

14 March 2014

Commissioner Janez Potočnik
Environment Commissioner
European Commission

cc: Karl Falkenberg
Julio Garcia Burgues
Catherine Day

Dear Commissioner,

Municipal Waste Europe supports the full implementation of the waste hierarchy, with particular focus on prevention, re-use and recycling with high recycling targets, which, coupled with the step-wise phasing out of landfilling, are a necessary tool in the creation of a circular economy.

As first steps of the waste hierarchy, prevention and re-use should be planned for and promoted by EU legislation and by the Member States. Municipalities are happy to work with re-use organisations to facilitate this process.

The following remarks should be taken into consideration as regards the waste targets:

On-going discussions on the waste review indicate that the proposed revision may introduce an overall recycling target of up to 70% and a landfill ban. In order for such ambitious plans to be achievable, there is a need to clarify certain key aspects of the waste directives:

1. The definition of municipal waste is crucial to a better understanding of recycling at EU level. As mentioned in our paper of 2 December 2013 on the Waste Review, Municipal Waste should be defined at EU level as household and similar commercial and industrial waste. This must be accompanied by an obligation for commerce and industry to report their recycled waste quantities, in the cases in which their recyclables are not collected by the municipality

2. There is a need for comprehensive knowledge of which waste streams are intended for increased recycling so that recycling facilities can be planned for and potential markets can be prepared
3. Legislation and definitions must be consistent, clear and harmonised across Europe.
4. The definition of recycling has to be improved through “recycling efficiency criteria” in order to avoid any attempts at “sham recycling”.
5. There must be only one calculation method at EU level for gathering statistics on recycled quantities. A method of traceability with reporting should be built in until the final step in the recycling process, when new products are made. This will facilitate feedback to citizens on real recycling and also help to implement controls on illegal shipments.
6. Most importantly, there is a need for a holistic view concerning responsibilities of the various actors involved. Producers have the overall responsibility for the products that they put on the market. Producer responsibility must ensure that a product’s design ensures prevention and the recyclability of each product put on the market in the waste phase, including severe disincentives for non-recyclable products (higher waste management charges for products which are either not recyclable or too difficult or expensive to recycle).
7. Municipalities have the responsibility to arrange municipal waste management within its framework as a Service of General Interest.

In order to achieve the right balance and to move forward towards a circular economy without jeopardising existing public investments, particularly in the better waste management performers of the EU, certain considerations must be taken into account.

Moving away from landfilling to higher material recycling is a desired objective, for the reasons given above, nevertheless, European reality today gives us an average recycling rate of 20%, whereas it should be at 50% by 2020. Any higher target will need to be implemented in a step-wise manner, be accompanied by implementation tools and EU controls on EU funding given to Member States, to ensure that funding follows the steps of the waste hierarchy, thereby assisting Member States to achieve recycling targets.

As there is uncertainty of the real recycling levels achieved to date due to the unclear calculation methods, any higher recycling rate will always be a serious point of discussion. We repeat that

municipalities agree with high recycling rates, which promote a circular economy, however their application must carefully address inequalities created by the multiple existing calculation methods.

There should be a flexibility, which allows for a higher use of energy-from-waste where local conditions of environmental, climatic and economic considerations justify a diversion from the waste hierarchy. Certain flexibility on landfill must also be accepted for territories where energy recovery is not an option.

Geographic flexibility should recognise the difference in waste fraction sizes in the North and South of the EU, notably the higher biowaste fraction in the South (40-60% as opposed to 10-30% in the North, making anaerobic digestion with energy recovery a regional BAT*).

The stepwise introduction of an overall higher recycling target with a clear and realistic deadline is needed. This includes yearly intermediate targets for Member States which still landfilled over 40% of their waste in 2012, with analogous reporting and close follow-up by the Commission to enable problems to be solved as they arise (formalisation of the compliance initiative).

Inclusion of the funding arm of the EU within the Waste Framework Directive, and applicable to all Waste legislation, thereby implementing an EU-level control mechanism for the application of the ex-ante conditionality criteria which promote the implementation of the first steps of the waste hierarchy and the achievement of legislative targets before permitting funding of techniques lower down the waste hierarchy (this is to implement the move away from landfilling and into re-use and recycling).

The definition of new, ambitious waste targets must guarantee an acceptable evolution of costs for European citizens and Member States.

Producers should label their products in such a way as to inform consumers how to re-use and recycle them and thereby promote their correct waste management.

*BAT=Best Available Technique

Extended Producer Responsibility (EPR)

The principle of producer responsibility and EPR is one of the viable tools for improving waste policy, according to Municipal Waste Europe, which need to be encouraged. Whilst planning to reach recycling targets, large freedom should be left to Member States to select the steering instrument for reaching the targets, which is most adapted to their national situation.

If EPR is selected by a Member State as an implementation tool for a waste stream, EPR should be described in a legislative act together with a description of the requirements for the functioning of PROs. The EU level should not micro-manage but set some minimum requirements for EPR, including these criteria as an absolute minimum:

1. If a Member State decides to use EPR as their chosen method for achieving recycling targets, an EPR Scheme must be defined in accordance with the EU legislation's minimum requirements and be made legally binding at national level.
2. Financial transparency
 - a. The body or bodies (e.g. Producer Responsibility Organisation (PRO) or industrial sector) must declare their income and expenditure
 - b. Municipalities must declare their costs for the agreed, standard collection system
 - c. Income from the sale of sorted materials must be declared
3. Material transparency
 - a. PROs must declare the total of each material which enters the market every year, on which their income is based, without prejudice to proprietary information of individual companies
 - b. The quantity of collected materials delivered to sorting plants must be declared by the sorting plants
 - c. The quantity of sorted materials issuing from sorting plants must be declared by the sorting plants
4. Collection costs for the relevant materials for recycling must be paid for by the producer. These include the costs of communication.
5. The producer/PRO must cooperate with the municipality to define the most convenient, efficient and effective collection system.

6. The producer/PRO must cooperate with municipalities and the national government to define and implement a communication campaign on collection and recycling.
7. All of the waste stream, all geographic areas and all citizens must be served by the collection system: no cherry-picking.
8. If national legislation allows multiple PRO's for the same waste stream, it should be ensured that they operate effectively and neither jeopardise the achievement of targets nor the payment of municipal collection costs.

National governments must ensure, through enforcement of their EPR Scheme that all producers and importers participate in the collection and recycling of their products, and that there are no free riders.

The ultimate responsibility for municipal waste management remains with the municipality, therefore, in the absence of a functioning relationship with an EPR system or the producer, the municipality has the obligation to implement the law and collect recyclables. The fact that producers cover the collection costs may not in any way endanger municipal discretion for waste collection at the Member State level.

Trusting that our input will be of assistance to you, both in the revision process of the Waste Directives and in the deliberations of the Resource-Efficiency Platform, we remain at your disposal for further discussions.

Yours sincerely,

Weine WIQVIST
President

Vanya VERAS
Secretary General