

Public Consultation on the Functioning of Waste Markets

Public Consultation on the functioning of Waste Markets in the European Union

Part 1 - Identification of stakeholder or expert

Please enter your country of residence/establishment

- BELGIQUE-BELGIË
- DANMARK
- DEUTSCHLAND
- EESTI
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- ΕΛΛΑΔΑ (ELLADA)
- ΚΥΠΡΟΣ (ΚΥΠΡΟΣ)
- БЪЛГАРИЯ (BULGARIA)

If relevant, please specify the non-EU country of your residence/establishment:

Your name or organisation:

ETRMA, the European Tyre & Rubber Manufacturers Association

Please provide your EU Transparency Register ID number (if you have one)

6025320863-10

If your organisation is not registered, you can register now (please see the introduction to this consultation under 'How to submit your contribution').

Can your reply be published? Please tick the box of your choice.

- With your name or that of your organisation
- Anonymously

For information on how your personal data and contribution will be dealt with, please refer to the privacy statement in the introduction to this consultation.

I am replying to this consultation as...

- an individual
- a private enterprise
- a non-governmental organisation (NGO)
- an organisation or association (other than NGO)
- a government or public authority
- a European institution or agency
- an academic/research institute
- other

If you are replying on behalf of a company, please specify in which of the following markets you predominantly operate:

- The whole EU market
- In one or several Member States, please indicate which one in the list below:
- BELGIQUE-BELGIË
- DANMARK
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- БЪЛГАРИЯ (BULGARIA)

If relevant, please specify the non-EU country in which you predominantly operate:

If you are replying on behalf of a company, please indicate the number of its employees:

- Between 1 and 49
- Between 50 and 249
- 250 and more

Part 2 - Questions

A. Identification of the main perceived regulatory failures

For the purpose of this consultation, regulatory failures are defined as situations in which the regulatory environment hampers the efficient functioning of the waste markets (i.e. where waste meant to be recycled or recovered can move freely within the EU, without unjustified restrictions) and fails to ensure optimal implementation of the waste hierarchy (according to Article 4(1) of the EU waste framework directive, the following waste hierarchy shall apply as a priority order: prevention; preparing for re-use; recycling; other recovery, e.g. energy recovery; and disposal).

1. Do you think there are any regulatory failures or obstacles currently affecting the functioning of EU waste markets?

- Yes, a large amount
- Yes, but limited
- No (go to Section B)
- Don't know (go to Section B)

2. What do you think is the most important aspect of policy and/or legislation that creates distortions in the waste markets or creates unjustified obstacles to the proper functioning of waste markets in the EU?

- Differing definitions/ interpretations of reuse and what is waste between member states (poor transposition of EU waste policy) limit the ability (or discourage the movement) of certain secondary products across national borders (even when the nearest treatment facility might be in the neighbouring member state) and prevent the creation of economies of scale in certain markets for secondary goods across the EU.

- As regards reuse & casings suitable for retreading, we would like the EU Commission to clarify the legal definition and status of 'reuse' and its place with respect to the waste hierarchy. More specifically, could reuse be applicable to the retreading business model (as it extends the lifetime of the tyre)?

'Reuse' will only be a success, if it is clearly defined in legislation (and not subject to differing interpretations in national legislation) and its contribution to EU waste reduction targets and objectives clearly defined. In the absence of a clearly defined regulatory framework around reuse, the tyre industry would like tyre casings suitable for retreading to benefit from End of Waste (EoW) status.

- With regard to End-of-Life Tire (ELT) derived rubber granulates and powder: The tyre industry is very favorable to harmonized EU 'End of Waste' criteria and continues to ask for this status to be granted for ELT rubber granulates and powder.

3. Could you provide an example of such a regulatory failure/obstacle? Please describe it briefly.

- Need to grant an EU harmonized product status to tyre casings suitable for retreading through the recognition of retreading as a reuse operation

The success of the circular economy depends on business models that are able to truly capitalise on a longer product lifespan over time. Retreading of truck tyres is one of those well established sustainable business models. It has numerous environmental benefits as it saves raw materials (no need to remanufacture the casings) and extends the service life of a tyre (as a truck casing is designed to be retreaded several times). In that sense, retreading can be assimilated to a reuse operation.

Unfortunately, the current truck tyre retreading rate in Europe is only about 40% (vs. almost 100% in the US) and is declining. The lack of an EU harmonized waste or product status for casings suitable for retreading (no recognition of retreading as a reuse operation) is contributing to limit the further development of the retreading business in Europe. This is a direct obstacle to meeting the EU circular economy objectives in our sector.

4. What do you think this regulatory failure/obstacle is linked to? (multiple answers possible)

- EU legislation or policy
- National policy, legislation or administrative decisions
- Regional policy, legislation or administrative decisions
- Local policy, legislation or administrative decisions

Please briefly describe which specific policy/policies, legislation(s) or decision(s) is/are to blame for this:

- Lack of clear legal definition and status of 'reuse' in the waste hierarchy, and legal uncertainty whether reuse would be applicable to the retreading business model, hence whether casings suitable for retreading would benefit from a product status.
- Not granting EU end of waste status to rubber granulates and powder derived from End-of-life tyres, under article 6(1) & 6(2) of the EU Waste Framework Directive (Dir. 2008/98/EC)
- Different definitions of waste in different member states (additional EU Waste codes and different definitions of the same EU Waste code between Member States).
- National end-of-waste criteria distort the EU market for secondary goods and therefore prevent the EU-wide business models and the economies of scales needed to increase demand for them.

5. Which of the following impacts do you think such regulatory failure/obstacle has within the EU? (multiple answers possible)

- Reduces reuse or recycling
- Reduces recovery, including energy recovery
- Increases waste generation
- Leads to increased environmental impacts
- Leads to reduced resource efficiency
- Other
- None

If relevant, please provide additional information in relation to your above reply.

The retreading sector firmly believes that granting casings which are suitable for retreading a product status - through a better definition of the regulatory parameters around the concept of 'reuse' - will help boost this business model. This would not only help meet circular economy objectives, but also create over 10,000 jobs, remove administrative burden and generate an additional annual turnover of around € 1 billion by tapping the entire stock of truck casings which are suitable for retreading. At the same time, clear criteria for carcass retreadability would ensure high environmental protection standards while preventing illegal flows of materials otherwise classifiable as waste.

Sluggish growth at global level is starting to impact the retreading business in the EU. Whereas retreading used to be a complimentary service provided to extend the life of the original tyre, retreaded tyres are increasingly seen as comparable to cheap single life tyres imported from outside the EU* (see Note). Without fiscal incentives to help these more 'resource efficient' retreaded tyres compete with these imports, and regulatory actions to help address inconsistencies and legal burdens in the EU waste market, the retreading business model, which is so successful in other regions of the world, will fail in Europe.

* NOTE - It is worth mentioning, that Europe has been for a long time a centre of excellence in retread technology. This process of giving new life to used tyres for the commercial transport industry is a perfect example of circular economy model. But most recently (2014, 2015) this business has been severely hit by imports of "cheap" new truck tyres. Many in the transport industry are now choosing to purchase low price imported new single-life tyres instead of the traditional retreaded tyres which were providing employment for more than 10 thousand people in SMEs in an environmentally friendly business.

6. How did you become aware of this regulatory failure/obstacle? (multiple answers possible)

- Reported by members of your organisation
- Through complaints reported to the authority
- From literature
- From own market analyses
- Own experience
- Other

If relevant, please provide additional information in relation to your above reply.

ETRMA members together with hundreds of franchised or licensed retreaders (mainly SMEs) represent approximately 80% of the volume of retreaded tyres sold on the European market. The remainder of the industry is represented by independent retreading companies.

7. What actions are you aware of that could solve or mitigate this problem? (multiple answers possible)

- Not aware of any actions
- Legislative changes
- Changes in the policy or decision-making by authorities
- EU guidance on waste legislation or policy
- Co-operation between authorities in different Member States
- Co-operation between authorities in the same Member States
- Other

If relevant, please provide additional information in relation to your above reply.

- As mentioned in response to question 2 above, the tyre industry continues to ask for EU harmonized 'End-of-Waste' Status' to be granted for ELT-derived rubber granulates and powder. Nevertheless, in order to capitalize on the benefits of the end-of-waste status, EU level guidance to help companies to deal with secondary raw materials, ensuring compliance with existing legislative frameworks. Simplified requirements and procedures for recycled materials should be envisaged within REACH and other chemicals related legislation.

- Additional EU Guidance on how to interpret key waste policy definition would also help avoid obstacles on the market. Such guidance could also touch upon inefficiencies in the administrative handling of waste, leading to unnecessary documentation or duplication of notification processes at national and regional levels. These inefficiencies do not only occur among different regions and member states, but also within one member state between different ministries/authorities.

- The need for national waste authorities to better liaise with their colleagues in customs for example is necessary in the case of the EU Waste Shipment Regulation.

8. Are there other important aspects of policy and legislation that distort the waste market or create obstacles to the functioning of waste markets? If yes, please describe these taking into account the previous questions.

- Lack of appropriate incentives to support the development of new market outlets and lack of coordination between REACH and waste policy distort the functioning of the waste markets

Although ELT-derived rubber granulates have interesting properties (low density, high hydraulic conductivity, low thermal conductivity and high shear strength), mainstream market outlets for rubber granulates (for example, synthetic turf fields) are rapidly reaching saturation in a number of EU countries.

As these markets are largely reliant on demand from public authorities, we therefore urge public authorities to help foster demand for secondary raw materials notably through GPP for big infrastructure projects (for example road construction) and appropriate incentives to make the use of secondary raw materials more attractive.

Another potential distortion of the EU waste markets relates to the lack of coordination between chemicals and waste policies. We therefore encourage EU authorities to develop a holistic, balanced, risk-based approach capable of promoting the use of secondary raw materials and recycling in general, removing the current barriers that certain legislative frameworks, such as REACH, have created. Additionally, an ad-hoc set of measures should be designed for those actors and the material supply chain involved in R&D programs on waste reutilization within a virtuous industrial symbiosis framework.

B. Obstacles to the functioning of waste markets connected to the application of EU waste legislation or other EU legislation

9. Do you consider that there are any obstacles to the functioning of waste markets connected to the application of EU waste legislation or other EU legislation?

- Yes, many
- Yes, but limited
- No (go to part C of the questionnaire)
- Don't know (go to part C of the questionnaire)

10. What are the drivers/causes of these regulatory failures or obstacles to the efficient functioning of waste markets?

(Rate in a scale of 0–5, with 0 not important, 5 very important)

a. Application of the system of notification- and consent requirements under the Waste Shipment Regulation (Articles 4-17 and 26-33 of the Waste Shipment Regulation).

between 0 and 5

3

b. Application by national authorities of the provisions concerning waste shipments through transit countries (Waste Shipment Regulation).

between 0 and 5

5

c. Other controls imposed on waste or waste shipments by application of EU waste legislation.

between 0 and 5

5

d. Different interpretations of the definition of 'waste' according to the Waste Framework Directive.

between 0 and 5

5

e. Diverging classifications of waste as 'hazardous' or 'non-hazardous' (Waste Framework Directive).

between 0 and 5

0

f. The distinction between 'recovery' and 'disposal' (Waste Framework Directive).

between 0 and 5

5

g. Application of the 'proximity principle' resulting in an outcome which is inconsistent with the waste hierarchy (Waste Framework Directive and Waste Shipment Regulation).

between 0 and 5

0

h. Divergent application of the so-called 'R-codes', i.e. the recovery operations listed in Annex II to the Waste Framework Directive.

between 0 and 5

5

i. Application of national end-of-waste criteria established in accordance with the Waste Framework Directive, see further Article 6(4) of the directive.

between 0 and 5

i. Application of national end-of-waste criteria established in accordance with the Waste Framework Directive, see further Article 6(4) of the directive.

3

j. Application of the grounds for reasoned objections to shipments of waste for recovery, as listed in Article 12 of the Waste Shipment Regulation, or the requirement for environmentally sound management (ESM), see further Article 49(1) of the regulation.

between 0 and 5

3

k. Other obstacles not listed above.

between 0 and 5

5

If relevant, please provide additional information in relation to your above reply.

- Proximity principle & the functioning of the ELT market
In relation to our answer to 10)g: Our sector has always considered the proximity principle as important. However, now that the collection of ELTs is well organized and the EPR model for tyres is widely applied in Europe, the proximity principle is not an obstacle to the functioning of the ELT market. ELTs are shipped to recovery operators where capacity is available.

- Setting mandatory targets does not help develop new outlets for secondary goods.

The evolution and success of ELT management in Europe since 1999 illustrates that binding targets are not always the solution. As mentioned above, ahead of the EU Landfill ban of ELTs, the tyre industry initiated a strategic and self-promoted programme based on producer responsibility, which today delivers a combined ELT reuse & recovery rate of 95%.

Industry's ability to select among a balanced portfolio of recovery technologies and the development of new recycling outlets for ELT-derived granulates and powder were key to delivering that performance.

However, reduced public investment in new infrastructures (sport surfaces, road construction & maintenance, ...) due to the economic downturn contributed to sluggish demand for ELT granulates on the EU market. This created tensions in the rubber granulates recycling market. Since a precondition for a successful recycling scheme is the existence of a market for recycled materials, there is a need to support and develop markets for ELT-derived rubber granulates (see response to question 7).

In this context, setting binding recycling targets for tyres would be counterproductive.

The same applies to tyre reuse targets (see Portuguese case study)

Portuguese case study

Mandated targets for retreading proved to be a failure in Portugal. The Portuguese legislation has a 27% target for preparation for reuse and retreading since 2009. This target reflected the state of play at that time, where approximately 25% of the used tyres were retreaded. The target was set at 27% to secure this share and provide an incentive to increase it. Since 2009, the target was never reached even though financial penalties are imposed by Portuguese law to the ELT management company in case of non-compliance.

In 2014, the retreading rate was at an all time low of 18% due to numerous factors: economic & financial difficulties of national retreaders (only 27 retreaders are still in activity in 2014 vs. 34 in 2009), the poor quality of an increasing number of casings which do not allow for retreading and the cost of retreading when compared to low cost single life tyre imports.

11. Please provide qualitative or quantitative evidence of the impacts of these distortions (e.g. in terms of additional costs for businesses, missed new job opportunities, environmental impacts etc.)

- Potential socio-economic impact of granting a product status for casings which are suitable for retreading

Granting casings which are suitable for retreading a product status - by qualifying retreading as a reuse operation - will help access the entire stock of truck casings which are suitable for retreading, thereby not only contributing to the circular economy, but also creating over 10,000 jobs, removing administrative burdens and generating an additional annual turnover of around € 1 billion.

In addition to this, we would like to provide an example of how fragmented transposition and interpretation of EU waste policy can negatively impact the market for secondary raw materials:

- Tyre Derived Aggregates (TDA) in civil engineering/geotechnical applications

Whole or shredded tyres are not only able to replace sand, gravel or concrete in civil engineering applications, but also provide advantages associated to the properties of the material. These include that the material is light, resistant to stress, allows for better porosity and drainage. It can also provide insulation to protect the construction against frost, reduce noise and absorb shocks.

However, national policies vary widely in their approach to this use. It is for example well developed in Nordic countries, whilst other countries (such as Germany) limit it. In the meantime, the use secondary materials derived from end-of-life tyres in this application is limited instead of being promoted on the EU-wide market. This legal uncertainty is compounded by the new definition of backfilling, for which an EU guidance would be quite helpful. Therefore, harmonising national legislation on the use of TDAs in civil engineering/geotechnical applications is welcome.

C. Obstacles to the functioning of waste markets arising from national, regional or local rules or requirements and decisions which are not directly linked to EU legislation

12. Do you consider that there are any distortions created by waste policy, requirements or decisions taken at national, regional or local levels?

- Yes, many
- Yes, but limited
- No (go to question 15)
- Don't know (go to question 15)

13. What are the drivers/ causes of these market distortions?

(Rate in a scale of 0–5, with 0 not important, 5 very important)

a. Differing taxes or fees leading to internal or cross border 'shopping behaviour', i.e. waste is transported to locations where it is cheaper to manage to the detriment of more environmentally sound management options which are locally available.

between 0 and 5

b. Distribution of roles and responsibilities for municipal authorities and private companies in waste management.

between 0 and 5

c. Development of waste treatment networks leading to local overcapacities or under-capacities for different types of waste treatment (e.g. incineration) to the detriment of higher positioned treatment steps in the EU waste hierarchy.

between 0 and 5

d. Inefficient use of available capacity in recycling or energy recovery in a neighbouring country or within the country itself.

between 0 and 5

e. Regulatory barriers that lead to shipments of waste in spite of facilities existing nearer to the source that could treat the waste in an equivalent or better manner in terms of environmentally sound management and the waste hierarchy.

between 0 and 5

f. Design and implementation of extended producer responsibility schemes leading to competition distortions or market access problems for producers and waste operators.

between 0 and 5

3

g. Permits and registrations which are not linked with EU legislation, requested from companies established in other Member States, even if they have fulfilled similar requirements in their home Member State.

between 0 and 5

5

h. Excessive controls on waste or waste shipments by national/regional/local policy, decisions and legislation that go beyond EU requirements ('gold plating').

between 0 and 5

2

i. Distribution of roles and responsibilities for municipal authorities and private companies in waste management.

between 0 and 5

5

j. Other obstacles not listed above.

between 0 and 5

0

If relevant, please provide additional information in relation to your above reply.

Differing definitions of waste, and the impact this divergence has on the economic viability of waste collection and treatment schemes.

14. Please provide qualitative or quantitative evidence of the impacts of these distortions (e.g. in terms of additional costs for businesses, missed new job opportunities, environmental impacts etc.)

End-of-Waste (EoW) status identifies the points when waste is fully recovered in the meaning of the EU Waste Framework Directive (2008/98/EC).

Despite being clear in its wording, the uncertainty surrounding the interpretation of this definition still limits the development and marketing of materials produced from waste. In attempting to boost this sector, certain Member States have developed their own criteria, which are valid only within the border of the country issuing them.

For example, the EoW criteria for tyre derived materials issued in the UK (Quality Protocol Tyre-derived rubber materials Nov. 2009) are not consistent with Italy's list of recovered materials which may be granted product status according to the Italian Decree 5/2/1998. This means that, potentially, a material considered 'no longer waste' in the UK could still have waste characteristics in Italy, or vice versa. This restricts the market for these goods to the national rather than the EU scale, unless the same product respects the criteria of all the countries where it is meant to be used. Beyond the evident burden that this places on producers, usually SMEs, there is a clear business continuity risk for users, who must always take into account customs and other authorities' "interpretation."

15 a. Please rank the three most important drivers of market distortions and obstacles according to their importance with respect to being tackled first to improve the efficient function of waste markets. Please indicate the relevant number and sub-letter from 10a)-k), 13 a)-j).

10d)
10i)
13g)

15 b-c.

- 15 b. Cannot rank them. They are all equally important.
- 15 c. Not enough knowledge to rank them.

16. What do you feel are the negative impacts within the EU of such obstacles? Please rank them between 0 (no impact) to 3 (high impact).

a. Increased waste generation or less reuse

between 0 and 3

16. What do you feel are the negative impacts within the EU of such obstacles? Please rank them between 0 (no impact) to 3 (high impact).

b. Less recycling

between 0 and 3

c. Less recovery, including energy recovery

between 0 and 3

d. Less environmentally sound management of waste

between 0 and 3

e. Less resource efficiency

between 0 and 3

f. Lack of market access

between 0 and 3

g. Other

between 0 and 3

If relevant, please provide additional information in relation to your above reply.

With regard to 16 a.: The missed opportunities for reuse are particularly visible in our sector. Granting casings which are suitable for retreading a product status - by qualifying retreading as a reuse operation - will help us access the entire stock of truck casings which are suitable for retreading.

D. Final questions

17. Do you consider that there are large differences between the Member States in the way their waste markets function?

- Yes, very large differences.
- Yes, but the differences are small.
- No differences.
- Don't know.

18. Please briefly describe the differences between Member States, perceived as obstacles to the functioning of waste markets:

- Different interpretations of EU waste policy, especially on key definitions (see answer to question 14)
- Development of markets for secondary goods limited by national and local fragmentation of waste markets in the EU. The principle of proximity may be appropriate for municipal waste, but not for specialised waste streams, where it drives fragmentation and inefficiency.
- Consumers distrust in secondary products also driven by authorities' own suspicions. Regulatory uncertainty, therefore inability to create/scale new business models/applications. (see civil engineering example in answer to question 11)
- When EU and national recycling targets are at odds with market realities and the market for secondary goods is already saturated, these targets fail to deliver results (see example of Portugal in response to question 10.)

19. What solutions would you propose in order to address the regulatory failures or obstacles you have identified above?

- Guidelines for the interpretation of EU waste policy definitions. Clarify definitions, outline what administrative procedure should look like to ensure they are, if not identical, at least compatible among member states. Encourage greater dialogue and coordination among national waste authorities.
- The EU should clarify the legal definition and status of 'reuse' in the waste hierarchy and in meeting various waste policy obligations such as counting towards targets. Particularly the tyre industry would like clarification about whether reuse would be applicable to the retreading business model (as it extends the lifetime of the tyre)
- The EU should make greater use of End-of-Waste Criteria, as the EU runs through this exercise more and more often, the market will respond. The tyre industry continues to ask for End-of-Waste status to be granted to ELT-derived rubber granulates and powder.
- EU targets can be very successful tools, but when the market for secondary goods is already saturated, they are inefficient. The EU needs to assess when this is the case, and help these markets to find new outlets with incentives. Targets on their own are rarely the solution, especially since waste markets in the EU are so fragmented.

Part 3 – Follow-up activities

20. Would you be interested in participating in a stakeholder meeting on these issues that will be held on 12th November 2015?

- Yes, I would like to attend.
- No, I'm not interested.

My contact details are (optional):

Contact

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