



Position Paper – Revision Waste Framework Directive and Packaging & Packaging Waste Directive

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Toy Industries of Europe (TIE) fully supports the general objectives of the circular economy package and welcomes effective harmonised waste legislation. However, there are a number of points in the related proposals that could have a serious impact on the EU toy sector that are important to consider as discussions move towards trilogue.

Waste Framework Directive (WFD)

TIE welcomes the EP proposal to clearly specify the costs to be borne by producers in Extended Producer Responsibility (EPR) schemes in the WFD.

However, TIE is highly concerned by several other amendments proposed by the EP in its position on the WFD. These amendments are far removed from the Commission's original proposal. As such they have not been subject to an impact assessment, which goes against the EU's commitment to better regulation. They could be expected to have far-reaching consequences for the toy sector.

In particular, TIE recommends that the following EP amendments are rejected during triologue negotiations:

- **Reuse & repair - Amendment 154 (paragraph 3)**: A clear impact assessment is lacking and many concerns are not appropriately addressed, for instance those related to safety, liability and intellectual property.
- **Mixing and duplicating regulation related to chemicals – Amendment 145 (point c) Amendment 146 (indent 9) and Amendment 234 (paragraph 2.3)**. These amendments address matters already subject to harmonized legislation. Separate regulation through waste law would undermine harmonization and would duplicate legal requirements.

Packaging & Packaging Waste Directive (PPWD)

An internal market for packaging is a prerequisite for the free movement of safe toys through the EU's single market. The Council's proposal to introduce environmental protection as the legal basis to certain amendments of the Packaging & Packaging Waste Directive (PPWD) would be likely to create barriers that undermine the single market. We urge that the Internal Market remains the legal base for the Directive.

WASTE FRAMEWORK DIRECTIVE – PROVISION OF SPARE PARTS

Reject - Amendment 154, paragraph 3:

Member States shall take the necessary measures to enable that re-use operators have access to instruction manuals, spare parts, technical information, or any other instrument, equipment or software required for the re-use of products, without prejudice to intellectual property rights.”

Re-use of toys is already very common, and studies show that the average lifetime of a toy is over 10 years. This is because toys often have a second life, being passed on to relatives and friends, or through a charity or resale. However, we believe that the obligation on manufacturers to supply instruction manuals, spare parts, technical information, or any other instrument, equipment or software required for the re-use of products, is not workable for our sector. This would especially impact SMEs, which constitute 99% of toy companies in the EU. Despite the EP Report’s significant changes to the Commission proposal, there has been no Impact Assessment, as foreseen in the 2015 interinstitutional agreement on Better Law Making, to verify the exact magnitude of this proposal.

Since a clear impact assessment is lacking and many concerns are not appropriately addressed, including those related to safety, liability and intellectual property, TIE recommends that Amendment 154, paragraph 3, should be rejected in trilogue negotiations.

Safety and Liability Concerns

Without involvement of the manufacturer or seller it is unclear what the complications can be in terms of liability and toy safety. Manufacturers put toys through rigorous testing to make sure that they meet the strict EU toy safety requirements. There are no such rules in place for additional modification by a third party (even in order to repair a toy for re-use) potentially meaning that the toy is no longer safe for children to play with. The use of third parties to repair toys is further complicated by the diversity of products on the market. Toys differ greatly, even within the same category, meaning it would be incredibly difficult for a re-use operator to have the necessary knowledge and training to make sure every toy they handle is repaired safely. The more technically advanced a toy is (and thus those for which repair would be most commercially viable) the more specialised the re-use operator’s knowledge of toy safety would need to be.

Negative Consequences for Competition

The toy sector invests heavily in new, innovative and safe products. Technical information, which for example explains how the toy was made, is commercially sensitive and generally subject to confidentiality and intellectual property agreements. Making this information generally available would seriously hamper the sector’s competitiveness. Additionally, it would encourage copy cats and could promote counterfeiting.

Excessive Burden on Manufacturers to Supply Spare Parts

The diversity, and low price point of toys mean that the requirement to supply spare part will also lead to complications and would place a heavy cost burden on the sector, especially if manufacturers are themselves responsible for the provision, storage and transportation of spare parts. In particular, given the lack of time-frame in the current text of the amendment, which potentially means that manufacturers would be obliged to indefinitely keep a supply of spare parts for each toy they produce. Toy manufacturers renew around 60% of their catalogue on a yearly basis. This high-level of innovation means that toy manufacturers would need to

continuously expand their stock of spare parts and would have to ensure that they were stored in such a way that their safety was not compromised despite the probability that many of these spare parts would never be used. This would seem to be a waste of resources and seems to be counter-intuitive to the creation of a circular economy. In many cases, spare parts are also commercial products.

WASTE FRAMEWORK DIRECTIVE - DUPLICATION OF CHEMICALS REGULATION

<u>Reject Amendments 145 (c), 146 (indent 9) and 234 (2.3)</u>
<u>Amendment 145 (c)</u> A progressive substitution of substances of very high concern as defined in Article 57 of Regulation (EC) No 1907/2006 if there are suitable alternative substances or technologies that are economically and technically viable;
<u>Amendment 146 (indent 9)</u> Ensure communication of substances of very high concern from the supply chain to consumers and waste treatment operators;
<u>Amendment 234 (2.3)</u> Implement best available techniques for waste treatment aiming at removal of substances of very high concern where this is technically and economically viable

Safety is the top priority for the toy sector in the development and manufacture of products. Chemicals that can be used in toys are subject to specific regulations, including: The Toy Safety Directive, REACH, RoHS, Cosmetics Regulation and the Batteries Directive. As such they undergo specific assessments to ensure that they comply with the limits set by the relevant legislation. The EP has included several of amendments that would introduce further regulation of chemicals through the WFD. We caution against addressing such complex matters in the WFD as this would undermine harmonization, potentially resulting in conflicting and legislation. Moreover, the impact of those proposals should have been properly assessed, as stipulated in the 2015 interinstitutional agreement on Better Law Making. **TIE therefore calls for rejection of Amendment 145 (c), Amendment 146 (indent 9) and Amendment 234 (2.3)**

WASTE FRAMEWORK DIRECTIVE - EPR Schemes

TIE welcomes the EP’s efforts to clarify the proposed harmonised EU requirements for Extended Producer Responsibility (EPR) schemes. It is important that manufacturers know their responsibilities and what costs they should cover. We therefore support a ‘closed list’ on costs to be borne by the producer as suggested by the EP. An obligation for manufacturers to cover the full cost of their products’ waste management is disproportionate and could lead to uncontrolled costs and lack of efficiency.

PACKAGING & PACKAGING WASTE DIRECTIVE - INTERNAL MARKET SHOULD REMAIN THE LEGAL BASE FOR ANY AMENDMENTS

TIE strongly supports the safeguarding of the Internal Market (Art.114 TFEU) as the continued legal basis of the PPWD. Packaging legislation has direct impact on selling toys in different member states and de-harmonisation directly correlates with the ability to import/export across the EU’s internal borders. A potential loss of the current Internal Market base could lead to country specific packaging rules that creates market distortions, fragmentation and barriers to the free movement of toys.