

European Guidelines for Eco-Fee Modulation: Recommendations of the packaging value chain in Germany¹

- 1. The recyclability of packaging is the decisive criterion for Eco-Fee modulation. Uniform standards throughout Europe are indispensable for achieving this.**
- 2. The German minimum standard for measuring recyclability can be used in the development of European guidelines.**
- 3. Member States shall decide whether and to what extent to allow competition in EPR systems**
- 4. Europe needs a common understanding of terms and definitions**
- 5. Documentation obligations of manufacturers must be harmonised**

Annex: Promotion of the use of recycled materials and renewable raw materials

A European recycling economy as the goal of Eco-Fee Modulation

The differentiation of licence fees (EPR fee modulation) is an important instrument of national and European recycling economy policy. In order to avoid contradictory signals for packaging design from diverging national regulations, the European recycling economy package provides for the development of guidelines for the design of financial incentive systems. This policy approach is explicitly supported. The following principles must be taken into account in the concrete design of the guidelines:

1. The recyclability of packaging is the decisive criterion for Eco-Fee Modulation. EU-wide common standards are essential to avoid obstacles in the EU internal market.

EPR fees or licence fees should be designed in such a way that they create financial incentives for the recyclable design of packaging and make it possible to allocate costs according to source. The recyclability of packaging should be the decisive criterion for Eco-Fee Modulation. Further goals - such as increasing the use of recycled materials or renewable raw materials - which are not directly linked in all Member States to the tasks and costs of collection, sorting and recycling for which EPR systems are responsible, should be pursued with other instruments, such as quota solutions or CO₂ pricing of fossil primary raw materials.

For the goal of closed material cycles in Europe, uniform standards are necessary for measuring the recyclability of packaging. The recyclability of packaging is based on physical and chemical principles. These are universal and offer no room for special national routes. One of the most important criteria is:

¹ Companies from the entire packaging value chain in Germany have drawn up the following recommendations for the development of European guidelines on Eco-Fee Modulation. A "Round Table Eco-Modulation" has brought together the know-how of companies with Extended Producer Responsibility, i.e. of companies marketing sales packaging, of packaging and packaging material manufacturers, of the competing EPR-schemes and of sorting and recycling companies of the various material fractions.

- The basic material (metal, plastic, paper, or glass),
- Sortability and separability
- Residual emptying
- the absence of impurities that hinder recycling.

The technical criteria that make packaging theoretically recyclable can be clearly identified and uniformly defined. If these are fulfilled, the respective packaging is "ready for recycling".

However, the actual recyclability of packaging depends on the infrastructure available in the Member State for the collection, sorting and recycling of packaging. This differs considerably in some cases. Packaging that can be recycled in one EU Member State because it has been demonstrated that it has been successfully collected, sorted and recycled to a significant extent there, may not in principle be evaluated negatively in another Member State; however, the available infrastructure must be included in the evaluation.

The design criteria as a basis for measuring recyclability and the processes for analysing and evaluating the infrastructure must be standardised. However, the actual Eco-Fee Modulation does not have to be regulated uniformly: The Member States must remain in a position to incorporate the characteristics of the respective packaging take-back systems into modulation specifications so that the specified recycling targets can be achieved efficiently. Accordingly, the level of the EPR fees is left to the individual member states or EPR-schemes or their own EPR systems.

The criteria for Eco-Fee Modulation in Europe must also take account of frameworks that provide for several competing EPR-schemes. The criteria must work towards transparent and legal standards in the sense of a "level playing field" and counteract the circumvention of assessment criteria for recyclability by companies responsible for products and/or commissioned EPR-schemes.

2. The German minimum standard for measuring recyclability can be used in the development of European guidelines

A minimum standard for measuring the recyclability has been developed in Germany in the interaction between politics and industry, which covers all common sales packaging ("Minimum standard for measuring the recyclability of packaging subject to system participation", see Annex: Draft Hearing of 14 June 19). This standard describes the criteria that EPR-schemes must at least check in order to obtain a calculation basis for a licence price based on recyclability.

3. Member States shall decide whether and to what extent to allow competition in EPR systems

Regarding the respective national frameworks for EPR-schemes, the guidelines on EPR-Fee Modulation must be neutral, i.e. include national characteristics and expressions. At the same time, however, it must be ensured that the incentives provided by EPR-Fee Modulation are so effective that the desired steering effect is achieved. The design of the respective take-back system has its own value, also against the background of member state peculiarities or grown imprints. European legislation should have no influence on these if the recycling targets applicable to all member states are achieved.

4. Europe needs a common understanding of terms and definitions

Definitions, concepts and the database for statistics, e.g. Eurostat, need to be standardised in order to facilitate cross-border economic activity in the European internal market. The packaging value chain in Germany

recommends orientation towards the largely internationally agreed CEN or ISO standards or their revision and adaptation to the state of the art and the legal situation.

5. Documentation obligations of manufacturers must be harmonised

The documentation obligations of the marketers of sales packaging in connection with evidence of recyclability or other criteria of EPR-Fee Modulation must be harmonised throughout Europe and be verifiable in order to minimise the bureaucratic burdens of companies operating throughout Europe.

Conclusion

The European guidelines for EPR-Fee Modulation must clearly focus on the goal of waste prevention and further closing of raw material cycles through a circular economy. To this end, the essential framework conditions, concepts and documentation obligations must be harmonised throughout Europe. In the spirit of subsidiarity and in order to preserve the partially very efficient but different forms of packaging take-back systems in the member states, harmonisation may only address the framework regulations, but not lead to detailed standardisation, provided that the specified recycling targets are comprehensibly achieved by the member states. EPR-Fee Modulation can thus act as a vital, diverse incentive mechanism adapted to the specific characteristics of the Member States. The introduction of further instruments to promote the use of plastic recycled materials and renewable raw materials should also be examined in order to move closer to the goal of closed raw material cycles in the European internal market.

Annex

Promotion of the use of recycled materials and renewable raw materials

EPR fees or licence fees should be designed in such a way that they create financial incentives for the recyclable design of packaging. Further goals such as increasing the use of recycled materials or renewable raw materials that are not directly related to the cost components for collection, sorting and recycling for which EPR-schemes are responsible can be achieved with other instruments. The following must be taken into account:

Use of recycled plastic materials:

With materials for which demand stimulation is necessary and for which proportions of recycled materials can be quantified relatively easily - e.g. plastics - this should be pursued by means of separate regulatory instruments that take into account the special nature of recycled materials made of plastics. However, those areas in which the use of recycled materials is currently technically impossible or legally excluded must still be excluded.

In principle, recycled materials in the sense of an "open loop" must be open to products and technologies. Because even if a plastic packaging becomes a durable plastic product again and not another packaging or a typical plastic product, raw material cycles are closed effectively.

The usefulness of using recycled materials must be carefully weighed up in each individual case. The following aspects are decisive:

- **Environmental benefits:** Recycling processes require energy. This, but also that for cleaning processes and for the use of chemical and mineral additives or pigments is reflected in the environmental footprint of recycled materials. With increasing economies of scale and increasingly sophisticated processes, recycling material can further improve its environmental benefits in the future. This is mainly due to the significantly lower emissions of greenhouse gases compared to primary products.

- **Technical feasibility:** Many product applications, in particular special high-quality ones, require equally high-quality plastics. It is already possible today to use PET recycled materials from the deposit system for new food contact packaging. The HDPE milk bottles in England is another example. In addition, it is possible to recycle HDPE from close to home collection in such a way that cosmetic approval is achieved. In order to make further rapid progress, legal hurdles, such as the provisions of the European Food Safety Authority (EFSA), need to be reviewed and adapted (see below "Legal framework").
- **Price:** If economies of scale are realised, as in the production of primary plastics, with recycled plastics as well, these can become much more attractive in terms of price. In addition, a possible levy on CO₂ equivalent emissions may make the use of secondary raw materials more attractive, as these cause significantly lower CO₂ equivalent emissions than primary plastics. Cost drivers in the production of recycled materials can also be minimised, for example by pursuing the design-for-recycling approach more strongly. This includes the selection of suitable dyes, adhesives and additives as well as the optimisation of the residual drainability.
- **Optical properties:** As long as it is not technically possible to remove the pigments or printing inks present in the plastic cycle, the application possibilities for recycled materials will remain limited. This also applies if the plastics industry does not lower its high demands on the brilliance and flawlessness of a coloured product surface. The industry is currently working on washable inks and is trying to resolve the conflict between marketing and recyclability, e.g. by using separable labels on uncoloured packaging.
- **Olfactory properties:** In many cases, unwanted odours nowadays prevent the use of recycled materials in high-quality applications such as food, cosmetics and cleaning agents. This is caused by colouring and adhesive substances, as well as material additives from the previous use process, which are released during the reprocessing process. In addition, there are product residues that remain in the packaging during normal consumer behaviour due to their design. The industry is currently working successfully on procedures to eliminate the odours and their causes.
- **Contamination:** The greatest challenge for the use of recycled materials instead of new plastics is the contamination that cannot be perceived either optically or via the odour, which affect the mechanical properties of the packaging-based recycled materials. Up to now, these can only be detected using complex analytical methods. The consistent application of the Design for Recycling approach makes a decisive contribution to reducing the problem.
- **Legal framework:** The legal framework inhibits the use of recycled materials in many places. The obstacles include:
 - Lack of standards for the use of recycled materials in cosmetics and food packaging: For precautionary reasons, new materials with food standards are often used in the cosmetics sector, although this would not actually be necessary.
 - Obsolete industry standards which are maintained, for example, for insurance reasons.
 - EFSA provisions: Even with indirect food contact, recycled materials are currently only of very limited use. The EFSA provisions should be revised to make it easier for industry to develop further uses for recycled materials where the precautionary principle allows. The test methods must also be adapted and EFSA's approval processes reviewed in order to enable applications to be decided on promptly.

Use of renewable raw materials

Packaging made from renewable raw materials that can be recycled according to the state-of-the-art contributes to a low-carbon recycling economy to a large extent. According to the German Packaging Act, their use is just as worthy of promotion as the use of recycled materials. When developing funding criteria, care must be taken to ensure that the raw materials are procured sustainably and responsibly, in addition to being recyclable.

Internationally recognised certification systems such as FSC, ISCC, PEFC etc. are available for assessment purposes and provide appropriate criteria for orientation regarding eligibility for funding.

On the Round Table “Eco-Modulation“ involved organisations:

