

Towards a Circular Economy: Metal Packaging Europe's position and recommendations on the EU legislative proposals for the Waste Framework Directive and the Packaging and Packaging Waste Directive

25 February 2016

Metal Packaging Europe welcomes the revised Circular Economy Package. The Commission's proposal amending Directive 2008/98/EC on waste (WFD) and Directive 94/62/EC on packaging and packaging waste (PPWD) are an important step towards an improved European policy framework to encourage the transition towards a circular economy and to ensure sustainable growth.

With regard to metal packaging, an **effective waste management system and clear rules on recycling are key** in order to achieve these aims and to increase resource efficiency by turning waste into a raw material resource. Harmonised and improved reporting mechanisms are crucial for a better data quality of recycling statistics, which are key to track the development towards a circular economy.

Aluminium and steel – due to their unique characteristics as permanent materials - can make a decisive contribution in helping to close the material loop and to support the creation of a circular economy. Given their multiple recycling potential, metals are perfectly suited to respond to the objectives of the Commission proposals for the WFD and PPWD.

1. Joint preparing for re-use and recycling target

Metal Packaging Europe is concerned that a joint preparing for re-use and recycling target could be interpreted inconsistently by Member States when implementing the legislation due to unclear wording. This concerns in particular the definition of preparing for re-use in Directive 2008/98/EC in Amendment (2,e) amending Art. 3, point 16:

"preparing for re-use" means checking, cleaning or repairing recovery operations, by which waste, products or components of products that have been collected by a recognised preparation for re-use operator or deposit-refund scheme are prepared so that they can be re-used without any other pre-processing".

Metal Packaging Europe asks the European legislators for **high-level guidance clarifying the wording above** in order to prevent misinterpretations which could lead to incorrectly reported results of the joint preparing for re-use and recycling rate.

2. Multiple recycling & permanent materials

In the WFD, the Commission intends to encourage the *"development, production and marketing of products that are suitable for multiple use"*¹.

¹ WFD, Art. 1, proposed amendment 7, (b), amending Art. 8 (para. 20)

Through recycling, products and packaging materials are kept in the material loop and can become resources for other products and packaging, contributing towards the objective of a circular economy as well as to the competitiveness of European industry, job creation and to an increase of the EU's independency on raw material and energy imports. In order to achieve a coherent regulatory and policy framework for the recycling of products and packaging materials, this should be reflected both in the WFD as well as the PPWD.

Metal Packaging Europe recommends introducing a parallel article in the PPWD to encourage

“the development, production and marketing of permanent packaging materials that can be recycled multiple times”

by introducing the corresponding concept of multiple recycling of permanent materials² in the proposal amending Directive 94/62/EC on packaging and packaging waste.

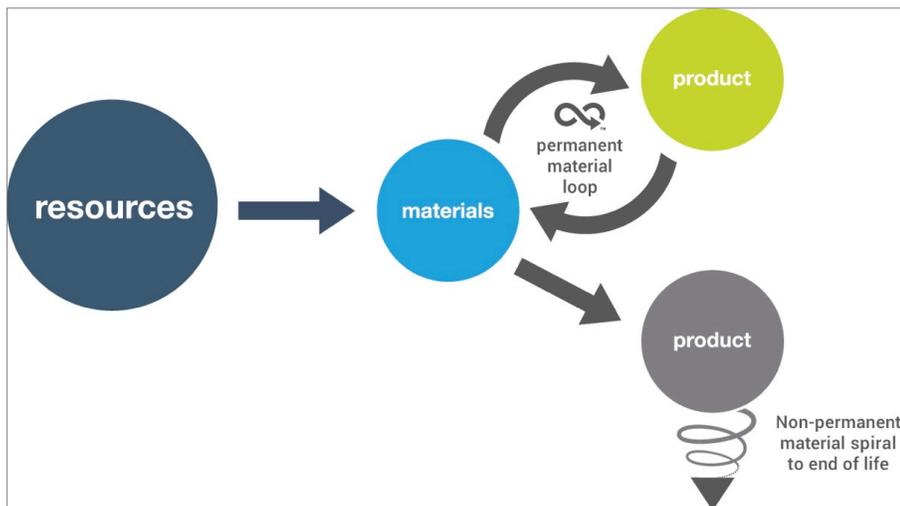


Figure 1: While permanent materials keep their inherent material properties when recycled multiple times, multiple recycling of non-permanent materials eventually leads to material degradation.

3. Legal framework for Extended Producer Responsibility

Metal Packaging Europe supports the introduction of the general requirements for extended producer responsibility schemes in the WFD³ (EPR minimum requirements) for Member

² **Definition of the term ‘permanent materials’:** The concept of permanent materials has been introduced in the Gerbrandy Report requesting that “a future holistic resource policy should no longer merely distinguish between ‘renewable’ and ‘non-renewable’ resources, but should also extend to permanent materials” [EP, (2011/2068(INI)]. Metal Packaging Europe addressed the topic in a scientific report, which states that a material can be “defined as permanent if its inherent properties do not change during use and through solid-liquid transformation, it can revert to its initial stage. This is the case when the material consists of basic components, which are either chemical elements or robust chemical compounds, making repeated use and recycling possible without change of inherent material properties” (multiple recycling) (Permanent Materials – Scientific Report, Carbotech, 2014, bit.ly/21wpmEB). Packaging materials such as metals, which can be defined as permanent, can thus, be recycled multiple times making them a true enabler of a circular economy. These material properties of metal have also been recognised in CEN Standard 15304, which states “[m]etals are homogenous – no structural degradation when recycled”.

States that have or will introduce EPR schemes (amendment 8, inserting Art. 8a).

Metal Packaging Europe also supports that the Member States are required to establish clear rules and responsibilities for the various actors according to the subsidiarity principle.

The areas of concern are the following:

- **Modulation of fees/Internal market safeguard:** The Commission proposal requires a modulation of fees to be paid by producers based on recyclability criteria⁴. Member States may modulate the fees differently, which will lead to a fragmentation of the Internal Market, contradicting, in the case of packaging with the Internal Market legal base (TFEU, Art. 114) and Recital (21) of the proposed PPWD.

Metal Packaging Europe asks to extend the “general requirements for extended producer responsibility schemes” of the current WFD article so that *any national measure under the minimum requirements, such as the modulation of fees, must follow the **safeguarding of the Internal Market requirements***, (currently only mentioned in Directive 94/62/EC, Art. 16, Notification, para. 1 relating to the legal basis, Art. 114, TFEU).

- **Financial responsibility:** Most Member States leave waste management to the discretion of public authorities. Producers/importers have no or little influence on the way their waste is collected and treated. This can lead to sub-optimal solutions generating extra and unnecessary costs for producers / importers (and ultimately consumers) as shown in practice. Insofar as responsibility is shifted to industry, financial and operational aspects should not be split. Those with financial responsibility must be able to control operational costs and performances to ensure most cost effective collection, sorting and recovery/recycling services.

Metal Packaging Europe therefore asks the European legislators to **ensure the consistency and proportionality of the costs placed on producers/importers based on their role and responsibility**. Metal Packaging Europe recommends that instead of the producer shall “cover the entire cost of waste management”, they shall “cover the following cost of waste management”, and to remove “including all the following” from the wording [WFD, amendment 8, inserting Art. 8a (4)a]. Alternatively, Metal Packaging Europe recommends deleting “treatment operations” [WFD, amendment 8, inserting Article 8a (4)a, first indent].

4. **Measurement point of recycling: input waste into final recycling**

Metal Packaging Europe supports the Commission’s approach calculating recycling rates for packaging and to move the point of measurement as close as possible to the actual recycling process. By defining the “weight of packaging waste recycled” as “the weight of the input

³WFD, proposed amendment 8, inserting Art. 8a

⁴WFD, Art. 1, proposed amendment 8, Art. 8(a), para. 4 (b)

waste entering the final recycling process”⁵, European legislation finally considers real recycling in its counting instead of sorting.

Metal Packaging Europe recommends to the EU co-legislators and the Commission to support this approach in order to ensure the move towards a circular economy.

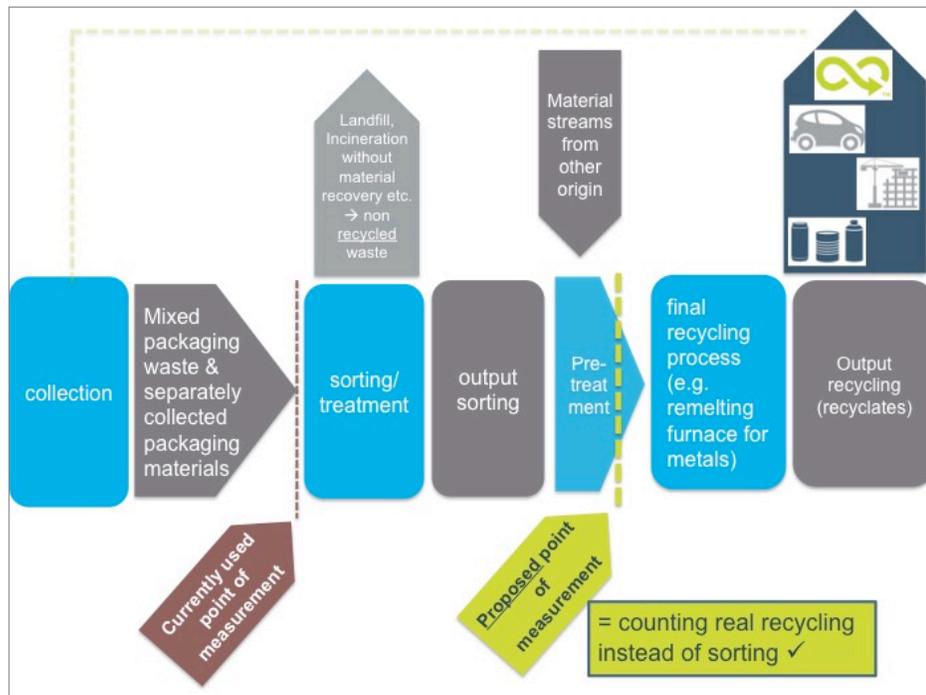


Figure 2: Based on: Cyclos & HTP, “Impact Assessment: The European Commission’s Proposed Changes to the Calculation Method for National Packaging Recycling Rates – Executive Summary”, October 2014

5. Calculation formula in PPWD: Clarification of wording

The current inconsistent wording of Article 6a, para. 1 (PPWD, amendment 4) and the formula in Annex IV of the PPWD to calculate recycling may lead to misunderstandings and an incorrect application of the formula.

Metal Packaging Europe asks the European legislators for **high-level guidance clarifying the wording**. A clarification is crucial in order to prevent future misunderstandings and a correct application of the formula.

Metal Packaging Europe therefore also suggests the following changes to the variables:

- E: To ensure consistent terminology between Art. 6 (PPWD, amendment 3), ‘E’ should be defined as “adjusted recycling and preparation for re-use in a given year”.
- R: Art. 6a, para. 2 & 3, (PPWD, amendment 3) and ‘R’ in the formula of the PPWD should specifically cover the “weight of packaging prepared for re-use” not “products and components prepared for re-use” (such as in the annex of the WFD).
- P: To respect Eurostat’s current data gathering methods, ‘P’ should be defined as the “weight of packaging placed on the market in a given year” instead of “waste generated”.

⁵ PPWD, Art. 1, proposed amendment 4, inserting Art. 6(a) para. 1(a)