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Συμβούλιο των Ευρωπαϊκών Δήμων και Περιφερειών
Consejo de municipios y regiones de Europa
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Raad der Europese gemeenten en regio's
Conselho dos municípios e regiões da Europa

Extend and harmonise the principle of producer liability in EU waste management policy

The principle of the producer's responsibility is widely acknowledged as an important instrument to improve waste management. In the Community Strategy on Waste Management (1996), the Commission has clearly stated that the manufacturer of a product must play a leading role regarding the waste created, to the extent that it is the manufacturer who takes the essential decisions concerning the product which determine the possibilities of managing it in terms of waste.

The Directive 94/62 on Packaging and Packaging Waste has been leading the European implementation of the producer responsibility principle. It has helped to develop selective collection schemes. It has diminished the gap between member states in performance. It has also promoted research and development of packaging and sorting/recycling techniques. On the other hand, the present modification of the Directive on Packaging and Packaging Waste, as well as the making of the Directive on Waste from Electrical and Electronic Equipment (WEEE) has also highlighted some problems with the present status of the producer responsibility.

The producer responsibility in the packaging sector has been set down in European waste policy in a very hazy way. There are large differences between the national mechanisms to create that responsibility. The fees for various packaging types vary greatly in different Member State. These differences are not explained by differences in costs for recovery and recycling activities only. A comparison of costs is very difficult due to the lack of transparency of costs in collection, reuse, recovery and recycling. Some problems in the definition of "waste" make the situation even worse.

As a consequence, especially in cases when industry and municipalities share the responsibility of packaging waste, the costs of the operations which are not covered by the producers are born by tax payers. These costs may represent a significant burden for local authorities. The situation has also environmental consequences, because it appears that the recycling rate is linked to the extent of cost coverage by packaging producers.

The essential role of local authorities in waste management

It is obvious that local and regional authorities, as main actors of the community waste management, can play an important role in the implementation of the Packaging Directive. Their involvement will also be a major factor of success in the WEEE directive.

Indeed, municipal authorities can provide a major support to producers by allowing these to take advantage of the existing infrastructures for collection of different waste fraction in the sphere of the producer responsibility. However, the key question is: who bears the costs. It is

acknowledged that the application of producer responsibility will be a major incentive to develop more environmentally friendly products. This incentive should be optimised.

In line with the subsidiarity principle, the Directive 94/62 on Packaging and Packaging Waste, the Directive on End of Life Vehicles as well as the draft Directive on WEEE let the concrete design of the systems - in terms of organisation and financing - at the discretion of Member States and Regions. Systems developed at a national scale already show large differences in the organisation.

Room for local solutions is common sense. But the objective of avoiding distortion of competition in the internal market pleads for rather uniform producer responsibility rules throughout Europe. Indeed, in a European market, differences in financial incentives to recycling favours unnecessary transboundary transportation of waste or secondary materials and impede the correct implementation of the proximity principle. It may lead to the saturation of certain recycling capacities by secondary materials from abroad at certain periods of times.

The incentive to develop more environmentally friendly products and the objective of avoiding distortion of competition in the internal market speak for maximising the responsibility of producers who should be obliged to cover the full costs resulting from recycling, re-use and recovery of packaging waste as well as all end-of-life electrical and electronic equipment. This responsibility should also cover the collection and transportation of waste.

The producer responsibility should be clearly defined. It should also be a full responsibility. For instance present minimum and maximum targets for packaging waste recovery and recycling undermine incentives to more environmentally friendly products and recovery/recycling systems. Shared responsibilities in legal terms should be avoided so that less profitable part of the waste in producer responsibility could not be left as a responsibility for citizens and municipalities. This certainly does not mean that municipalities could not give an important contribution to the system for instance by making contracts with producers and their corporations.

In some countries the packaging directive has resulted in heavy financial burden for local authorities. This may explain why those countries suffer a certain delay in recycling achievements compared with countries where a complete producer responsibility is applied. So, harmonising the producer responsibility regime in Europe towards increased financial responsibility in the collection of waste would certainly contribute in harmonising recycling results achieved in various countries.