



Jeannine Dunne
Waste Policy & Resource Efficiency
Department of Environment,
Community and Local Government
Newtown Road
Wexford.

20th October 2014

Re: The EU Waste Package

Dear Jeanine,

Further to your email request for submissions, dated 8th September 2014, relating to the new EU Waste Package, the Irish Waste Management Association (IWMA) offers the following comments for your consideration.

1. Definition & composition of “municipal waste” (Article 3.1(a) & Annex VI of the WFD)

The Commission proposal for a new definition and composition of “municipal waste” is of vital importance, as it defines the types of wastes to which the new EU recycling targets would apply. IWMA believes that the definition and composition proposed are not clear enough to be applied consistently by the Member States and also introduces unnecessary new complications:

- It places undue emphasis on who collects the waste or on behalf of whom. This is completely inappropriate, as the roles of the public and private sectors in waste collection varies widely between Member States, and is a matter for Member States to decide. Municipal waste is collected by private companies in Ireland, not on behalf of municipalities, so the current definition suggests that there is no municipal waste in Ireland. This is clearly an important over-sight.
- It broadens the scope of “municipal waste” excessively by bringing in categories of commercial waste which have no connection with “household and similar waste”, which is rightly the core element of municipal waste as currently defined in the Landfill Directive.

Accordingly, the IWMA is of the opinion that the proposed Article 3.1(a) should be amended to define municipal waste as household and similar waste, with Annex VI providing clarification of the composition of the term “municipal waste” for the purpose of reporting and calculating the recycling targets. The IWMA strongly believes that municipal waste should be defined by waste

type, not by who collects it, and will suggest detailed changes to the Commission proposals in this regard.

Finally, the IWMA deems that rather than seeking to expand the scope of the term “municipal waste”, the Commission should examine the possibility of setting targets for commercial and industrial waste in the future, and take steps to ensure that Member States gather data on commercial and industrial waste to help facilitate this.

2. Recycling target calculation method (Article 11 of the WFD)

The IWMA is in favour of harmonising the recycling calculation method to ensure that all Member States can report their performance on a comparable basis. We also agree with the Commission that the calculation should in principle exclude materials which are collected for recycling but in practice cannot be recycled. However, the Commission proposal for how the calculation should be made is very unclear and appears to propose a method which is impractical. In particular, the proposal does not take account of the various steps in the collection, sorting, recycling and reprocessing chain. For example for recycled plastic, process losses prior to the point at which the Commission proposes to measure the recycling rate could in some cases reduce the currently reported recycling rate by up to 30%. Nor does the proposal take account of material which is exported for recycling.

For these reasons, the IWMA considers that the Commission proposal for a calculation method based on input to a “final recycling process” is neither desirable nor feasible. Instead, the IWMA suggests that the calculation method should refer to the output from the sorting process, minus any non-recyclable material.

Moreover, defining the calculation method is a complex technical issue which should not be dealt with in a framework directive (WFD). Such technical details should be further elaborated in an implementing act revising the current Decision on calculation methods¹.

3. Landfill reduction targets (Article 5 of the Landfill Directive)

The IWMA supports the proposal to ban landfilling of recyclable wastes from 2025, and the aspiration to reduce landfilling further after that, subject to the proposed review of progress in 2025. The IWMA’s position is that only wastes for which no environmentally sound or economically practicable recycling or recovery operations exist should be landfilled. At the same time, landfilling should remain available for those wastes where it is the best overall environmental option.

We suggest that the formulation of the proposed aspirational target for 2030 should be aligned with that of the mandatory 2025 target, since moving from a quantitative target (to decrease landfilling to 25% of municipal waste generated by 2025) to a qualitative target only five years later (to limit landfilling to a specific waste type, i.e. residual waste, by 2030) would pose both practical and reporting problems for Member States and operators. Hence, the IWMA believes that there is no need to refer to “residual waste” at this point in the proposal.

4. Extended Producer Responsibility (Article 8 & Annex VII of the WFD)

The IWMA believes that Extended Producer Responsibility (EPR) schemes should operate in a transparent way, to encourage manufacturers to use recycled materials and to ensure fair and

¹Commission Decision 2011/753/EU of 18 November 2011 establishing rules and calculation methods for verifying compliance with the targets set in Article 11(2) of Directive 2008/98/EC of the European Parliament and of the Council

equal access to materials and resources. The IWMA is of the opinion that the definition, scope and objectives of EPR should be market-oriented so as to fully exploit its potential to achieve a circular economy. Producers should be able to choose the services they want and who provides them.

In the IWMA's view, the desired results will be delivered only if local conditions in the Member States are taken into account. The IWMA considers that the language of Article 8 paragraph 3, and the minimum requirements set out in Annex VII, are much too prescriptive. Instead, we suggest that Member States should have to take into account the minimum requirements in Annex VII when developing and applying extended producer responsibility, rather than having to follow every detail.

In particular, Article 14 of the WFD states that Member States may decide that the costs of waste management are to be borne partly or wholly by the producer of the product from which the waste came and that the distributors of such product may share these costs. The discretion of the Member States in choosing the most appropriate national mechanism to reflect the obligations set by the EU ensures that Member States are free to look for the most efficient approach fit for their own market conditions.

5. Better enforcement of the EU acquis (Article 11a of the WFD)

The EU has made substantial progress in turning waste into a resource and promoting sustainable ways of waste management, but performance varies considerably between Member States. There is significant potential to further improve the implementation of waste legislation at national level and to reduce the current disparities.

To ensure better implementation, the IWMA welcomes the new instrument proposed by the European Commission – an early warning system, which we see as designed to strengthen regulatory enforcement in those Member States which are having most difficulty in reaching the EU recycling and landfill diversion targets. We believe that the early warning system will contribute to narrowing the gap between the worst and best performing Member States. However, keeping in mind that there is no “one-size-fits-all” solution, it is important that the measures listed in Annex VIII of the Commission's proposal remain at the discretion of the Member State concerned. In addition, the IWMA, as the industry, will play its part, supporting national and European regulators by disseminating environmentally responsible management practices across the sector.

It is also vitally important that EU rules on fair and equal competition and the internal market are properly upheld. Waste management is a modern business sector where investments and innovation can only flourish when competition creates incentives for economic efficiency. In some Member States this is impeded by preferential treatment and subsidisation of publicly controlled market participants, preventing better and more cost-effective suppliers from prevailing. The IWMA expressly calls for a level playing field for private and public waste management undertakings and facilities in the market. This includes in particular fair public procurement legislation without loopholes and without privileges for cooperative ventures between public authorities, equal VAT treatment between public and private enterprises, and consistent application of competition rules.

6. Delegated acts (Article 38 WFD & Article 16-17 Landfill Directive)

Many of the important technical details of the EU waste acquis are included in annexes or in other pieces of legislation, and the Commission has proposed to deal with most of these matters by delegated acts in the future. The IWMA does not believe this would be appropriate. Changes

to the List of Waste, End-of-Waste status, etc.² have an immediate impact on the daily work practice of waste management companies. Such measures go far beyond “non-essential elements” as described in Article 290 TFEU. Hence the feasibility of such measures needs to be checked by experts from the Member States, who are best informed about the situation on the ground. We therefore strongly advocate for these measures to be dealt with as implementing acts, allowing a Member States experts’ committee to examine and if necessary amend the Commission proposal, as was the case under the regulatory procedure with scrutiny. This will ensure better and more practicable regulation.

6. Increase of the preparing for re-use and recycling target for municipal waste to 70% by 2030

A 70% recycling target for municipal waste by 2030 may not be the best environmental option for Ireland. The 50% recycling target for 2020 is certainly achievable and with a big effort, particularly in capturing biowastes, 60% recycling by 2030 will be challenging but should also be achievable. However, a 70% recycling rate may be a challenge too far for Ireland.

One size does not fit all in the EU28 and Ireland has its own particular circumstances. As a small country of just over 4 million people, on an island off the coast of Western Europe, Ireland has little in the way of re-processing capabilities for paper and plastic wastes, so most of our paper and plastic recyclables are exported to China and India, with a lesser part sent to other EU Member States. With a drive to 70% recycling, the low grade mixed paper and plastics must be targeted for recycling and inevitably exported to the Far East.

Currently, the poor quality mixed paper and plastics that are rejected from Ireland’s MRFs are used as feedstock for SRF, which is used to fuel our cement kilns. If this material, must now be further segregated and then exported to Asia for recycling, the lost SRF must then be replaced with fossil fuels, particularly coal. Ireland does not produce coal, so we import this fossil fuel from places as far away as South Africa and South America.

Before a 70% recycling target is imposed on Ireland, it is critical that the EU considers the full environmental and economic costs of recycling these marginal materials in a country that must export recyclables and must import coal. This marginal recycling is not expected to create jobs in Ireland and will certainly lead to long distance transport of materials on a global scale.

A second issue that must be considered is the appropriateness of the metric used, i.e. the recycling rate. A high recycling rate is secondary to waste prevention measures and now that the Waste Framework Directive facilitates ‘by-product’ declarations, materials that were previously recycled are now being declared as ‘by-products’ rather than waste. This changes nothing in a physical sense, but it alters the statistics to show less waste produced and less waste recycled. That makes it harder to reach the target recycling rates. If a Member State must meet impractically high recycling rates, it would be prudent to discourage by-product declarations and that appears inconsistent with the principles enshrined in the current Waste Framework Directive.

This argument also applies to the collection of biowaste. In order to reduce waste generation by keeping garden waste at source, small biowaste bins are offered in many locations in Ireland and in the wider EU, to encourage householders to only put out food waste for collection and to keep garden waste in the garden. With a 70% recycling target for municipal waste, it may seem

² The Commission proposes the use of delegated acts for amending the annexes of the Waste Framework Directive (except Annex VI) and the Landfill Directive, and for the following articles of the WFD: Article 5.2 on by-products, Article 6.2 on End-of-Waste status, Article 7.1 on the List of Waste, and Articles 27.1 and 27.4 on minimum standards for waste treatment.

more prudent to encourage the recycling of garden waste by way of centralised composting, even though this is contrary to waste prevention measures that sit higher in the waste hierarchy.

In summary, there are unforeseen consequences that are likely to occur if the recycling rate is set at such a high level and these outcomes must be fully investigated before the 2030 recycling target is finalised.

We therefore suggest that the municipal waste recycling rate should be set at 60% by 2030 rather than 70%. With the limits on landfill proposed elsewhere in the EU Waste Package, we expect that this would allow adequate feedstock to fuel all the Irish Cement Kilns plus the existing EfW facility at Carranstown and the proposed Poolbeg EfW facility. A 70% recycling rate is likely to result in the importation of residual waste, SRF and/or RDF to fuel these plants, whilst Ireland exports poor quality paper and plastic to the Far East.

We hope this input proves useful and we ask that the DECLG gives due consideration to our comments in your engagement with the EU Commission.

Yours Sincerely,



Conor Walsh

IWMA Secretary
7 Dundrum Business Park,
Windy Arbour
Dublin 14

Email. cwalsh@slrconsulting.com Tel. 01-2964667