneur.eu](http://ecopreneur.eu) is the new European Sustainable Business Federation of 6 national associations whose common aim is a new economic framework in which sustainability is promoted, the environment respected and ecological principles are followed. Ecopreneur.eu represents over 2000 sustainable companies - mostly SMEs.

About De Groene Zaak

The lobby for a circular economy is managed by member association [De Groene Zaak](http://degroenezaak.com) and supported by Tarkett (main funding partner) and Desso, ROCKWOOL, Interface, Alliander and REDISA (funding partners). For more information contact Arthur ten Wolde (+31 6 13196238, Arthur.ten.wolde@degroenezaak.com).

Changes in the Bonafè Amendments proposed by Ecopreneur.eu

Bonafè Amendment 10

(8c) Extended producer responsibility provisions in this Directive aim to support the design and production of goods which take fully into account and facilitate the efficient use of resources during the whole life cycle of the product including their repair, re-use, disassembly and recycling. Extended producer responsibility is an individual obligation on producers that should be accountable for the end-of-life management of products that they place on the market. Producers should be able, however, to shift their individual responsibility to a collective one by establishing and steering producer responsibility organisations. Those organisations should implement non-profit services of general economic interest, through the practical organisation of extended producer responsibility schemes.

Text proposed by Ecopreneur.eu (bold = our amendments to the Bonafè Amendment)

(8c) Extended producer responsibility provisions in this Directive aim to support the design and production of goods **and services** which take fully into account and facilitate the efficient use of resources during the whole life cycle of the product including their **durability, ease of maintenance**, repair, re-use, disassembly, **refurbishment, remanufacturing, sharing (i.e. moving to a sharing platform), digitisation (i.e. moving from physical to digital products)** and recycling. Extended producer responsibility is an individual obligation on producers that should be accountable for the end-of-life management of products that they place on the market. **Improve existing EPR schemes by enforcing existing environmental legislation to ensure that payment of the fee guarantees re-entry of the materials on the EU market and harmonise the fee modulations. Fee modulation down to product and company level is needed to**

incentivise producers to implement circular business models. A substantial modulation is needed to make the scheme truly rewarding for pioneers. Producers should be able, however, to ~~take shift their individual responsibility to a collective action~~ **one** by establishing and steering producer responsibility organisations **that fall under the governance of the national authorities.** Those organisations should implement non-profit services of general economic interest, through the practical organisation of extended producer responsibility schemes **and are obliged to invest the EPR funds into the circular economy. Existing third party certified take back schemes shall be taken into account for fee modulation or exemptions.**

Justification

The provisions in this Directive should aim to support a shift from products to services by all means available for resource efficiency and waste prevention. To this end maintenance, refurbishment, remanufacturing, sharing platforms and digitisation should be added to the list. With respect to the individual responsibility, producers are currently faced with a wide variety of schemes without guarantee that the materials from their products will actually re-enter the EU market. Law enforcement and fee modulation down to product and company level are needed to incentivize companies to implement circular business models. This implies full responsibility for individual companies that cannot be transferred to PROs. We regard this as the most important provision in the entire CE Package. See also the explanatory statement at the end.

Bonafè Amendment 11

(8d) Member States should ensure the establishment of extended producer responsibility schemes for at least packaging, electrical and electronic equipment and batteries and accumulators. Moreover, Member States should encourage the establishment of extended producer responsibility schemes for all other relevant waste streams.

Text proposed by Ecopreneur.eu

(8d) Member States should ensure the establishment of extended producer responsibility schemes for at least packaging, electrical and electronic equipment and batteries and accumulators. Moreover, Member States should encourage the establishment of extended producer responsibility schemes for all other relevant waste streams **including vehicles, tyres, expired medication, phytopharmaceutical products, textiles, domestic linen and shoes, domestic chemical products, graphic paper, lubricants, frying oils, construction & demolition materials (C&D), printer cartridges, fluorinated refrigerants, diapers and float glass.**

Justification

These are waste streams for which PROs already exist and have demonstrated feasibility (EY, 2016).

Bonafè Amendment 31

(25a) Prevention of littering is preferred over clean-up. It is therefore essential to change inappropriate behaviour of consumers. To that end, producers whose products are likely to become litter should promote the provision of information on sustainable product use and the use of education programmes for citizens.

Text proposed by Ecopreneur.eu

(25a) Prevention of littering is preferred over clean-up. It is therefore essential to change inappropriate behaviour of consumers. To that end, producers whose products are likely to become litter should promote the provision of information on sustainable product use and the use of education programmes for citizens, **while EPR schemes and minimum requirements for Ecodesign incentivise them to apply redesign to try and reduce the risk of littering.**

Justification

Besides communication, redesign can help to reduce the risk of littering.

Bonafè Amendment 35

(28b) Research and innovation are essential for supporting the transition towards a circular economy in the Union where waste is perceived as a new resource. To achieve that aim, it is necessary to contribute, within Horizon 2020, to research and innovation projects that can demonstrate and test in the field the economic and environmental sustainability of a circular economy. At the same time, while adopting a systemic approach, these projects can contribute to developing legislation that is conducive to innovation and is easy to implement, by identifying possible regulatory uncertainties, barriers and gaps that hamper the development of business models based on resource efficiency.

Text proposed by Ecopreneur.eu

(28b) Research and innovation are essential for supporting the transition towards a circular economy in the Union where waste is perceived as a new resource. To achieve that aim, it is necessary to contribute, within Horizon 2020, to research and innovation projects that can demonstrate and test in the field the economic and environmental sustainability of a circular economy. At the same time, while adopting a systemic approach, these projects can contribute to developing legislation that is conducive to innovation and is easy to implement, by identifying possible regulatory uncertainties, barriers and gaps that hamper the development of business models based on resource efficiency. **In addition, Horizon 2020 should become attractive for pioneering SMEs by drastically increasing the proposal success rate (now 14%), reduce the decision process deadlines for project selection to 6 weeks, allow for funding in retrospect for projects already started without subsidy, discourage large consortia and ensuring that innovative companies can take the lead in projects**

focused on innovation assisted by research institutes instead of research institutes inviting some companies to do some interesting research.

Justification

Horizon 2020 is very unattractive for pioneering sustainable companies, and especially for SMEs and young companies developing circular business models. Either increase the budget and make it attractive for them, or reassign the budget to be invested in innovation towards a circular economy through other schemes.

Text proposed by Ecopreneur.eu

Bonafè Amendment 54

(fb) the following point is added:
"22. "litter" means waste in publicly accessible rural and urban areas, including surface water, that has been improperly discarded or has resulted from inadequate waste management;"

(fb) the following point is added:
"22. "litter" means waste in publicly accessible rural and urban areas, including surface water, **or anywhere else in the environment, including rivers, lakes and oceans**, that has been improperly discarded or has resulted from inadequate waste management;"

Justification

This definition unjustly excludes all marine litter, which to a large extent ends up floating below the surface of oceans around the world and plays an important role in this report.

Text proposed by Ecopreneur.eu

Bonafè Amendment 68

Such measures shall also include the establishment of extended producer responsibility schemes defining specific operational and financial obligations for producers of products in which the producer's responsibility is extended to the post-consumer state of a product's life cycle for at least packaging as defined point (1) of in Article 3 of Directive 94/62/EC, electrical and electronic equipment as defined in point (a) of Article 3(1) of Directive 2012/19/EU, and batteries and accumulators as defined in point (1) of Article 3 of Directive 2006/66/EC.

Such measures shall also include the establishment of extended producer responsibility schemes defining specific operational and financial obligations for producers of products in which the producer's responsibility is extended to the post-consumer state of a product's life cycle for at least packaging as defined point (1) of in Article 3 of Directive 94/62/EC, electrical and electronic equipment as defined in point (a) of Article 3(1) of Directive 2012/19/EU, and batteries and accumulators as defined in point (1) of Article 3 of Directive 2006/66/EC **as well as for vehicles, tyres, expired medication, phytopharmaceutical products, textiles, domestic linen and shoes, domestic chemical products, graphic paper, lubricants, frying oils, construction & demolition materials (C&D), printer cartridges, fluorinated refrigerants, diapers and float glass.**

Justification

See amendment 11.

Bonafè Amendment 70

Such measures shall encourage, inter alia, the development, production and marketing of products that are suitable for multiple use, that are technically durable and easily repairable and that are, after having become waste and been prepared for re-use or recycled, suitable to be placed on the market in order to facilitate proper implementation of the waste hierarchy. The measures shall take into account the impact of products throughout their life cycle and the waste hierarchy.

Text proposed by Ecopreneur.eu

Such measures shall encourage, inter alia, the development, production and marketing of products that are suitable for multiple use, that are technically durable and **easy to maintain, repair, share (i.e. moving to a sharing platform), digitise (i.e. moving from physical to digital products) and re-use easily repairable**, and that are, after **the use phase** ~~having become waste~~ and **having** been prepared for re-use **using disassembly, remanufacturing and refurbishment** or recycled, suitable to be placed on the market in order to facilitate proper implementation of the waste hierarchy. The measures shall take into account the impact of products throughout their life cycle and the waste hierarchy.

Besides EPR, Green Public Procurement and Ecodesign, the Parliament urges the EU Council to open up the VAT directive and lift the current prohibition for member states to differentiate VAT on the basis of sustainability, circularity or resource efficiency, and urges the Commission to promote member states to introduce a tax shift from labour to resources as proposed by Ex'Tax.

Justification

All means to increase resource efficiency should be mentioned here. When prepared for reuse or recycling, the products do not become waste. Opening up the VAT directive to allow for differentiation on the basis of resource efficiency will correct a serious flaw in the CE Package: the absence of financial incentives for consumer. It is also a strong desire from of sustainable businesses to increase market pull.

Bonafè Amendment 72

The Commission shall organise a regular exchange of information between Member States, local authorities and the actors involved in producer responsibility schemes on the practical implementation of the requirements defined in Article 8a

Text proposed by Ecopreneur.eu

The Commission shall organise a regular exchange of information between Member States, local authorities and the actors involved in producer responsibility schemes on the practical implementation of the requirements defined in Article 8a and on best

and on best practices to ensure adequate governance and cross-border cooperation of extended producer responsibility schemes. This includes, inter alia, exchange of information on the organisational features and the monitoring of producer responsibility organisations, the selection of waste management operators and the prevention of waste generation and littering. The Commission shall publish the results of the exchange of information.

practices to ensure adequate governance and cross-border cooperation of extended producer responsibility schemes. This includes, inter alia, exchange of information on the organisational features and the monitoring of producer responsibility organisations, the selection of waste management operators, **the coherence of fee modulation calculation schemes, the third-party evaluation of individual company performance in relation to the fees applied, the investment of EPR funds into the circular economy** and the prevention of waste generation and littering. The Commission shall publish the results of the exchange of information.

Justification

Regular exchange about all aspects of the governance of PROs is crucial to ensure the needed improvement, good governance and harmonisation of EPR schemes.

Bonafè Amendment 81

(b) are modulated on the basis of the real end-of-life cost of individual products or groups of similar products, notably by taking into account their repairability, re-usability, recyclability and the presence of hazardous substances;

Text proposed by Ecopreneur.eu

(b) are modulated on the basis of the real end-of-life cost of individual products or groups of similar products, notably by taking into account their repairability, re-usability, recyclability, the presence of hazardous substances **and the risk of littering, including marine litter. The fees should be transparent, consistent and easily explained to consumers.**

Justification

Modulated fees may involve other considerations than the costs of waste management such as the impact of waste in the environment, including litter, which is unjustly ignored by most EPR schemes.

Bonafè Amendment 83

5. Member States shall establish an independent authority to oversee the implementation of extended producer responsibility obligations and in particular to verify the extended producer responsibility organisations' compliance with the requirements laid down in points (a) to (d) of paragraph 3.

Text proposed by Ecopreneur.eu

5. Member States shall establish an independent authority to oversee the implementation of extended producer responsibility obligations and in particular to verify the extended producer responsibility organisations' compliance with the requirements laid down in points (a) to (d) of paragraph 3. **They shall also ensure that all measures applied such as EPR, Green Public Procurement and Ecodesign shall be implemented using**

smart regulation to prevent unnecessary financial and administrative burdens on the companies, especially on SMEs, e.g. by applying the principle “collect data once, use many times”.

Justification

Modulated fees may involve other considerations than the costs of waste management such as the impact of waste in the environment, including litter, which is unjustly ignored by most EPR schemes. Additional administrative burdens on companies should be minimised.

Bonafè Amendment 85

Text proposed by Ecopreneur.eu

promote and support the production and the use of products that are resource efficient, durable, reusable, repairable and recyclable;

promote and support the production and the use of products that are resource efficient, durable, reusable, repairable and recyclable, **easy to maintain, repair, share (i.e. moving to a sharing platform), digitise (i.e. moving from physical to digital products), disassemble, remanufacture and refurbish;**

Justification

See amendment 10.

Bonafè Amendment 94

Text proposed by Ecopreneur.eu

- prevent littering, in particular, by discouraging the marketing and the use of single-use products;

- prevent littering, in particular, by discouraging the marketing and the use of single-use products **connected to littering, such as plastic packaging, unless they are provided with a take-back scheme for reuse or recycling;**

Justification

We strongly support the intention but think the amendment extends to a too large range of products.

Bonafè Amendment 103

Text proposed by Ecopreneur.eu

(9a) The following article is inserted:

Article 9a

Reuse

[...]

(9a) The following article is inserted:

Article 9a

Reuse

[...]

Article 9b

Sharing platforms

1. The European Commission shall actively promote sharing platforms as a circular business model. It shall create a strong connection with the new guidelines for a collaborative economy and investigate all possible measures to

provide incentives for them including EPR, Public Procurement and Ecodesign.

2. Member States shall support the setting up of systems promoting sharing platforms in all sectors and refrain from prohibiting schemes solely because they are outcompeting incumbents.

3. The Commission shall define a separate goal for sharing platforms in addition to those for recycling and reuse.

Justification

Sharing products as a service is probably the business model with the largest potential to increase resource efficiency. While some are already competitive by smart application of web technology, sharing platforms in general could be scaled up by government incentives.

Bonafè Amendment 156

b) present a comprehensive review of Directive 2009/125/EC (Ecodesign Directive) in order to broaden its scope to cover all main product lines, including non-energy related product groups, such as construction materials, bio-based chemicals, textiles and furnishings, and to include gradually all relevant resource-efficiency features in the mandatory requirements for product design and to adapt eco-labelling provisions.";

Justification

We strongly support this amendment that we consider crucial for incentivising companies, especially suppliers, to adopt and implement the principles of circular design. Only, ecodesign for the construction sector should be aimed at buildings and building components because ecodesign for construction materials as such has been proven ineffective. Integrating circularity in public procurement can be boosted by training since a recent Dutch Green Deal concluded there are no obstacles: "just do it". Strengthening Green Public Procurement for buildings is important to complement Ecodesign in this sector.

Text proposed by Ecopreneur.eu

b) present a comprehensive review of Directive 2009/125/EC (Ecodesign Directive) in order to broaden its scope to cover all main product lines, including non-energy related product groups, such as **buildings and building components** ~~construction materials~~, bio-based chemicals, textiles and furnishings, and to include gradually all relevant resource-efficiency features in the mandatory requirements for product design and to adapt eco-labelling provisions.";

c) promote integration of circularity in Public Procurement by launching a massive training campaign for national governments, cities, regions and municipalities in the member states, and strengthen Green Public Procurement for buildings.

Bonafè Amendment 157

The Commission may develop guidelines for the interpretation of the definitions of waste, prevention, re-use, preparing for re-use, recovery and disposal.

Text proposed by Ecopreneur.eu

The Commission may develop guidelines for the interpretation of the definitions of ***all concepts connected to increasing resource efficiency including*** waste, prevention, re-use, preparing for re-use, recovery ~~and~~, disposal, ***maintenance, repair, sharing platforms, digitisation from physical to digital products, disassembly, remanufacturing and refurbishment.***

Justification

All concepts connected to increasing resource efficiency will be subject to debates about their definition connected to government policy support schemes.

Explanatory statement

The provisions in this Directive should aim to support the design and production of goods and services which take fully into account and facilitate the efficient use of resources during the whole life cycle of the product including their ease of repair, disassembly, re-use and recycling, but also of services, which offer great opportunities for resource efficiency. Products-as-a service, durability, refurbishment, remanufacturing, sharing platforms and digitization should be added on the list of waste prevention methods.

With respect to extended producer responsibility (EPR) and individual responsibility, we strongly support the intention of amendment 10 to this end but strongly oppose the proposed possibility to shift from individual to collective responsibility. This would strongly reduce the incentive to individual producers to prevent waste, thereby keeping the waste management costs high so that pioneering companies will pay for the waste produced by the laggards. The product responsibility organisations (PROs) determine the levies as well as criteria to allow for reduced fees or bonuses, which are declared binding for the whole sector by the regional or national authorities. PROs can be seen as collective insurance against the risk of producers generating waste ending up in the environment. So producers should be allowed to take collective action through the PRO, but fees and bonuses should be applied at the level of the individual producers. The national government should indeed oversee good governance of each PRO. This should include mandatory investment of EPR funds into the circular economy. **In this way PROs can become an important private investment vehicle for the circular economy generating jobs and income while reducing waste, littering and the costs of waste management.**