

PUBLIC CONSULTATION ON THE CIRCULAR ECONOMY - COMMENTS OF INDEPENDENT RETAIL EUROPE -

19 AUGUST 2015



EXPLANATORY STATEMENT

Independent Retail Europe recognises the importance of aiming for a more Circular Economy. Since the majority of the questions of the public consultation seek responses from companies in different sectors, we have encouraged the relevant experts in our member organisations to contribute directly.

COMMENTS OF INDEPENDENT RETAIL EUROPE ON THE CIRCULAR ECONOMY CONSULTATION

As an EU association, we do wish to respond in a general manner to “**3. Production phase**” and more specifically to two sub-points under question “**4.1 How would you assess the importance of the following measures to promote circular economy principles in the consumption phase at EU level?**”

i.e. sub points

1. “**Encourage new modes of consumption such as shared ownership...**”
2. “**Encourage waste prevention (e.g. minimising food waste)**”

3. Production phase

Voluntary scheme of product design

Independent Retail Europe is strongly in favour of a voluntary scheme of product design. The promotion of a constant dialogue between producers might help to achieve a common knowledge base. Yet this dialogue has to remain at the discretion of the producers.

Promotion of repair and maintenance services

Independent Retail Europe believes that any attempt to promote repair and maintenance services has to be well balanced. It is crucial that the European Commission does not create a system that manipulates artificially the balance between the market participants.

Especially when it comes to exchange of information, the protection of business secrets has to prevail over the interests of other service providers. Nevertheless Independent Retail Europe agrees that a constant dialogue might help to develop best practices and new approaches towards a more sustainable based product design.

Legal and commercial guarantees

Independent Retail Europe will make a submission to the ongoing consultation on contract rules. However, aspects of product design, for example durability, should not be taken into consideration in this respect. Naturally, the exercise of guarantee rights depends on the existence of a product defect. However, this defect can only be identified on a case-by-case basis. As Independent Retail Europe rejects a new regulatory framework for product design, consumer rules do not have to be adjusted in this respect. The existing rules are sufficient.

4. Consumption phase

4.1 How would you assess the importance of the following measures to promote circular economy principles in the consumption phase at EU level?

A. “Encourage new modes of consumption such as shared ownership...”

As indicated in the questionnaire, Independent Retail Europe views the issue as “important”. Whilst we welcome the idea of a sharing economy in principle, we believe however that it should not lead to a situation of freeriding or unfair competition. Especially in the case when the – e.g. car or flat – sharing is done with a financial purpose, the sharing platform as well as the ‘sharers’ should have to be subject to the same (social, tax, health & safety, and other) regulations and as other players in the respective market. The acceptance of sharing economy models cannot lead to a situation where the traditional commercial market operators pay for the new, shared economy models, or where these new models constitute unfair competition because necessary rules and regulations are circumvented.

B. “Encourage waste prevention (e.g. minimising food waste)”

As indicated in the questionnaire, Independent Retail Europe views the issue as “important”. Indeed, Independent Retail Europe sees the prevention of waste as a crucial goal for all involved market players. However, before tackling this at EU level, a number of steps need to be taken first.

General considerations

It is stated in the introduction to the public consultation: “Moving towards a more circular economy can promote competitiveness and innovation...and bring major economic benefits, thus contributing to job creation and growth. A circular economy fosters sustainable development in which environmental, economic and social dimensions go hand in hand.” In order for these objectives to be achieved effectively and to guarantee a high level of compliance, any proposed measure to reduce waste/increase recycling should be proportionate and realistic. Operators across the value chain have to be able to implement them in a straight-forward and efficient manner. Retailers in particular operate with very low margins. The cost of waste reduction should therefore not constitute any unnecessary burden as this will affect their competitiveness and the growth capacity of the sector. For SMEs in particular, a clear focus on cutting red tape has to be guaranteed. Any proposed measures should therefore be subject to an SME test.

In addition, the obligation duties have to be equally shared among all relevant market participants. The European Commission has to be aware of the fact that some obligations might only affect brick and mortar retailers, whilst online pure-players might not contribute to the aim of waste prevention to the same extent. An example from the electronics sector: Consumers can purchase goods online and return the electronic waste (WEE) to (large) physical stores who have to organise its further treatment, whereas the online retailer has, in practice, no responsibilities in this respect.

- Measures to reduce waste are crucial but should be proportionate and be subject to an SME test.
- Brick and mortar stores should not be responsible for the recycling of waste from online players.

Clear definitions of waste, in particular food waste

A prerequisite for effectively dealing with waste in general – and food waste in particular – is a clear, commonly understandable EU definition of the problem. Especially when setting targets, there should be a clear separation of inedible and edible food waste. All stakeholders should be responsible to avoid and limit edible food waste in their segment of the supply chain, i.e. for **“the business under their control”** (article 17 Regulation 178/2002 (1)) (see separate point on “Existing principles on ‘responsibility’ should be recognized”). However, reducing the waste of food parts that are inedible or not authorised for human consumption, such as certain bones, marrow or inedible peels, is only possible to a certain extent. This should be taken into account when setting waste targets, which should not apply to inedible parts of food waste.

- ➔ Clear separation of edible and inedible food waste
- ➔ Waste targets should not apply to inedible parts of food waste.

Clear rules on food donations

Some of our members have experienced problems with national VAT and responsibility rules preventing them from donating food to charitable organisations. Certain charitable organisations also refuse to take and distribute food of which the expiry dates has passed for responsibility reasons, or out of principle. We therefore support the Commission’s current efforts to clarify existing VAT and responsibility rules on food donations as guidance to companies and charities.

- ➔ Commission should clarify VAT and responsibility rules on food donations.

Difficulty with reduction targets

To encourage waste prevention, the original proposal for a Circular Economy Package included explicit targets for food waste reduction as well as targets for recycling and preparing for re-use of municipal waste. Independent Retail Europe recognises that binding targets can be an effective means to reduce waste but targets must not be arbitrary, they must take into account national specificities and be realistic. However, before introducing new targets on EU level the Commission should seek to reduce the gap between the countries that are more advanced with waste reduction and those that lag behind. This gap between the ‘frontrunners’ that reach the target and the ‘laggards’ as regards waste reduction should be closed by effective measures on national level as well as an exchange of good practices, knowledge and experience between experts of different Member States.

- ➔ Ensure that existing targets are met before introducing new ones and reduce the gap between Member States

Clear calculation methodology for reduction targets

The current variety of methods to calculate and measure waste reduction targets makes it impossible to compare data across all EU Member States. Already in the original proposal for a Circular Economy Package, the European Commission proposed to review both the targets and methodology to

(1) Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety, OJ L31 of 01.02.2002, page 1

calculate the recycling rates. Independent Retail Europe supports a common methodology but asks that it should be clear, straight forward and based on an impact assessment.

→ Develop common methodology that is clear, straight forward and based on an impact assessment

Existing principles on ‘responsibility’ should be recognized

As outlined by official studies, such as a report by the European Commission from 2013 (2), only a small proportion of overall food waste is wasted at retail level. According to this report, only 5.5% can be attributed to retail, whereas 42% is attributable to consumers/households, 39% to manufacturers and roughly 14% to the food service industry. Independent Retail Europe calls on the Commission to take this into account when developing measures in the area and actions should be targeted and prioritized accordingly.

Examples of such actions could be education campaigns on how to avoid food waste e.g. through sensible, pre-planned grocery shopping; appropriate storage; and limiting confusion on date labels via public campaigns by EU, national or local authorities.

Responsibilities for food waste should be in accordance with the general food law principles of responsibility. That is to say, food business operators can be held only responsible for activities “*within the business under their control*” (article 17 Regulation 178/2002 (3)). On the contrary, they should **not be held responsible** for waste generated at other levels of the supply chain.

→ Food business operators are only responsible for activities “*within the business under their control*”.

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(2) European Commission. “*Preparatory Study on Food Waste across EU 27*”. European Communities 2011. Retrieved 13 September 2013: http://ec.europa.eu/environment/eusds/pdf/bio_foodwaste_report.pdf

(3) Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety, OJ L31 of 01.02.2002, page 1

*Established in 1963, **Independent Retail Europe** (formerly UGAL – the Union of groups of independent retailers of Europe) is the European association that acts as an umbrella organisation for the main groups of independent retailers in the food and non-food sectors.*

Independent Retail Europe represents retail groups characterised by the provision of a support network to independent SME retail entrepreneurs; joint purchasing of goods and services to attain efficiencies and economies of scale, as well as respect for the independent character of the individual retailer.

Our members are groups of independent retailers, associations representing them as well as wider service organizations built to support independent retailers.

Independent Retail Europe represents 23 groups and their 363,000 independent retailers, who manage more than 556.000 sales outlets, with a combined retail turnover of more than 770 billion euros and generating a combined wholesale turnover of more than 313 billion euros. This represents a total employment of more than 5.500.000 persons.

More information about Independent Retail Europe under www.independentretaileurope.eu