

EUROPEAN COMMISSION PROPOSES NEW FRAMEWORK TO MAINSTREAM CIRCULARITY

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In the framework of its ambitious European Green Deal, the European Commission ("the Commission") unveiled on 11 March its new Circular Economy Action Plan ("the Action Plan"). The detailed plan is designed to refocus the economy and society based on "reuse, repair and recycling" in order to consume less resources.

The Action Plan is expected to impact all steps of the production and distribution chain; to create obligations related to the design, recycling, repair and reuse of products; and aims to change the way European consumers buy, use, and dispose of products. It is one of the new Commission's high-level strategies to help both public and private actors to transition to a sustainable economy, and is closely linked with the recently published EU Industrial Strategy, which it complements.

Both initiatives include broad, far-reaching measures which will be developed over the coming months and years. Stakeholders should be ready to engage. The new Circular Economy Action Plan will include public consultations, stakeholder platforms and requests for targeted feedback at different stages of the various proposals' decision-making process.

A SUSTAINABLE PRODUCT POLICY FRAMEWORK

The Action Plan will target the design of products. A key objective of the Sustainable Product Policy Framework will be to make the Ecodesign Directive, which regulates products' energy efficiency, applicable to the broadest possible range of products. Consideration will be given to the establishment of "sustainability principles", including through legislation, in pursuit of the following goals:

- Improving product durability, reusability, upgradability and reparability, including by addressing the presence of hazardous chemicals in products as well as their energy efficiency;
- Increasing recycling and remanufacturing, for instance by increasing recycled contents in products, enhancing recycling quality, banning the destruction of unsold durable goods and restricting premature obsolescence as well as the manufacturing of single use goods;
- Enhancing the sustainability performance of products, by incentivizing product-as-a-service economic models, making the most of digital technologies and traceability, reducing products' carbon footprint and by rewarding sustainability performance.

Design

The Commission identifies priority products and value chains, such as electronics, ICT, textiles, furniture, and "high impact intermediary products" such as steel, cement, and chemicals. The list is open-ended and may evolve with time. Overall, the goal for these priority value chains is to "improve the coherence" of existing instruments regulating products with the aforementioned "sustainability principles" that the Commission intends to develop. To that end, the Commission proposes to:

- Adopt and implement a new Ecodesign and Energy Labelling Working Plan for 2020-2024;
- Review the Ecodesign Directive;
- Build, where appropriate, on criteria and rules established under the EU Ecolabel Regulation, the Product Environmental Footprint approach, and EU Green Public Procurement ("GPP");
- Create further sustainability criteria for services, including social ones;
- Establish a European Dataspace for Smart Circular Applications;
- Improve the enforcement of sustainability requirements, in cooperation with national authorities.

Production

The Commission also intends to transform the production process, and sees the Action plan as closely linked to its recently published EU Industrial Strategy. To enable "greater circularity" in industry, and in close cooperation with small and medium enterprises ("SME"), in particular through its new SME Strategy, the Enterprise Europe Network, and the European Resource Efficiency Knowledge Centre, the Commission intends to:

- Review the Industrial Emissions Directive, and include circularity in its upcoming Best Available Techniques documents;
- Facilitate "industrial symbiosis" by developing an industry-led reporting and certification system;
- Support the bio-based sector through the implementation of the Bioeconomy Action Plan;
- Promote the use of new technologies, particularly for tracking, tracing and mapping resources, and registering the EU Environmental Technology Verification scheme as an EU certification mark.

Consumers and Public Buyers

The Commission also wants to propose a revision of EU consumer law and create new horizontal, material rights for consumers, including a "right to repair" that would translate into, for instance, guaranteed adequate information on topics such as a product's lifespan, the availability of spare parts, repair manuals, and repair services.

Adequate information also ought to be guaranteed by minimum requirements for sustainability labels and logos as well as other information tools, in a bid to fight premature obsolescence. For public authorities, the Commission

will propose minimum mandatory Green Public Procurement (GPP) criteria and targets in sectoral legislation and phase in compulsory GPP reporting to monitor the uptake.

KEY PRODUCTS VALUE CHAINS

As mentioned above, the Commission intends to focus on specific product value chains that have a big environmental impact. To that end, it has identified seven distinct key value chains that the Commission believes need sector-specific measures. These include 1) electronics and ICT; 2) batteries and vehicles; 3) packaging; 4) plastics; 5) textiles; 6) construction and buildings; 7) food, water and nutrients. The specific measures proposed by the Commission are detailed below.

Electronics and ICT

The Commission will present a "Circular Electronics Initiative", which will rest on both existing and new legislative and non-legislative instruments, in a bid to increase product lifetimes. The initiative will focus on mobile phones, tablets and laptops, as well as printers and consumables such as cartridges, all considered priority products for the implementation of the aforementioned "right to repair", waste treatment, and the restriction of hazardous chemicals in consumer products. The Commission also plans to propose a universal charger for mobile devices

Batteries and Vehicles

The Commission will propose a new legislative framework for batteries before the end of 2020. This will be based on the evaluation of the Batteries Directive, with a particular focus on recycling of used batteries, recyclable content of new batteries, and recovery measures for valuable materials. The legislation will also aim to phase out non-rechargeable batteries, and set sustainability and transparency requirements for batteries. There will also be a focus on vehicles' end of life and related legislation, with a view of linking waste with design, particularly through mandatory recycled contents.

According to the Commission, the Action Plan's initiatives on batteries and vehicles will be closely linked to the forthcoming Comprehensive European Strategy on Sustainable and Smart Mobility, which will include environmental aspects.

Packaging

The Commission will review Directive 94/62/EC on Packaging and Packaging Waste and will reinforce mandatory essential requirements for packaging, particularly by setting targets to reduce packaging waste, promote reusable packaging usage, and incentivizing simpler packaging (fewer materials, fewer plastics). It will also assess the feasibility of an EU-wide packaging waste labelling.

Plastics

The Commission also intends to build on the existing EU Strategy for Plastics in the Circular Economy and will propose mandatory requirements for recycled content, and waste reduction measures for certain products, in cooperation with the Circular Plastics Alliance stakeholder platform. In particular, the Commission intends to address issues related to microplastics, and will develop a policy framework for sourcing and labelling of bio-based plastics and for the use of biodegradable or compostable plastics respectively. The Commission also committed to ensure the timely implementation of the new Directive on Single Use Plastic Products.

Textiles

The Commission will propose a comprehensive EU Strategy for Textiles, in close cooperation with industry players and other stakeholders, which will aim at implementing the aforementioned Sustainable Product Policy in the textile sector, to encourage better textile waste collection, and promote international cooperation.

Construction and Buildings

The Commission will launch a comprehensive Strategy for a Sustainable Built Environment. It will aim to ensure coherence "across the relevant policy areas such as climate, energy and resource efficiency, management of construction and demolition waste, accessibility, digitalization and skills." It will include:

- The review of the Construction Product Regulation and the possible inclusion of recycled content requirements;
- The development of digital logbooks for buildings;
- The use and improvement of European standards to integrate life cycle assessment in public procurement;
- The consideration of a revision of material recovery targets set in EU legislation for construction and demolition waste and its material-specific fractions;
- The launch of a renovation wave for public and private buildings throughout the EU.

Food, Water, and Nutrients

In line with its Farm-to-Fork Strategy, the Commission will propose targets for food waste reduction, address the ties between food and packaging as well as plastics specifically, and promote the use of bio-based materials. Furthermore, it will propose a plan to increase the use of new nutrients and consider the review of Directives on wastewater treatment and sewage sludge.

TURNING WASTE INTO VALUE

Taking into consideration the increasing amount of waste generated in the EU, the Commission aims to propose waste reduction targets to ensure that products are safe, last longer and are designed for reuse, repair, and high quality recycling. To that end, it intends to:

- Harmonize separate waste collection systems by considering the most effective combinations of separate collection models, density and accessibility of collection points and urban planning;
- Increase the safety of secondary raw materials through amendments to the annexes to the Regulation on Persistent Organic Pollutants and improvements to the classification and management of hazardous waste;
- Develop methodologies to minimize the presence of substances that pose problems to health or the environment in recycled materials;
- Improve the classification and management of hazardous waste so as to maintain clean recycling streams;
- Introduce requirements for recycled content in products, focusing on developing further EU-wide end-of-waste criteria for certain waste streams and enhancing the role of standardization;
- Review EU rules on waste shipments so as to restrict exports of waste that have harmful environmental and health impacts in third countries as well as making "recycled in the EU" a benchmark.

A CIRCULAR ECONOMY THAT WORKS FOR PEOPLE

The European Green Deal, which ultimately aims to turn climate and environmental challenges into opportunities, is expected to support growth and job creation. In this regard, the Commission intends to:

- Launch a Pact for Skills with stakeholders, in the context of updating its Skills Agenda;
- Reinforce the European Circular Economy Stakeholder Platform; and
- Ensure that all regions benefit from a just and equal transition to the green era.

In this context, the Action Plan puts great emphasis on the financial aspects of the green transition, proposing to:

- Incentivize the uptake of carbon removal and increased circularity of carbon through the development of a regulatory framework for certification. At the same time, the Commission is seeking stakeholder input on a carbon price on imports of certain goods from outside the EU;
- Enhance non-financial reporting through the upcoming review of the Non-Financial Directive (NFRD). Along with a public consultation where the Commission suggests the strengthening of the current NFRD provisions, Executive Vice-President Dombrovskis recently noted that the European Financial Reporting Advisory Group will soon begin preparatory work on developing EU-wide non-financial reporting standards;
- Promote the integration of sustainability indicators into business strategies by improving the corporate governance framework;
- Endorse environmental taxation, including landfill and incineration taxes, and enable Member States to use value added tax (VAT) rates to promote circular economy activities, particularly in repair services.

Moreover, taking into account that innovation is at the core of the circular economy, the Action Plan indicates that the Commission will put forward an Intellectual Property Strategy to ensure that intellectual property stimulates sustainable inventions.

EUROPE IN THE WORLD

The Action Plan also includes elements related to international relations and trade. The success of Europe's green transition plans are linked with a global transition to a climate-neutral and circular economy. In this respect, the Commission will:

- Ensure that Free Trade Agreements integrate circular economy objectives;
- Propose a Global Circular Economy Alliance with the goal of advancing circularity globally and of initiating outreach activities through the European Green Deal diplomacy and the Circular Economy missions;
- Aim to reach a global agreement on plastics at the international level, building on the European Plastics Strategy; and
- Define a "Safe Operating Space" for natural resource use, which does not exceed certain thresholds and environmental indicators.

CONCLUSION

As highlighted above, the Action Plan should be read in conjunction with the recently launched EU Industrial Strategy. Overall, the Commission aims to increase the global competitiveness of the European industry, while placing circularity and climate neutrality at the core of its strategic approach.

Needless to say, the transition to circularity will see economic winners and losers. It is key for industry players to learn how to "think circular", and to engage effectively in the policy-making process at EU and national level in the coming period. The K&L Gates team stands ready to assist with policy engagement, advocacy strategy and regulatory advice in this field.

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