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Mr. Denis Dunne,  
Assistant Principal  
Environment Protection Division,  
Department of the Environment, Climate and Communications  
Newtown Road,  
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Y35 AP90

26<sup>th</sup> May 2023

**Re: Draft CIRCULAR ECONOMY (WASTE RECOVERY LEVY) REGULATIONS 2023**

Dear Mr. Dunne

Thank you for sharing the above-referenced draft regulations for our feedback.

We had a meeting of IWMA members on Monday 22<sup>nd</sup> May to discuss this draft and we offer the following feedback.

**Target Date**

As previously addressed in email correspondence and at our meeting of 2<sup>nd</sup> May 2023, we strongly object to the target date of 1<sup>st</sup> July 2023 and we ask DECC to postpone the introduction of this levy to 1<sup>st</sup> January 2024.

With such short notice, our members cannot pass the levy to customers by way of ordinary renewals of contract. The levy would have to be passed on by extraordinary correspondence informing all customers (household and commercial) that existing contracts must be altered to add this new cost. That is likely to result in emails or letters to 1.4 million households and several hundred thousand businesses highlighting the extra charges and associated alterations to existing contracts. We believe that this will cause major political fall-out for Government (and the waste collection companies), as well as adding a large administrative burden.

Alternatively, if the introduction date is postponed to 1<sup>st</sup> January 2024, many contracts can be renewed with the levy added smoothly, without need for extraordinary correspondence and the additional negative impacts and costs associated with such correspondence.

1<sup>st</sup> July 2023 is now just 5 weeks away and we expect that it will be some time before the regulations can be finalised. In this submission, we point to some gaps and concerns that will need to be addressed before the regulations are signed. It is very clear to us that more time is needed to ensure that the final regulations are fit for purpose. We also need further engagement with DECC on communications with the public around the imposition of this levy and instructions on how it is to be notified, charged and paid by many of our members. So, a postponement would serve several purposes.

1<sup>st</sup> July 2023 is also the implementation date for the new legislation relating to commercial waste collections. We are concerned about the fall-out from the cumulative impact of the introduction of the waste recovery levy with those changes.

Whilst the IWMA has not objected to the new measures for commercial premises and has not objected to the waste recovery levy, it is clear to us that neither measure will be popular with businesses or the general public, so having both occur on the same date will certainly attract negative media and political attention.

A similar situation arose in June 2016 with the introduction of 'pay by weight' for household waste collections, and that almost led to the fall of the Government, which only survived when the regulations were withdrawn (and the waste collection companies volunteered to take a self-imposed 12 month price freeze). We fear a similar situation this July, with similar pressures on the Government and the waste industry.

### **Imposition of waste recovery levy**

Section 3(a) of the draft regulations indicates that the levy will (inter alia) be imposed upon the following operations, as set out in the fourth schedule of the Act:

*“recovery municipal waste landfills (including, but not limited to, the following R4, R9, R11 & R13 );”*

These are detailed as follows in the Waste Management Act:

*R 4 Recycling/reclamation of metals and metal compounds*

*R 9 Oil re-refining or other reuses of oil*

*R 11 Use of waste obtained from any of the operations numbered R 1 to R 10*

*R 13 Storage of waste pending any of the operations numbered R 1 to R 12 (excluding temporary storage (being preliminary storage according to the definition of “collection” in section 5(1)), pending collection, on the site where the waste is produced).*

We fail to see the relevance of R4 which is a recycling operation, and R9 which does not appear to relate to municipal waste.

R11 could be relevant but applies to a wide range of operations and associated materials, many of which relate to recycling.

We are also concerned about the potential for double taxation where Incinerator Bottom Ash (for example) is recovered at landfill sites, having been already subject to the recovery levy at the gate of the WtE plant. There is no exemption included in the draft regulations for this material or for any other material that may have already been levied in respect of a previous recovery operation.

R13 covers storage, which we do not consider appropriate for the imposition of the recovery levy. This is an intermediate step rather than a final destination and some (or all) of that material could be recycled, which is a form of recovery that should not be subject to the recovery levy.

We note that recycling is not specifically exempted from the recovery levy in the draft regulations, so this should be addressed under this section or under the exemptions section.

### **Liability for the payment of the recovery levy**

Section 4(a) states:

*“In the case of an authorised waste recovery facility, by the holder of said waste licence;”*

As there is no definition provided for “authorised waste recovery facility”, we are concerned that co-incineration plants may not be covered under that description, as the primary purpose of a cement kiln is the production of cement, not the recovery of waste.

In addition, most large-scale facilities that will be subject to the levy are operated under Industrial Emissions licences rather than waste licences.

We can also envisage scenarios in the future where the levy could be payable by permitted facilities as well as licensed ones, so it may be prudent to add “or waste permit” at the end of the sentence.

Section 4(b) states:

*“Where the waste is to be shipped outside the State for recovery, by the notifier,”*

We previously raised the issue of potential for double taxation whereby the country of destination imposes a similar levy, such as the Dutch import levy on municipal waste accepted for recovery in the Netherlands. There is no clause in these draft regulations to cover that issue. We expected that it would be covered.

Section 4(c) states:

*“Where recovered waste which is of a grade equal to or lesser than material produced domestically has been imported into the State, by the holder of the waste licence of the authorized waste recovery facility at which the imported waste is recovered.”*

This concept is new to us and the IWMA strongly objects to it. To the best of our knowledge, the grading of waste for the purposes of applying the recovery levy was not mentioned in any consultation that the IWMA was involved in. We see it as unenforceable and, even if it could be enforced, it would offer a competitive advantage to enterprises outside the State in competition with our Members. We reserve the right to legally challenge any such preferential treatment for imported waste over waste generated in Ireland.

### **Exemptions for Recovery Levy**

We previously suggested an exemption for hazardous waste from the waste recovery levy and we understood that this was agreed. However, it is not included in the exemptions in the draft regulations.

The landfill regulations include a list of exempted materials, including Incinerator Bottom Ash for example. We suggest that these regulations should also provide exemptions for those materials for the same reasons that they are exempted from the landfill levy.

We remain unsure about the applicability of the recovery levy to stabilised waste at landfill. We have received mixed messages on this issue in our discussions with the Department and the draft regulations provide no clarity.

Before these regulations are finalised, consideration should be given to other possible exemptions, particularly where energy recovery is the best environmental option.

We also suggest that the draft regulations are unclear on wastes that occur as a result of product recalls. Are they MSW or industrial wastes?

We also suggest that you include an exemption for waste wood recovered as a fuel at biomass energy plants for the following reasons:

- Recovered waste wood is a good alternative to virgin wood at biomass plants. A levy on recovered wood would make virgin wood more attractive commercially, which is not the best environmental option in terms of resource use and carbon sequestration.
- Unprocessed wood and timber waste can be exported to Northern Ireland in containers or bulk loads on a green list annex (vii) form EWC Codes 03,01 05, 15 01 03, 17 02 01, 20 01 38 and the Recovery levy would not be applied. This material can be shredded in NI and sent to a Biomass Energy facility anywhere in the UK. If we were to shred the same timber material in Ireland and export it to the same Biomass Energy facilities in the UK a Recovery Levy of € 10 per tonne would apply. This penalises waste processing in Ireland, which is not consistent with policies that encourage the provision of more indigenous waste processing infrastructure in this country.

- Recycling of waste wood is best suited to packaging wood and that is encouraged by way of REPAK subsidies, so the financial instrument already exists for that preferred treatment method.

We also suggest that there should be an exemption for waste materials that are imported into Ireland for transfer or processing and then exported out of the country for recovery purposes. This can occur in border areas, where facilities south of the border compete for contracts with authorities north of the border. The waste can be collected in Northern Ireland and returned to Northern Ireland after transfer and/or pre-treatment. If the waste recovery levy is applied to this waste material, our members in ROI would be at a competitive disadvantage when tendering for such contracts.

#### **Payment of levy by an accountable person**

A number of our members will be responsible for charging and paying the levy to the relevant local authority, including operators of WtE plants, landfill operators and notifiers of exports. This is clearly a responsibility that has serious consequences and if incorrectly applied can lead to criminal prosecutions.

Engagement with the waste industry has been very limited to this point and in our view is inadequate. Our members are not yet well enough informed to correctly apply the levy to their customers with a high level of confidence. The issues raised above prove that point. More time is clearly needed and many issues must be clarified during that time period before a revised implementation date.

#### **Revised Draft**

Clearly, the existing draft regulations must be revised in response to this submission. We respectfully ask that the next draft be shared with the IWMA before the final version is signed by the Minister. It is in all our interests to collaborate fully on the introduction of the Waste Recovery Levy and we need time to get this right.

Yours sincerely



Conor Walsh  
IWMA Secretary

For and on behalf of the Irish Waste Management Association

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