

Extended Producer Responsibility and the role of social economy re-use operators: Implementing a socially inclusive waste hierarchy

Introduction

Extended Producer Responsibility (EPR) is a tool placing responsibility on producers, importers and retailers to financially and/or physically manage the post-consumer phase of certain goods. EPR aims to prevent the unnecessary production of waste, manufacture better designed goods and participate in the achievement of waste collection, prevention, preparing for re-use and recycling targets.

Various EPR models have developed organically across European countries, including France which covers the largest amount of waste streams (including textiles, furniture, and leisure equipment among others). In this context, distortion of the internal market may occur. This is why EU wide minimum requirements for EPR have been included within the updated Waste Framework Directive (WFD) published in 2018¹.

In addition to waste streams such as WEEE where EPR is mandatory at EU level and high re-use potential exists, the new Circular Economy Action Plan (CEAP) also indicates that EPR for textiles should be considered at EU level². However, according to the experience of RREUSE members, **practical implementation of EPR often conflicts with the waste hierarchy³, prioritising recycling over re-use**. Unfortunately, this usually **limits the role that re-use operators, notably those from the social economy, play in implementing EPR**.

To counter this trend, this paper provides a number of practical suggestions as to how EPR, for example, if applied to household goods such as furniture, textiles and electronics, can better support re-use and waste prevention notably through targets, access to re-useable goods and encouraging better product design. This paper also explains how EPR can create and preserve local and green jobs by involving experienced social economy enterprises in the implementation of waste prevention and management policies. It must be emphasised that the demands included in this paper can also apply to national or regional waste prevention and management programmes, even when developed independently from EPR schemes.

Given that each waste stream has its own specificities, the ideas presented here should be viewed as a horizontal framework rather than a comprehensive analysis of how EPR should be implemented for each stream⁴.

¹ [DIRECTIVE 2008/98/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 19 November 2008 on waste and repealing certain Directives](#)

² [European Commission \(2020\), Circular Economy Action Plan For a cleaner and more competitive Europe](#)

³ [European Commission \(2019\), Waste prevention and management](#)

⁴ Soon, RREUSE will develop specific position papers for EPR on Textiles and on WEEE

Summary of key points

I. EPR must enforce implementation of waste hierarchy through:

- a) Prioritising and financing re-use and preparing for re-use activities through further incentives including quantitative targets
- b) Granting priority access to discarded re-usable products to preparing for re-use operators
- c) Setting strong eco-design measures alongside modulation of EPR fees

II. EPR must foster relations between Producer Responsibility Organisations (PROs) and social economy re-use operators through:

- a) Thorough impact assessments related to EPR impacts on the re-use and preparing for re-use sectors
- b) Inclusion of social economy actors in the development and governance of EPR schemes
- c) Not making the concept of “necessary costs” disadvantage social economy re-use operators when responding to calls for tender

I. EPR must enforce implementation of waste hierarchy

Re-use and preparing for re-use activities, the former being a waste prevention activity and the latter being a form of waste management, are respectively first and second in the EU waste hierarchy⁵. Re-using or preparing for re-use only 1% of EU generated municipal waste could help reduce CO₂ emissions by 2.5%⁶, all the while supporting about 200 000 jobs⁷. However, all too often, PROs focus solely on collection for recycling. It is clearly a missed opportunity for job creation and environmental improvement. A recent study estimates that “between 13% and 16% of WEEE, used furniture, and used leisure goods in the German state of Bavaria could immediately be prepared for re-use, depending on the type of waste” and that a “further potential of 13%–29% could be unlocked through changes to the mode of collection, storage and the overall treatment of waste”⁸.

a. EPR to prioritise and finance re-use and preparing for re-use activities through further incentives including quantitative targets

Very few Member States oblige PROs to meet separate re-use or preparing for re-use targets. Concerning waste electronics (for which EPR is mandatory in the EU), the WEEE Directive (2012/19/EU) does not include separate targets for re-use and preparing for re-use away from recycling. However, the [updated WFD](#) features an obligation for Member States to report their preparing for re-use rates separately from recycling rates as well as to monitor data on re-use. By the end of 2024, the European Commission must look into the feasibility of setting separate quantitative targets for re-use and preparation for re-use rates⁹.

Re-use and preparing for re-use targets, whether applied within the framework of an EPR scheme or not, are essential to enhance cooperation between all actors of the re-use value chain (preparing for re-use and re-use operators, municipalities, waste management operators, producers, PROs and retailers). Examples of national and regional re-use and preparing for re-use targets can be found in Spain, Flanders and France (**see Annex**).

⁵ [European Commission \(2019\), Directive 2008/98/EC on waste \(WFD\)](#)

⁶ Calculated via a tool developed by AERESS (for which the consumer friendly option is available [here](#)), as well as data from [Eurostat](#) and our [2018 Activity Report](#)

⁷ [RREUSE \(2015\), Briefing on job creation potential in the re-use sector](#)

⁸ [L. Messmann, S. Boldoczki, A. Thorenz, A. Tuma \(2019\), Potentials of preparation for reuse: A case study at collection points in the German state of Bavaria](#)

⁹ [RREUSE \(2018\), RREUSE position on the updated EU Waste Framework Directive](#)

Beyond quantitative targets, financial tools must also be used to ensure that preparing for re-use is effectively prioritised over recycling. Preparing for re-use activities cannot yet be entirely financed by sales revenues, notably because of competition between second-hand goods and cheap (often low-quality) new products. The EPR fee could be used to support preparing for re-use activities, as it is the case in France which has recently earmarked a [5% share of the EPR fee safeguarded for social economy re-use operators](#). This would allow preparing for re-use operators to reduce their costs and be able to save a higher proportion of functioning and marketable products from the bin.

b. Priority access to discarded re-usable products to be granted to preparing for re-use operators

According to article 11 of the WFD, “Member States shall take measures to promote preparing for re-use activities, (...) by facilitating, where compatible with proper waste management, their access to waste held by collection schemes or facilities that can be prepared for re-use but is not destined for preparing for re-use by those schemes or facilities, and by promoting the use of economic instruments, procurement criteria, quantitative objectives or other measures”¹⁰.

Resulting from this provision, collection schemes and facilities must set up systems safeguarding the re-usability of waste items during collection, transportation and storage. It is especially important for waste streams that encompass a significant proportion of potentially re-usable items (WEEE, textiles, furniture, leisure goods, books, CDs, etc.). Bins and containers where end-users are forced to discard their goods in a potentially damaging manner should be avoided at every collection point. The pre-selection of potentially re-usable goods must happen at the earliest stage possible and end-users should be informed about the existence of this pre-selection upon entry at waste collection points or collection facilities. Transport of re-usable items from waste collection points to re-use facilities should also be handled carefully to safeguard re-usability. Social economy re-use operators, playing an important role in the collection, sorting, treatment, repair and re-sale of these goods and always prioritising re-use over recycling, should not only be given priority access to these waste streams, but also receive sufficient funding for their preparation for re-use activities.

An “EU-wide take back scheme to return or sell back old mobile phones, tablets and chargers” suggested in the new CEAP is a good strategy to collect re-usable items. As take-back models may be organised as part of EPR in the future, it will be essential for such schemes to follow the same principles as those described above.

Finally, an EPR fee should financially cover improvements to the collection, transport, storage, documentation and quality management of re-usable waste items. Under the WEEE directive, this is an obligation that is seldom enforced. To facilitate implementation, actors involved in the collection of products who do not have a direct interest in separating re-usable items, including waste collection operators and retailers, should be rewarded according to the quantity of materials and products that they separate for preparing for re-use.

c. Modulation of EPR fee must be enhanced by strong ecodesign measures

Article 8a.4b of the WFD states that EPR fees must be “modulated, where possible, for individual products or groups of similar products, notably by taking into account their durability, reparability, re-usability and recyclability and the presence of hazardous substances”¹¹. However, the modulation of the fee may fall short of forcing producers to put re-usable and repairable products on the EU market. The concept of “necessary costs”

¹⁰ [Article 11 of DIRECTIVE 2008/98/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 19 November 2008 on waste and repealing certain Directives](#)

¹¹ [Article 8a.4b of DIRECTIVE 2008/98/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 19 November 2008 on waste and repealing certain Directives](#)

(further described in Section II.c) will limit the level of the fee to what is necessary to meet the targets and objectives set in the WFD. This will make the fee potentially too low to efficiently discourage consumers to buy low-quality and, in general, cheaper products. Therefore, EU Ecodesign rules focussing on resource efficiency, such as those recently developed for domestic fridges, washing machines and dishwashers¹², must be prioritised and further developed to ensure that products, even when non-energy related, are easy to repair. Producers should be obliged to give access to spare parts and repair information to both professional repairers and consumers.

Concerning access to repair information for WEEE specifically, Article 15 of the WEEE directive requires producers to “provide information free of charge about preparation for re-use and treatment in respect of each type of new EEE placed for the first time on the Union market within one year after the equipment is placed on the market”¹³. The [I4R platform](#), created by PROs and manufacturers¹⁴, was intended to provide a solution to this need. However, the platform is currently not comprehensive enough to serve as a means of implementing article 15. Instead, preparing for re-use operators should benefit from free access to repair and maintenance information and within the same conditions as professional repairers thanks to the new ecodesign requirements (e.g. for [household refrigerators](#)).

II. EPR to foster relations between Producer Responsibility Organisations and social economy re-use operators

Social economy enterprises active in re-use always prioritise the top of the waste hierarchy and implement the proximity principle, meaning that collected products will be re-used as locally as possible. By doing so, they create local jobs for people distanced from the job market. They also play a historic role in the collection and re-use of certain goods such as textiles, furniture, books, leisure goods, etc. This has been recognised in the updated WFD and more recently in the new CEAP highlighting that “the potential of the social economy, which is a pioneer in job creation linked to the circular economy, will be further leveraged by the mutual benefits of supporting the green transition and strengthening social inclusion”.

a. Thorough impact assessment needed of EPR impacts on re-use and preparing for re-use sectors

Following the update of the WFD which provided that EPR should have the aim to “strengthen the re-use and the prevention (...) of waste”¹⁵, EPR schemes must finance both waste management and waste prevention. However, PROs could argue that re-use operations (considered waste prevention activities) should not be financed through EPR because they fall outside of the waste regime. Member States should ensure that all actors of the re-use and preparing for re-use sectors benefit from the implementation of an EPR scheme.

When new EPR schemes are implemented, it is likely that associated waste collection targets will encourage PROs to increase their collection rates, thereby collecting products which would have been collected and re-used outside the waste regime. More generally, setting up EPR schemes may encourage producers to devise their own collection models and start competing with existing waste and donation collection models designed by social economy enterprises for re-usable products (e.g. clothing collection bins). Given that PROs tend to

¹² [European Commission \(2019\), Regulation laying down ecodesign requirements 1 October 2019](#)

¹³ [Article 15 of DIRECTIVE 2012/19/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 4 July 2012 on waste electrical and electronic equipment \(WEEE\)](#)

¹⁴ Hosted by the [WEEE Forum](#) (EU association of WEEE PROs) and developed by [Applia](#) (large household appliance manufacturers) and [Digital Europe](#) (electronic appliances manufacturers)

¹⁵ [Article 8 of DIRECTIVE 2008/98/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 19 November 2008 on waste and repealing certain Directives](#)



design their collection models to collect recyclables, this could lead to a shortfall in terms of social and environmental benefits. In other words, setting up EPR schemes may result in re-usable products being collected for recycling instead of re-use, opposing the waste hierarchy.

Conducting impact assessments on the re-use and preparing for re-use sectors before the creation of EPR schemes would allow Member States to prevent new collection models from competing with re-use and ensure that re-use social economy enterprises are seen as allies, and not as competitors.

b. Social economy re-use operators to be included in development and governance of EPR schemes

Article 8a.1a of the WFD states that “where extended producer responsibility schemes are established, (...) Member States shall (...) define in a clear way the roles and responsibilities of all relevant actors involved, including (...), where appropriate, re-use and preparing for re-use operators and social economy enterprises”. Furthermore, article 8a.6 requests Member States to “ensure a regular dialogue between relevant stakeholders involved in the implementation of extended producer responsibility schemes, including (...), where applicable, social economy actors, re-use and repair networks and preparing for re-use operators”¹⁶. The WFD recognises that social economy re-use operators should be included in the development and governance of EPR schemes.

RREUSE emphasises that the terms “where appropriate” and “where applicable” should not be interpreted in a way that excludes social economy re-use operators from EPR schemes. As long as they exist and handle a given waste stream, social economy actors, re-use and repair networks and preparing for re-use operators should be automatically associated with the development and governance of the EPR scheme related to this waste stream. If they do not exist or are not yet operational, governments and PROs should trigger their development.

In France, article L541-10 of the Environment Code provides that EPR schemes must “support preparing for re-use, re-use and repair networks such as those managed by social and solidarity economy structures or those promoting integration through employment”, as well as “create a stakeholders' committee, composed [among others] of waste prevention and management operators, including those from the social and solidarity economy”¹⁷. This is a good example of how Member States should transpose articles 8a.1a and 8a.6 of the WFD and give social economy re-use operators the role they deserve.

c. Concept of ‘necessary costs’ to not disadvantage social economy re-use operators when responding to EPR calls for tenders

According to article 8a.4c of the WFD, “Member States shall take the necessary measures to ensure that the financial contributions paid by the producer of the product to comply with its extended producer responsibility obligations (...) do not exceed the costs that are necessary to provide waste management services in a cost-efficient way”¹⁸. Necessary costs include those which are “necessary to meet the Union waste management targets” or “other targets and objectives” (to which re-use and preparing for re-use targets developed nationally

¹⁶ [Article 8a.1a and 8a.6 of DIRECTIVE 2008/98/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 19 November 2008 on waste and repealing certain Directives](#)

¹⁷ [Article L541-10 of the French Environment Code](#)

¹⁸ [Article 8a.4c of DIRECTIVE 2008/98/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 19 November 2008 on waste and repealing certain Directives](#)



can be related)¹⁹. Strict interpretation of this rule may seriously disadvantage social economy actors, and re-use operators in general.

If conducting an economically sustainable and socially inclusive business is a priority, being cost-effective is not necessarily the main objective of a social enterprise. Employing people at risk of socio-economic exclusion is often the core focus of social enterprises, which may come at extra cost when compared to costs faced by traditional private companies working in waste management. The concept of necessary costs might, therefore, discourage PROs to partner with social enterprises.

To solve this problem, RREUSE suggests that Member States allow and encourage PROs to favour social enterprises for certain activities (in particular re-use and preparing for re-use) without risking being questioned by producers in the name of cost-effectiveness. This would ensure that the [5% share of the EPR fee safeguarded for social economy re-use operators](#) in France can be implemented.

Replicating an existing concept in the field of public procurement, another appropriate strategy would be to enable PROs to follow the most economically advantageous tender (MEAT) criterion when contracting partners²⁰. This would allow them to take account of criteria that reflect qualitative, environmental and/or social aspects of the tender submission when reaching an award decision.

There is one last risk associated with the strict implementation of the principle of necessary costs. Given the lack of separate preparing for re-use targets set at EU level, it is not necessary for EPR schemes to prioritise preparing for re-use over recycling to meet the “Union waste management targets” that necessary costs are to cover according to article 8a.4a of the WFD (see also section I.a). Even though preparing for re-use and re-use targets set nationally can be interpreted as being part of “other targets and objectives” that can be financed by the EPR fee, there is a clear risk that the waste hierarchy will continue being turned upside down by PROs to save costs.

Even though the value of second-hand products is generally higher than that of recycled products, the overall cost of re-use and preparing for re-use operations can be higher than that of recycling once collection, transportation, treatment and marketing costs are taken into account. This state of play is also true for second-hand products competing with low-quality and cheap new products. However, given the environmental and social benefits of re-use and preparing for re-use over recycling, the waste hierarchy must be implemented, even if costlier for PROs.

RREUSE, therefore, calls on the Commission to ensure that the principle of necessary costs will never be used to water down the proper implementation of the waste hierarchy, and to look at using EPR to encourage the implementation of a product hierarchy where buying second-hand is prioritised over buying new.

Conclusion

RREUSE believes that the development of EPR, if respectful of the waste hierarchy and developed in cooperation with all relevant actors including social economy re-use operators, can serve as a powerful tool in the EU transition towards a clean and circular economy.

Together with the implementation of re-use and preparing for re-use targets, ambitious ecodesign policies, access to re-usable goods and additional financial tools such as taxation on raw materials and reduced VAT on

¹⁹ [Article 8a.4a of DIRECTIVE 2008/98/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 19 November 2008 on waste and repealing certain Directives](#)

²⁰ [Article 67 of DIRECTIVE 2014/24/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 26 February 2014 on public procurement and repealing Directive 2004/18/EC](#)



second-hand goods, EPR can help Member States and their local authorities reach their waste collection, treatment and prevention objectives.

As the representative of European social enterprises active in re-use, repair and recycling, RREUSE will continue to offer its expertise to make EPR schemes compatible with an inclusive circular economy.

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***RREUSE** is an international network representing **social enterprises active in re-use, repair and recycling**. RREUSE members divert around **1 million tonnes of goods and materials** on an annual basis from landfill.*

*In 2018, RREUSE members active in re-use **extended the lifespan of 214 500 tonnes of products**, counterbalancing the average CO2 emissions of approximately 108 000 EU citizens.*

*Environmental services, including those of re-use and repair, enabled **850 social enterprises** federated by RREUSE's wider network to fulfil their social mission, which for the most part includes the provision of work opportunities, training and support services for disadvantaged individuals. There are approximately **95,000 employees, volunteers and trainees** engaged in the activities of RREUSE members.*

Annex: Examples of regional and national re-use and preparing for re-use targets

Spain has set a national preparing for re-use target as part of their National Framework Plan for Waste Management (2016-2022) which aims to achieve 50% preparing for re-use and recycling by 2020 of which 2% has to be prepared for re-use deriving mainly from textiles, WEEE, furniture and other waste streams. This target has complemented another preparing for re-use target implemented since 2015 via a Royal Decree and focused on WEEE which requires 3% of large household appliances and 4% of IT equipment to be prepared for re-use from 2018. Especially for WEEE where Producer Responsibility Organisations have to embed these targets in their own objectives, this policy has helped Spanish preparing for re-use operators having more access to the waste stream.

Flanders, Belgium, has a re-use target of 7 kg of material per capita by 2022, linked to the Flemish network of re-use social enterprises working under the brand of De Kringwinkel. This target follows the previous objective of 5 kg re-used by the end of 2015 alongside an employment target of 3000 Full Time Equivalent jobs. As a result, the social economy re-use operators in Flanders now supports over 5000 jobs, with the majority of those being for persons distanced from the labour market.

France went even further in its [Circular Economy Law](#) (transposing the WFD) by creating two measures that will help re-use and preparing for re-use operators form partnerships with Producer Responsibility Organisations:

- **A Solidarity Re-use Fund**

To support the creation of 70.000 jobs for the most disadvantaged groups by 2030²¹, the *Fonds pour le Réemploi Solidaire* will be set up. It will guarantee that 5 % of the fees collected via Extended Producer Responsibility (EPR) schemes covering re-usable waste streams (such as textiles, furniture and WEEE) are used to finance re-use and preparing for re-use activities conducted by social enterprises.

- **A combined re-use and preparing for re-use target**

The level of this target will be determined later by decree for the period 2021-2025, and then renewed every 5 years.

²¹ [REFER \(2019\), Fonds pour le Réemploi Solidaire : le Sénat vote à l'unanimité LA mesure sociale du projet de loi économie circulaire](#)