

Orgalim preliminary key messages for the upcoming revision of the EU Waste Framework Directive

Executive summary

Orgalim preliminary key messages for the upcoming revision of the EU Waste Framework Directive (WFD):

- EU harmonised measures are crucial to secure the functioning of the Internal Market and to enable the circular economy. Going forward, the upcoming revised WFD should not oblige nor invite Member States to take national measures to prevent waste generation and to encourage the design of products in cases where there is already an EU harmonised products related framework available or in preparation.
- Criteria underpinning the modulation of fees for Electrical and Electronic Equipment (EEE) must be harmonised across EU Member States.
- The European Chemicals Agency database for information on Substances of Concern In articles as such or in complex objects (Products) established under the WFD - ECHA SCIP database - must be evaluated to assess to what extent it has achieved its objectives set by the WFD.

Orgalim represents Europe's technology industries, providing innovative technology solutions which are underpinning the twin green and digital transitions and can unlock a greener, healthier and more prosperous future for the European Union and its citizens. Our industries welcome measures to further optimise the way resources are used throughout the economy and society. Our industries stand ready to continue providing innovative, cutting-edge technology solutions and sustainable products and to improve the performance and overall sustainability of products, striving for excellence and ensuring that consumers, businesses and the environment benefit from competing, innovative, cutting-edge technology solutions. For our industries, high product quality is a core competitive argument and this goes hand in hand with sustainability.

Our industries support the objectives of the EU Waste Framework Directive 2018/851 (WFD) to protect the environment and human health by preventing or reducing the generation of waste, the adverse impacts of the generation and management of waste, and by reducing overall impacts of resource use and improving the efficiency of such use, which are crucial for the transition to a circular economy and for guaranteeing the EU's long-term competitiveness. We thank the European Commission for the opportunity to provide comments on the upcoming revision of the EU WFD. In this document you will find our preliminary key messages for the upcoming revision of the WFD. We will provide further input and recommendations in the coming weeks.

1. EU harmonised measures are crucial to secure the functioning of the Internal Market and to enable the circular economy

- Our industries welcome measures preventing or reducing the generation of waste on the condition that these measures are harmonised at EU level.
- “The stronger the EU Internal Market, the better for the circular economy” should be a guiding principle for future action. To secure the functioning of the Internal Market - one of the EU’s success stories and major achievements that has improved prosperity and opportunities for European citizens and businesses - it is of the utmost importance to **ensure a harmonised approach throughout the EU** to the various circular economy and waste prevention measures.
- **We have significant concerns about several national circular economy measures taken by various Member States** because they are restricting the free movement of goods in the EU Internal Market. For example, see more details in the [Orgalim Position Paper](#) on the draft French Decree on consumer information for waste-generating products, December 2021.
- **The current Waste Framework Directive (WFD) fragments the Internal Market by encouraging Member States to take national measures:**
 - **To prevent waste generation.** Article 9.1 WFD states *“The Member States shall take measures to prevent waste generation. These measures shall at least: a) promote and support sustainable production and consumption models; (b) encourage the design, manufacturing and use of products that are resource-efficient, durable (including in terms of life span and absence of planned obsolescence), repairable, re-usable and upgradable; (c) target products containing critical raw materials to prevent that those materials become waste; (d) encourage the re-use of products and the setting up of systems promoting repair and re-use activities, including in particular for electrical and electronic equipment, textiles and furniture, as well as packaging and construction materials and products; (e) encourage, as appropriate and without prejudice to intellectual property rights, the availability of spare parts, instruction manuals, technical information, or other instruments, equipment or software enabling the repair and re-use of products without compromising their quality and safety; (f) reduce waste generation in processes related to industrial production, extraction of minerals, manufacturing, construction and demolition, taking into account best available techniques; (...), promote the reduction of the content of hazardous substances in materials and products), ...”.*
 - **To encourage the design of products.** Article 8.22 WFD states *“Member States may take appropriate measures to encourage the design of products and components of products in order to reduce their environmental impact and the generation of waste in the course of the production and subsequent use of products,Such measures may encourage, inter alia, the development, production and marketing of products and components of products that are suitable for multiple use, that contain recycled materials, that are technically durable and easily repairable and that are, after having become waste, suitable for preparing for re-use and recycling in order to facilitate proper implementation of the waste hierarchy. ...;”*
- This is why, going forward, **the upcoming revised WFD should not oblige nor invite Member States to take national measures to prevent waste generation and to encourage the design of products in cases where there is already an EU harmonised products related framework available or in preparation** such as, for example, the current Ecodesign Directive framework and the future new Ecodesign for Sustainable Products Regulation (ESPR). The current Ecodesign Directive 2009/125/EC already establishes a

framework for the setting of ecodesign requirements for energy-related products and the future ESPR will establish an EU harmonised framework to improve the environmental sustainability of products and ensure free movement in the Internal Market by setting ecodesign requirements that products shall fulfil to be placed on the market or put into service. The future ESPR will contribute to making products fit for a climate-neutral, resource-efficient and circular economy, reducing waste and ensuring that the performance of frontrunners in sustainability progressively becomes the norm. It should provide for the setting of new ecodesign requirements to improve product durability, reusability, upgradability and reparability, improve possibilities for refurbishment and maintenance, address the presence of hazardous chemicals in products, increase their energy and resource efficiency, reduce their expected generation of waste materials and increase recycled content in products, while ensuring their performance and safety, enabling remanufacturing and high-quality recycling and reducing carbon and environmental footprints.

- Furthermore, addressing the **consistency and interface between chemical, product and waste legislation** is absolutely necessary to achieve the ambition of the Commission regarding waste prevention, sustainability of products and sustainable use of chemicals.

2. Criteria underpinning the modulation of fees for Electrical and Electronic Equipment (EEE) must be harmonised across EU Member States

- **WFD modulated fees modalities for EEE are largely inapplicable today due to the absence of EU harmonised criteria**, which have not been adopted by the Commission by means of implementing acts. Producers and collective schemes need a full harmonisation at EU level of the legal criteria mentioned in the WFD (e.g. durability, reparability, reusability and recyclability, and the presence of hazardous substances) but also of the underlying technical criteria per waste stream and even per product category (e.g. how is durability defined for EEE?). These legal and technical criteria for modulated fees to be developed for EEE must be aligned with the already existing harmonised product requirements and obligations set by relevant EU law and related standards, in particular Ecodesign/ESPR, REACH Regulation, RoHS Directive, etc. For more details, please see the following Position Papers:
 - [Orgalim Position Paper](#) "Eunomia study in support of developing Guidance for Extended Producer Responsibility (EPR) Schemes: Comments on modulation of producers' financial contributions"
 - [Joint industry comments](#) from APPLiA, DIGITALEUROPE, EucoLight, Orgalim, LightingEurope and the WEEE Forum on modulating producers' financial contributions for Waste Electrical and Electronic Equipment.
- **The Eunomia Study to support the preparation of the Commission's Guidance for Extended Producer Responsibility Schemes** rightly highlighted that *"fee modulation criteria across Member States should be harmonised. This is important not only to ensure the smooth functioning of the Internal Market, but also to maximise the potential for positive environmental change. All else being equal, the magnitude of the shift achieved by a certain level of fee modulation will be greater if it is replicated consistently across many - or better still all - Member States. The application of a consistent signal using harmonised criteria will give a much stronger, and indeed clearer, incentive for producers to, for example, change their packaging design, than if different criteria were applied across Member States"*.
- **We support** in particular **the following findings dated July 2021 of the multi-stakeholder Task Force set up by the WEEE Forum**, including APPLiA and individual producers representative of DIGITALEUROPE, the sector's producer associations, as well as the 45 producer responsibility organisations (PRO) in the WEEE Forum, to proactively develop a preferred framework, principles, and mechanisms for a harmonised eco-modulated fee scheme in Europe, and to assess its economic impact:

- *"Eco-modulation has been in operation in France for ten years. It is not possible to ascertain the impact of the eco-modulation scheme on manufacturers' decisions to make their products 'greener'. Producers also report that the scheme is over-complicated. This gives weight to the need for simplicity and harmonisation to derive impact; the scheme must be improved.*
- *If countries in Europe decide to roll out eco-modulation schemes, measures must be taken to ensure that there is harmonisation across the EU".*

Regarding the last point above, "if countries in Europe decide to roll out eco-modulation schemes, measures must be taken to ensure that there is harmonisation across the EU", we would like to highlight the following aspects:

- This need for harmonisation across the EU is very important to avoid diverging or contradictory criteria between EU Member States, which would be harmful to the ecodesign efforts of producers.
- Modulated fees criteria must be defined in close consultation with the relevant stakeholders, and in particular with producers.

3. The ECHA SCIP database must be evaluated to assess to what extent it has achieved its objectives set by the WFD

- **We strongly question the usefulness of the** European Chemicals Agency database for information on Substances of Concern In articles as such or in complex objects (Products) established under the WFD - **ECHA SCIP database- in its current configuration** because the level of information is too detailed and therefore not beneficial to recyclers and consumers. In addition, the burden is disproportionate for companies compared to its environmental benefits and companies have serious problems receiving complete, reliable and updated information on Substances of Very High Concern in imported products from non-European suppliers who do not fall under the REACH Regulation. This problem needs to be solved.
- As the benefits of the SCIP database for the environment, waste operators, consumers and authorities have not, to our knowledge, been demonstrated to date, **we call on policymakers to conduct an ex-post evaluation of the SCIP database to assess to what extent it has achieved its objectives set by the WFD.** We also call on policymakers:
 - To ask ECHA to publish reports on the results of regular evaluations to be carried out.
 - To further develop and improve the SCIP database on the basis of the evaluation results.

Orgalim represents Europe's technology industries, comprised of 770,000 innovative companies spanning the mechanical engineering, electrical engineering, electronics, ICT and metal technology branches. Together they represent the EU's largest manufacturing sector, generating annual turnover of over €2,480 billion, manufacturing one-third of all European exports and providing 10.97 million direct jobs. Orgalim is registered under the European Union Transparency Register – ID number: 20210641335-88.