

## **AGVU-Comments on**

### **Draft Guidance Extended Producer Responsibility** by EUNOMIA, 07/12/2019

The Arbeitsgemeinschaft Verpackung und Umwelt (AGVU), Germany, welcomes the draft guidance on extended producer responsibility (EPR). Changes are suggested to the following areas: Competition among producer responsibility organisations (PROs), scope of costs to be covered and criteria for fee modulation.

#### **Competition**

We would like to counter the statement that regimes with several competing producer responsibility organisations (PROs) led to underfunding of the overall system.

Competition helps to cover the necessary costs of operating an EPR system, while at the same time guaranteeing manufacturers the highest level of service. PROs organise the compliance of their customers by contracting, for example, logistics, sorting and recycling companies. These companies invest in the necessary infrastructure in order to remain attractive on the market and to be contracted. PROs regularly perform tendering procedures for cost optimisation of waste collection and treatment and their own administrative costs. A competitive PRO market therefore constantly produces a market price for the necessary services. The market design requires neither a minimum size for PROs nor a maximum number of PROs. It is not the responsibility of a Member State to limit the number of PROs.

#### **Scope of costs to be covered**

##### Supporting services

The draft guidelines provide enforcement costs as an example of the supporting services that manufacturers should provide. However, the enforcement of existing law is primarily a state responsibility and not a private one. Therefore, the general enforcement costs should be borne by the competent authorities and not by the producers or the contracted PROs. Public authorities can refinance these costs by charging those operators who do not act in conformity. The cost of an independent body to monitor compliance and carry out the clearing processes can be shared by all manufacturers.

##### Wider costs: Litter management

The AGVU considers an extension of producer responsibility at the expense of litter removal to be the wrong signal. This allocation of responsibility to manufacturers has a counter-productive effect on the achievement of the objectives of the circular economy, as it relieves citizens of the responsibility for careful handling of products at the end of their useful life.

The legislator is making it too easy for the manufacturers to bear the costs of general street cleaning. In order to minimise littering, each individual citizen is required to use waste collection containers, and the local authority is required to operate them. It is important to persuade local authorities to ensure more consistent cleaning of public areas by means of regulatory law and to provide more information to citizens.

## **Fee modulation**

Criterion of recyclability / publication of service prices

The AGVU supports the orientation of the fee modulation on the degree of recyclability of a packaging. The criteria for assessing recyclability must be standardised throughout Europe.

The principle of equal treatment of producers, irrespective of the quantities placed on the market, is correct. However, the publication of service prices (fees) is likely to be contrary to national competition laws, in countries where competition among PROs exists. This aspect should be discussed in the guidelines.

In general, fee modulation does not have to be regulated consistently in all aspects. The Member States must remain in a position to accommodate the characteristics of the respective packaging take-back systems in modulation targets so that the recovery targets set can be efficiently achieved. However, at the same time, standardised requirements for documentation are helpful, for example with regard to the type and scope of the documents that manufacturers have to provide. Standardised forms can be helpful here.

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## **About the Arbeitsgemeinschaft Verpackung + Umwelt (AGVU)**

The AGVU has been engaged in product responsibility for packaging since 1986 and is strongly committed to environmentally friendly and resource-saving use and recycling. The association represents the entire value-added chain: including among others the packaging industry, the consumer goods industry and trade, the producer responsibility organisations, waste management companies and recyclers.