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Accompanying position paper

by the
BDE Federation of the German Waste Management, Water and Circular Economy Management Industry

on the
Public Consultation on the Circular Economy Act

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The BDE – Federation of the German Waste Management, Water and Circular Economy Management Industry – represents the interests of the private recycling and waste management industry in Germany. Its approximately 750 member companies represent the entire value chain of the circular economy, from the collection and transport of waste to its treatment – in particular recycling, but also thermal and other recovery – to the marketing and use of raw materials and recyclables recovered from waste. The BDE's members also include extended producer responsibility systems for packaging.

Following the Green Deal, the BDE continues to see a great need for action to create the framework conditions for strengthening the sustainability and resilience of the European economy by transforming it from a linear to a circular economy. Against the backdrop of global crises and the climate crisis, it is important to resolutely seize the opportunities offered by the Clean Industrial Deal (CID) and a European Circular Economy Act (CEA) to decarbonise Europe and create a resilient, circular economy with sustainable production and consumption patterns. It remains essential to continue on the path of the Green Deal and to design the guidelines in such a way that companies in the waste management, water and circular economy industry can strengthen Europe as a business location in the long term.

The European recycling industry is in crisis across all material flows and waste streams. It is not only competition from cheaper primary materials, cheaper recyclates from third countries with aggressive trade policies and recycling plants destroyed by battery fires - and therefore difficult to insure - that threaten the competitiveness of European companies in the circular economy. The legal framework in the EU itself also fails to exploit the potential for promoting the circular economy and in some cases even actively disadvantages it compared to the primary industry when it comes to access to subsidies and public contracts, for example.

The European Circular Economy Act offers a great opportunity to set the right course for a sustainable EU economy. If the European Union's goal of becoming climate neutral by 2050 is to be achieved, the transformation of the EU economy into a comprehensive circular economy is essential.

The BDE and its member companies are ready to actively shape and drive this change. We are therefore pleased to be able to provide suggestions and ideas as part of the consultation on the Circular Economy Act. Based on the structure of the consultation questionnaire, we would like to comment on the following topics as follows:

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I. General questions about the circular economy

1. Barriers within the EU single market for recycled raw materials and incentives to promote the circular economy in the EU

Since primary raw materials, particularly in the plastics sector, but not only there, are usually cheaper than recyclates due to the lack of internalisation of external (environmental) costs, regulatory incentives are needed to increase demand. Mandatory requirements for the use of recycled materials provide investment security in modern recycling facilities and thus ensure the availability of high-quality recycled raw materials for manufacturers.

Clear lega rules are also needed to define when materials reach the end-of-waste status in all relevant waste streams in terms of quantity, in order to improve the marketing opportunities and acceptance of recycled materials and to clearly distinguish between waste and recyclates (= the raw materials and (pre-) products obtained from waste through recycling). In this regard, the BDE supports the Commission in its plan to introduce EU-wide criteria for the end-of-waste status and to define the end-of-waste for further waste streams, as well as to introduce the principle of mutual recognition for cross-border waste shipments. Achieving end-of-waste status must be made less complicated and more legally certain. One way to achieve this would be to automatically consider waste to have reached end-of-waste status once it has passed through a waste treatment facility that carries out certain treatment measures and is certified accordingly. An example of this could be the regulation on the prior consent procedure under Article 14 of Regulation (EU) 2024/1157 on the shipments of waste. According to this, shortened deadlines for consent, conditions and requests for additional information apply to shipments of waste subject to notification to certain disposal facilities. Facilities with this status are listed in a register and must meet certain requirements on a permanent basis. The possibility of achieving and demonstrating end-of-waste status in other ways should remain unaffected.

In this context, it should be noted that recycled raw materials should not be subject to stricter contamination limits than primary raw materials. According to Article 6(2) of the Waste Framework Directive 2008/98, recycled materials must meet the same requirements as products in order to achieve end-of-waste status. Additional requirements specifically relating to materials recovered from waste mean that, in some cases, stricter limits apply to recycled materials than to comparable primary raw materials. This is the case in the building materials sector, for example. According to the German Substitute Building Materials Ordinance for example, whose limits are used by the authorities to assess the harmlessness of recycling in the context of determining end-of-waste status, stricter limits apply to aggregates from thermal waste treatment with regard to heavy metals, which, on the other hand, do not play a role in the use of

natural building materials, although some natural building materials, such as volcanic rock, have significantly higher heavy metal values than aggregates recycled from municipal waste incineration ash.

A stricter distinction between production waste (or „pre-consumer“ waste) and by-products is also necessary, especially if, as regulated in the EU Battery Regulation, for example, recyclates obtained from production waste can also be used to achieve the recyclate usage quotas. Specifically, the BDE calls for:

- **Minimum recycled content targets and financial incentives for the use of recycled materials in the manufacture of products, such as tax and levy relief (e.g. reduced VAT rates).**
- **Regulations on the end-of-waste status of other material flows, without requiring recycled raw materials to be 'better' than primary raw materials in terms of contamination limits.**
- **Uncomplicated, legally secure procedures for achieving and determining end-of-waste status, for example upon completion of certified treatment processes.**
- **Application of the principle of mutual recognition to end-of-waste status in the case of waste shipments.**

In addition, the Commission's zero-pollution policy would also need to be reconsidered in order to enable the use of recycled materials and recycled raw materials in the longer term. Strict limits for pollutants such as PFAS in products prevent the use of recycled materials in production, as the pollutants appear in the recycled materials with a time delay and cannot always be removed, meaning that the recycled materials can no longer be used for the manufacture of products if the limits are stricter. In addition, very low concentrations of pollutants in waste and recyclates/secondary raw materials can only be detected with great technical effort. In principle, the BDE supports the ban on the use of certain (harmful) substances and stricter limits for pollutants. However, bans and limits should be set on the basis of a risk analysis of the actual exposure risk in the specific application. This would make it possible to continue using recycled materials in certain products in the long term, instead of having to send the waste in question for thermal or other recovery or even disposal in order to remove the pollutants from the material cycle. The BDE therefore calls for:

- **Transitional periods for recyclates/recondary raw materials with regard to compliance with stricter limit values.**
- **Limit values at a level that allows measurements to be taken with reasonable effort.**

- **A risk-based approach to pollutant policy, allowing higher limits for certain product groups with low exposure risk, so that recycled materials with higher limits can also be used for these products in the longer term.**

2. Protection against unfair competition from third countries

Furthermore, it is necessary to protect the European circular economy from unfair competition from third countries in order to guarantee planning security for investments in European recycling facilities. The plastics recycling industry in the EU in particular is under pressure from imports of cheap recycled materials from third countries (Asia). In some cases, these are not even actually recyclates at all, but cheap primary materials that are falsely declared as recyclates. In other cases, the recyclates can be produced under much cheaper conditions due to low energy costs and a lack of or lower environmental standards in the countries of origin, making them cheaper than recyclates from the EU.

The "mirror clauses" known from Article 7 of the Packaging and Packaging Waste Regulation 2025/40/EU (PPWR) with regard to the sustainability and environmental aspects of recycled materials should be extended to all waste streams and recycled materials in order to create fair competitive conditions for materials recycled in the EU and recycled materials from third countries.

In addition, or for the sake of simplification, a mechanism could be introduced that mirrors the procedure of the EU Waste Shipment Regulation 2024/1157/EU (WSR) for recycled materials: Just as countries currently have to undergo a comprehensive review process in order to continue accepting waste from the EU in the future, a similar process should apply to the import of recycled materials. The competent authorities in third countries would therefore have to set up, monitor, verify and publish collection and sorting systems and provide evidence of the safety of the recycled materials obtained from them. The European Commission should – as in the WSR – review the national data submitted by a third country and, on this basis, grant access to the European market for recycled materials. This procedure would complement the so-called mirror clause, which verifies compliance with requirements at the operational level. The BDE therefore calls for:

- **Equal or comparable environmental and sustainability standards for recycled materials from the EU and third countries.**

- **Verification requirements regarding recycling and compliance with environmental and sustainability standards for recycled materials and recycled raw materials, which apply in particular to recycled materials/recycled raw materials imported into the EU from third countries.**

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3. Legal enshrinement of the priority of mechanical recycling over chemical recycling

In addition to the pressure described above from recycled imports from third countries, mechanical recycling of plastics in the EU is threatened by chemical recycling (both within and outside the EU). The improved marketability of chemically recycled plastics (as they are obtained from the same production process as primary plastics and are of a similar quality), combined with the chemical recycling capacities planned by the chemical and plastics processing industries, threatens to create a pull effect and lead to mechanically recyclable plastic waste also being sent for chemical recycling.

However, diverting mechanically recyclable waste to chemical recycling is not desirable from an environmental point of view, as the CO_2-emissions from chemical recycling are many times higher than those from mechanical recycling and the output of chemical recycling is significantly lower. This makes it more difficult to achieve climate targets. We therefore call for:

> **The priority of mechanical recycling over chemical recycling to be enshrined in law in the CEA (by amending the waste hierarchy in Article 4 of the Waste Framework Directive 2008/98/EC).**

4. A ban on the landfilling of untreated municipal waste

The landfilling of recyclable or otherwise recoverable waste – whether materially or thermal – should no longer be possible. Not only does the landfilling of such waste result in the loss of valuable materials from the material cycle and the economy, but the landfilling of waste containing organic components also leads to the formation of methane. A ban on the landfilling of untreated household waste containing organic components would be an effective and important measure to reduce methane emissions from landfills and keep valuable materials in the economic cycle. The CEA should therefore aim to limit the landfilling of waste in the EU to necessary minimum and to support the active channelling of waste streams into the correct recovery process in accordance with the waste hierarchy.The BDE demands:

> **EU-wide ban on the landfilling of untreated municipal waste; only the landfilling of pre-treated waste with an organic content of less than 5% should be permitted.**

5. Measures to raise awareness and provide information on waste management.

The separate collection and sorting of waste into as few different types as possible is a key prerequisite for comprehensive, high-quality waste recycling. The separate collection of pollutants and hazardous items such as batteries and battery-powered electrical appliances is particularly important in order to prevent contamination and fires. Proper waste handling and proper separate collection begins on a consumer level. General knowledge about the proper disposal of waste, such as composite packaging, is demonstrably limited. In addition, a large number of batteries and battery-powered devices are disposed of incorrectly, resulting in numerous fires in waste treatment plants and collection vehicles (see also point II. 2.). Comprehensive education is not only advisable but necessary . Manufacturers and manufacturer organisations should participate appropriately in the implementation of corresponding educational campaigns. In particular, EU-wide awareness campaigns could be carried out and the circular economy could be included in school curricula.

6. Creation of a Schengen area for waste and export of recovered waste to third countries

The free availability and tradability of waste is an absolute prerequisite for a functioning circular economy. Waste must be able to be transported quickly and easily to where it can be best treated and where there is demand for it. It should be noted that the waste and secondary raw materials markets do not end at the EU's external borders. The provisions on waste shipments therefore need to be revised. Specifically, the BDE calls for:

> **Simplifying and shortening approval procedures (notifications) under the Waste Shipment Regulation (Art. 5 et seq. Waste Shipment Regulation 20154/1157/EU).**

> **Relaxing restrictions on shipments of waste for recovery in third countries.**

> **The list of green waste to be expanded.**

> **Applying the principle of mutual recognition where regulations on the end-of-waste status of certain substances do not yet exist; substances that are not (or no longer) considered waste in individual Member States must also be treated as non-waste by the receiving and transit countries when transported from these countries.**

II. Waste electrical and electronic equipment (WEEE)

Directive 2012/19/EU on waste electrical and electronic equipment (WEEE) stipulates a collection rate of 65% of all e-waste devices from 2019 onwards. Of the 27 Member States of the EU, three countries currently report that they are achieving this target: Bulgaria, Slovakia and Poland. Given the general state of development of waste management structures in these countries compared to other Member States such as Germany, Austria, Belgium and the Netherlands, this is surprising.

In July 2024, the Commission initiated infringement proceedings against the remaining 24 Member States. However, in the BDE's view, this only promotes the necessary legislative incentives to achieve efficient collection and take-back to a limited extent, but could tempt Member States to falsely "inflate" their collection rates. In addition to revising and harmonising the calculation methodology for collection rates, genuine (positive) incentives are needed for Member States and manufacturers to invest in the necessary collection infrastructure. The Commission would also have to critically review the calculation of collection rates in the Member States.

1. Measures to increase the collection of waste electrical and electronic equipment (WEEE)

From the BDE's point of view, the problems in the area of collection can be clearly identified and lie not least in insufficient funding for the expansion of the relevant infrastructure and a lack of consumer education. Above all, however, the calculation method used to determine collection rates, which dates back to 2012, is outdated: WEEE is one of the fastest growing waste streams in the EU, while the collection infrastructure remains largely the same as it was ten years ago. The total amount of waste electrical and electronic equipment, for example, has risen from 7 million tonnes in 2012 to 8.4 million tonnes in 2021.

The BDE supports the EU's goal of improving the longevity of electrical and electronic products, not least for reasons of waste prevention. At the same time, however, it must be recognised that manufacturers are producing their devices to be shorter-lived than they were ten years ago, in some cases even intentionally. This increases the amount of waste in this area and is also reflected in the low collection rates. The calculation system therefore needs to be revised.

In the BDE's view, the following measures can contribute to efficient collection and should therefore be implemented within the framework of the CEA:

- **Revision of the calculation method for WEEE collection. The current system, which allows simple estimates to be used as a basis, only reflects the reality to a limited extent. In particular, the lifespan of a product in circulation should be included as a factor.**

- **Making manufacturers more (financially) responsible for meeting national WEEE collection targets and increasing the density of collection points.**

- **Awareness campaigns for consumers on the proper handling of WEEE. The efficiency of legislative implementation measures should be based on consumer behaviour.**

2. Measures to increase incentives for the return of waste electrical and electronic equipment (WEEE)

The collection infrastructures in the Member States should reflect the return behaviour of citizens. Returns to collection centres and at the point of sale have proven to be effective. In terms of implementing producer responsibility, it is important that online retailers in particular make a greater financial contribution to the establishment and expansion of a collection system. Online retailers account for a significant share of total sales in the electrical and electronic goods sector, at 13%. Against this background, greater participation by online retailers in the collection system is reasonable and necessary.

The take-back obligation should apply to large items such as refrigerators and televisions, but also and especially to small appliances. The incorrect disposal of smaller battery-powered devices such as smartphones, e-cigarettes and electronic greeting cards leads to a significant increase in batteries in residual waste and other waste streams and causes a rapid increase in fires in collection vehicles and waste treatment plants – a problem that has now reached a level that threatens the existence of many waste management companies. Lithium-ion batteries are found in a wide range of consumer goods and are often discarded together with them in residual waste. Not only does this mean that the strategic raw materials contained in the batteries are lost to the material cycle, but above all, they cause a large number of fires in collection vehicles and waste treatment plants when subjected to mechanical pressure. This often results in large fires that destroy entire waste treatment facilities. The economic damage is enormous, and the operators of treatment plants have to make considerable investments in fire protection. They also find it difficult to obtain insurance for their facilities on economically viable terms. It should be noted that the devices currently arriving at the facilities are those that have come onto the market in the last five to ten years – the problem will increase significantly in the future due to the steadily rising number of battery-powered electrical and

electronic items being placed on the market. A comprehensive battery deposit system would help to mitigate the risk. If the problem of incorrect disposal cannot be tackled effectively enough, consideration must also be given in the short term to a ban on single-use e-vapes, for example, as has been implemented in Belgium since the beginning of the year. Above all, however, manufacturers and distributors must bear the costs directly or indirectly caused by the fires as part of extended producer responsibility by contributing to a fund that covers the direct and indirect costs (increased insurance premiums) incurred by waste treatment companies as a result of the fires. The BDE demands:

> **Manufacturers and distributors of products containing batteries to contribute to the costs of damage caused by their products in the treatment process, for example by paying into a battery fund to cover damage in treatment facilities. If implementation at Member State level is more feasible, a corresponding binding obligation for Member States to introduce national funds should be included in the CEA.**

> **Short-term introduction of an EU-wide battery deposit refund scheme to curb the incorrect disposal of batteries in residual waste; examining a deposit by the end of 2027 within the framework of the Battery Regulation is not sufficient.**

> **Marketing bans for certain single-use products containing batteries (e.g. e-vapes, electronic greeting cards, etc.).**

It also makes sense to define a separate waste category for photovoltaic modules. PV modules are usually made of 80% glass and differ significantly from the other large appliances listed in waste category 4. Separate take-back would be useful here. In addition, categories 5 and 6 could be merged. A more sensible distinction than the size of small appliances (50 cm) would be the type of operating component, i.e. whether an appliance is powered by a battery or accumulator or by a mains connection (plug). This would be a further step towards reducing the fire hazards posed by rechargeable batteries. From the BDE's point of view, it would make sense to have:

> **A separate waste category for PV modules.**

> **A merger of categories 5 and 6 and, instead, a separate category for battery-powered waste electrical and electronic equipment.**

3. Barriers to the recycling of critical raw materials (CRMs) from waste electrical and electronic equipment (WEEE)

The reuse or recycling of critical raw materials from waste equipment lags behind existing possibilities. The technical requirements for recovering CRM from waste equipment through recycling are certainly in place. However, such recycling is economically unattractive because the concentration of CRM in waste equipment is relatively low and extraction is often not worthwhile for cost reasons – not least because of high energy costs. At the same time, however, it is in the overall interest of the European Union to keep CRM such as cobalt or rare earths within the EU, but without restricting the freedom of action of stakeholders, for example through export restrictions. Regulatory measures or incentives for the use of recycled CRM from waste equipment in the form of quotas are therefore needed. Better procurement rules that promote demand for recycled critical raw materials also need to be created.

In addition, the BDE believes it is important that waste equipment is also treated in the appropriate special facilities for the recycling of WEEE. If waste equipment is taken to scrap yards together with metal waste and steel, there is a risk of losing CRMs, as scrap yards often do not have the technical facilities to recover CRMs. Small appliances in particular are usually simply shredded there without the CRM components being removed beforehand.

Another important tool in this context is the introduction of the digital product passport for electrical and electronic equipment. It should be easy for operators of waste treatment facilities to identify which materials are contained in the specific components of WEEE, which also makes it easier to assign them to the correct recycling facilities and processes. The relevant components must also be integrated into the products in such a way that they can be easily removed. Initial approaches to this are already being developed by the Joint Research Centre as part of the Ecodesign Regulation for refrigerators and printers, for example. The BDE welcomes this development. From the BDE's point of view, the following aspects are important:

> **Legislative measures to offset the energy costs of recycling waste equipment.**

> **Better product design and digital product passports: clear information for waste equipment handlers on the proportion of CRM in WEEE.**

> **Promotion of investment in the relevant recycling and processing technologies.**

4. Measures to improve the extended producer responsibility system for waste electrical and electronic equipment

EPR systems are also an indispensable measure in the WEEE sector for achieving recycling and collection targets. However, the fees must not only cover the financing of the collection and recycling infrastructure, but must also be used specifically for awareness-raising and education campaigns for consumers and for behavioural research. Proper waste treatment begins on a consumer level.

The fees should be adjusted to the recyclability of the products and the use of recycled materials in their manufacture. This creates the necessary incentives and can also offset additional costs for manufacturers. EPR systems can also ensure that manufacturers contribute to the costs incurred by battery fires.

Above all, it is important that the specific design of the systems remains the responsibility of the Member States in order to ensure adaptation to national differences and sufficient flexibility.

The BDE therefore calls for:

> **An extension of the current EPR fees to cover the costs of educating and researching consumer behaviour and to cover the consequences of battery fires.**

> **An adjustment of the contributions made by manufacturers and distributors of electrical and electronic equipment to extended producer responsibility schemes in line with compliance with eco-design criteria and, in particular, the recyclability of products.**

III. Single market barriers to circularity

1. Harmonisation of certain regulations and barriers that prevent waste from reaching end-of-waste status or by-product status

One of the biggest regulatory barriers to the circular economy is the fragmented and inconsistent approach to end-of-waste (EoW) criteria in the EU, the definition of which, according to Article 6(1) of the Waste Framework Directive 2008/98/EC, is still a matter for Member States. Despite the goal of creating a genuine internal market for recycled materials, these are often still treated as "waste" even after complete processing. This hinders cross-border trade, discourages manufacturers from using materials recovered from waste in production, increases legal uncertainty and causes additional costs, thereby inhibiting demand for recycled materials and, as a result, hindering investment in recycling capacity.

The internal market for waste and recycled raw materials and products is also hampered by complicated and lengthy authorisation procedures. In addition to authorisations for new waste treatment facilities and administrative procedures for end-of-waste recognition, this primarily concerns the notification of waste shipments in accordance with Article 5 of Regulation 2024/1157/EU. The Commission should therefore push for the introduction of accelerated and digitalised procedures in all Member States and promote a common EU approach to authorisations that ensures simplified, transparent and time-bound procedures. For example, applications should be subject to a single consolidated request for further information from the authorities involved, and the deadlines for official responses should be binding. In cases where the authorities do not respond within the specified time limit, silence on the part of all authorities involved should be deemed to constitute tacit consent. Approval procedures must also be fully digitised in order to reduce administrative burdens.

However, digitilisation must not lead to a complication of the simplified procedure under Article 18 of Regulation 2024/1157/EU. In order to maintain the necessary practicality and flexibility in logistics, it is therefore imperative to allow shippers to fill in the information in Annex VII (green list shipment) on the day of shipment itself, instead of having to do so at least two days before shipment, as is the case under the new shipment rules of Regulation 2024/1157/EU .

Although the Waste Shipment Regulation has recently been revised to tighten environmental protection requirements, its implementation at national level continues to be subject to delays and administrative problems. The success of the CEA depends on a predictable,

transparent and harmonised regulatory environment for waste shipments and end-of-waste across the Union.

2. Harmonisation of extended producer responsibility schemes

The recyclability of products is primarily the responsibility of manufacturers. One of the key prerequisites for recyclability is the establishment of effective systems for separate waste collection and the design of products for recycling. This can only be achieved through harmonised extended producer responsibility (EPR) systems, in which extended producer responsibility organisations (PROs) receive adequate funding to set up and organise an efficient nationwide collection and treatment infrastructure, ensure that products are designed for recycling and contain as high a proportion of recycled materials as possible through eco-modulation of the contributions made by manufacturers and distributors, and provide consumers with clear information about available take-back or collection options.

The general introduction and framework for EPR should be regulated at EU level, while the detailed design of EPR systems, and in particular the design of Extended Producer Responsibility Organisations (PROs), should remain the responsibility of Member States. Member States should be able to maintain existing collection systems that work well. This means that the EU framework for EPR must be compatible with national waste management structures.

The monopoly position of individual PROs must be avoided at all costs, not only from a competition law perspective, but above all in the interests of efficient waste management. The latter also applies to the demand for non-profit PROs. A monopolistic EPR system with only one central PRO can lead to a lack of transparency, inefficiency and low pressure to innovate. Competition, on the other hand, ensures control through market mechanisms rather than pure regulation.When several take-back and recycling systems compete for customers (manufacturers/distributors), this creates cost and performance pressure: systems must reduce their administrative costs, establish optimised logistics and collection structures, and develop innovative recycling solutions in order to compete in the market – this can lead to lower overall costs per tonne of waste. Profit-oriented, competing organisations have a strong interest in using technical innovations (sorting, recycling or digital tracking technologies), developing new forms of cooperation with waste treatment companies and introducing digital systems for traceability and efficiency gains. Innovation is thus not centrally prescribed, but generated by market dynamics. Competition between PROs means that manufacturers can choose between different providers, receive offers with individually tailored services (consulting, reporting, take-back logistics) and, if necessary, achieve better prices or higher recycling rates. This strengthens the incentive for manufacturers to see the EPR system as a service partner rather than a compulsory levy. Multiple providers can respond more quickly to new waste

streams, technologies or changes in EU legislation, e.g. the introduction of new recycling rates or material requirements. A profit-oriented system also ensures greater involvement of the private sector in waste management by attracting investors and private waste management companies, thereby promoting capital flow into recycling- e infrastructure, the development of modern sorting and recycling facilities, and an economically viable circular economy. This shifts the financing burden from the public sector to the market.

The CEA should therefore promote the establishment of competitive PRO structures in the Member States.

The involvement of producers in extended producer responsibility organisations is strongly discouraged, as their involvement carries the risk of conflicts of interest: producers are interested in low waste management costs in order to keep their financial contributions to PROs as low as possible. In contrast, the companies responsible for waste treatment, i.e. the waste management industry, should be required to participate in the PROs by being represented on their steering and supervisory bodies. This is the only way to ensure that the PROs and the EPR system are geared towards high-quality waste treatment and comprehensive circular economy.

Another cornerstone of a genuine circular economy is the technical recyclability of products when they become waste. EPR must therefore be closely linked to eco-design criteria in such a way that the contributions paid by manufacturers and distributors to PROs for fulfilling their producer responsibilities are based on the recyclability of their products (design for recycling) and the use of recycled materials in the manufacture of the products (amount or quotas of recycled materials used). Manufacturers of recycling-friendly equipment and products with a high recycled content should benefit from financial incentives under the EPR system.

The CEA should provide Member States with appropriate guidelines on the design of EPR systems, thereby ensuring a level playing field in the EU.The BDE calls for:

- **The introduction of EU-wide criteria for EPR systems, which in particular contain guidelines on the financing of efficient collection and treatment infrastructure, the eco-modulation of contributions from manufacturers and distributors, the recycling-friendly design of products, the content of recycled materials in products, and consumer education and information.**
- **Authorisation of Member States to design EPR systems in concrete terms, particularly with regard to PROs, whereby monopoly structures and requirements regarding economic orientation (profit/non-profit) should be avoided.**

> **Mandatory participation of waste management companies in or integration into PROs in the form of representatives on the management and supervisory bodies of PROs.**

3. Extension of producer responsibility to include liability for specific hazards

Manufacturers should also bear additional costs incurred at the end of their products' life cycle in the context of waste management and recycling. This applies in particular to costs resulting from additional technical or logistical expenditure for disposal and recycling and from damage caused by products that have become waste during disposal.

On the one hand, this includes mandatory participation by manufacturers and manufacturer organisations of batteries and battery-powered devices and products in the consequences of incorrectly discarded lithium-ion batteries (plant fires, see point II. 2.). On the other hand, it concerns the participation of manufacturers and distributors (or their PROs) of products contaminated with pollutants and persistent chemicals, in particular PFAS, in the additional financial costs incurred by recycling companies as a result of the necessary detection (measurements) and removal of the substances from the material cycle. waste recycling companies have to use more complex procedures and measurement methods, which are cost-intensive. This contribution by manufacturers and distributors or their PROs is essential according to the polluter pays principle, as manufacturers are responsible for chemical additives such as PFAS in their products, but not the recycling companies, which incur the problems and costs associated with the pollutants without having caused them.

4. EU-wide binding extended producer responsibility schemes for certain product groups

The BDE supports the extension to other product groups if the PROs are designed in accordance with the principles set out in point III. 2., i.e. in particular if no monopoly structures are created and the involvement of waste management companies in the management and supervision of the PROs is guaranteed.

IV. Promoting demand and supply of recycled raw materials

1. Reducing competitive disadvantages compared to primary materials and avoiding competition with alternative materials

The European recycling industry is in direct competition with the primary industry. The primary industry has two competitive advantages over the recycling industry: lower production costs due to favourable raw material prices (especially crude oil for plastics) and (unequal) legal framework conditions with regard to subsidies and levies: While many sectors of the manufacturing industry benefit from EU aid schemes for energy-intensive industries, such as the Guidelines on State Aid for Climate, Environmental Protection and Energy Aid (KUEBLL) or the Commission guidelines on compensating for high energy prices due to the ETS, the recycling industry is not mentioned, even though it also mostly involves energy-intensive processes while ultimately contributing significantly to sustainability in the EU.

The consideration that there is no need to promote recycling facilities because they are not exposed to any risk of relocation is short-sighted. According to the state-aid guidelines in connection with the ETS, such a risk of relocation exists, for example, if "*production is relocated to other countries with less stringent emission reduction targets or because EU products are replaced by imported CO2-intensive products*". The latter, i.e. a substitution risk, is particularly the case in the market for recycled materials. Domestic recycling companies are having to close their plants due to competition from third countries, creating a real risk of relocation for recycling – and thus for the supply of recycled (raw) materials – as companies go bankrupt and recycling capacities in the EU are lost.

However, recycled materials are not only competing with (fossil) primary materials and products, but are also increasingly competing with special materials that are considered sustainable, such as bioplastics or bio-based materials that can be used in the same way as plastics. From the perspective of the waste management industry, the promotion and increased use of such materials is problematic; due to their structural characteristics, bioplastics or bio-based materials that are used like plastics cannot, with few exceptions, be recycled within the existing recycling infrastructure. In plastic sorting plants, they are detected as non-plastics and ejected, and in biowaste treatment plants, they are either recognised as contaminants and ejected at the outset – with the result that they have to be disposed of elsewhere at great expense – or they interfere with the biological treatment process in that they cannot be completely broken down within the composting times of the plants and remain as visible residues in the compost, thus impairing its marketability. If the Commission considers setting its own quotas for bio-based raw materials, care must be taken to ensure that these cannot be counted

towards minimum recycled content quotas, as provided for in Article 8(2) of the Packaging Regulation (EU) 2025/40 on the assessment of the circular economy ( ), as this would run counter to the objective of promoting a genuine circular economy.
The BDE calls for:

- **The inclusion of recycling (NACE code 38.32) in the list of energy-intensive industries in Annex 1 of the Guidelines on State Aid for Climate, Environmental and Energy Aid.**
- **No crediting of bio-based materials towards the fulfilment of recycled material use quotas.**

2. Strengthening green criteria and local products in public procurement

Public procurement accounts for around 14% of the EU's gross domestic product (GDP) (over €2.4 trillion per year). This figure alone shows that environmentally friendly public procurement can play a crucial role in promoting the circular economy and green innovation by stimulating demand for low-carbon products. In this context, the BDE expressly advocates a revision of European public procurement law. Sustainability criteria should be made a binding criterion in public tenders ("*Green Public* Procurement" – GPP). Measures for environmentally friendly procurement should include a commitment to give preference to products made from recycled materials and the setting of binding minimum quotas for the use of recycled materials in products to be procured. The recyclability of the products to be procured (design for recycling) should also be a mandatory part of the specifications for public tenders.

In view of the problems described above facing the European recycling industry (competitive pressure from cheap primary materials and products as well as cheap (supposed) recyclates from third countries, and in view of the importance of the circular economy as a central pillar of the EU Green Deal for the resilience of the EU, the revision of public procurement should include a "Buy European" model for recyclates or for products manufactured using recyclates. This means that the specifications for the goods and services to be procured should stipulate that the goods to be procured must have been manufactured using recyclates produced in the EU or that the recyclates to be procured must originate from the EU. In the case of waste treatment services to be procured, it could be required that the waste in question be recycled in the EU (insofar as this is technically and economically feasible).

In order to promote the application of GPP throughout the EU, harmonised criteria are needed that also ensure the traceability and comparability of data. The BDE calls for:

- **The preference for recycled raw materials, products manufactured using recycled materials and products that are easy to recycle to be established as a mandatory tender criterion for public procurement procedures (*"green public* procurement").**

- **The preference for recycled materials and products obtained or manufactured in the EU to be established as a mandatory tender criterion for public procurement procedures ("buy European").**

3. Introduction of separate trade codes for recycled raw materials and recycled products

The promotion of so-called closed-loop processes can also be a useful incentive for the use of recycled raw materials. Initial quotas are included, for example, for plastics in the Commission Proposal on the EU Regulation on End-of-life Vehicles. In order to design such quotas in a meaningful way, it is necessary to accurately record individual material flows and materials sorted by type.

In the steel and aluminium sector, this is already possible thanks to existing scrap classifications. However, it would actually make sense to differentiate the trade codes more precisely, or to create a separate category for recycled steel and aluminium. This could enable better monitoring of trade in recycled steel and, above all, have a positive effect on sales. Recycled steel has a significantly better ecological balance than primary raw materials – however, it is not immediately apparent to foreign buyers which raw material is involved, as there is no differentiation under the current foreign trade system.

Even though it is important overall to keep raw materials, especially critical ones, within the EU, the BDE nevertheless takes a fundamentally critical view of blanket export restrictions. If there is no demand for certain raw materials within the EU itself, companies are simply dependent on sales in non-EU countries. The focus of legislators should be on strengthening demand within the EU and not on restrictions that limit companies.

V. Improving waste management and recycling processes

1. Elements for improving waste management systems

The focus must be on separate waste collection. Waste sorting is important and must be promoted, but separate collection at source, the "first stage", takes priority. Waste producers must participate sufficiently in collection. This also means that Article 10(2) of the Waste Framework Directive 2008/98 EC, according to which waste must be collected separately "if this is necessary to facilitate or improve preparation for reuse, recycling or other recovery operations", should be made more binding and stricter, and the possibility for Member States under Article 10(3) to derogate from the separate collection obligation under paragraph 2 should be restricted.

2. Measures to reduce the landfilling or incineration of waste and to promote recycling

The separate collection and sorting of different material streams (plastic, metal, paper, glass, biowaste, etc.) is a basic prerequisite for comprehensive and high-quality waste recycling. The separability of recyclable fractions and their sortability and recyclability using existing and proven techniques must therefore be the focus of further EU legislation.

The landfilling of recyclable or otherwise recoverable waste – whether material or thermal – should no longer be possible. Not only does the landfilling of such waste result in the loss of valuable materials from the material cycle and the economy, but the landfilling of waste containing organic components also leads to the formation of methane. According to the European Commission, waste is responsible for approximately 26% of EU-wide methane emissions[1] . Landfills are the main source of waste-related methane emissions. A ban on the landfilling of untreated household waste containing organic components would be an effective and important measure to reduce methane emissions from landfills and keep valuable materials in the economic cycle. The CEA should therefore aim to limit the landfilling of waste in the EU to what is absolutely necessary and to support the active channelling of waste streams into the correct recovery process in accordance with the waste hierarchy. In doing so, care must be taken not to indiscriminately classify the thermal treatment of waste as undesirable and negative; the thermal recovery of non-recyclable waste through energy recovery (waste-to-energy) is a measure that is virtually mandatory under the waste hierarchy and an important part of the circular economy. – Waste that cannot be reused or recycled can still be put to good use by thermally utilising the energy it contains, thereby replacing and saving fossil fuels. A ban on landfilling untreated municipal waste with an organic content of more than 5% would be a

[1] COM(2020) 663 final

sensible measure to ensure that the potential of a particularly rich waste stream is not left untapped. As an alternative to a ban, consideration could also be given to specifying the term "treatment" in accordance with Article 2(h) of the Landfill Directive 1999/31/EC to the effect that such treatment (only) exists if a process is suitable for reducing the organic content of municipal waste to below 5%. The BDE calls for:

> **An EU-wide obligation to collect other types of waste and materials such as metal, plastic, paper and textiles separately.**

> **An EU-wide ban on the landfilling of untreated municipal waste; only previously treated waste with an organic content of less than 5% should be permitted to be landfilled.**

3. Barriers to the use of sewage sludge and biowaste as recycled raw materials

Despite the requirement laid down in Article 22(1) of the Waste Framework Directive 2008/98/EC that, by 31 December 2023, bio-waste must either be separated and recycled at source or collected separately and not mixed with other types of waste, the implementation and, in particular, the infrastructure for the separate collection of bio-waste in the EU remains inadequate. In addition, Regulation (EU) 2019/1009 has not been implemented with regard to the provision of CE fertiliser products from compost and fermentation products from bio-waste and sewage sludge. This is not least due to the (high) requirements for permissible input material and product quality, the conformity assessment bodies and the lack of consistency with other laws, in particular the Hygiene Regulation (EU) 1069/2009 in conjunction with (EU) 142/2011.

The potential of sewage sludge as a source of sustainable fertiliser, especially with regard to phosphorus, and thus for sustainable circular economy, is currently not being sufficiently exploited. Phosphorus can be recovered from sewage sludge: although the relevant processes have been further developed in recent years, there is still a lack of demand for fertilisers made from recycled phosphorus. One sensible and legislatively uncomplicated way to increase demand would be to recognise phosphorus as a strategic raw material. Article 5 of Regulation (EU) 2024/1252 on the sustainable supply of critical raw materials stipulates a recycling rate of 25% for strategic raw materials. Phosphorus should be recognised as a strategic raw material anyway due to its practical importance for industry and agriculture.

In addition, companies responsible for waste disposal continue to choose the more cost-effective option of directly applying sewage sludge to agricultural land. Sewage treatment plant operators need to be given clear obligations to recover phosphorus. The BDE therefore calls for:

> **The recognition of phosphorus as a strategic raw material within the meaning of Annex I, Section 1 of Regulation (EU) 2024/1252 on the sustainable supply of critical raw materials.**

> **A legal obligation for sewage treatment plant operators to recover phosphorus.**

Food waste also offers (as yet largely untapped) potential for biological recovery processes. Although the availability of biowaste from private households for composting and fermentation has increased in some Member States in the past thanks to improved waste separation in households, it is not possible to record this accurately due to the lack of a specific waste code. This also applies to packaged food waste, which is usually simply disposed of, even though it could in some cases be used for biological recovery processes. The BDE therefore calls for:

> **A separate waste category for biological waste from private households and differentiated waste categories for packaged food waste within the meaning of Commission Decision 2000/532/EC.**

4. Advantages and challenges of conducting audits prior to demolition and renovation work

Pre-demolition audits prevent certain valuable raw materials from being lost or sent to landfill. In general, they promote material logistics. Careful audits also reduce demolition costs, making them economically viable. Currently, the market still encourages the implementation of such audits, as the better the building structure is analysed prior to demolition, the better the offer price tends to be. However, where an audit is not worthwhile for economic reasons (small buildings), obligations may be useful to a certain extent.

5. EU-wide uniform pricing of waste treatment emissions to reduce emissions

Emissions from waste treatment should be priced in order to create incentives for waste treatment that is as climate-friendly as possible. In doing so, the waste hierarchy according to Article 4 of the Waste Framework Directive 2008/98/EC must be taken into account, i.e. pricing CO_2emissions must not result in a lower-value treatment option becoming more cost-effective than higher-value treatment options. In particular, landfilling of waste, which produces

methane, a particularly climate-damaging greenhouse gas, must not be economically more attractive than thermal recovery of waste.

In order to reduce the concentration of greenhouse gases in the atmosphere, measures that permanently remove CO_2 (CCS and CCU) must also be promoted. A sustainable climate-neutral economy cannot emerge without a functioning circular economy that uses captured CO_2 to replace the use of new carbon sources. It is therefore important to promote the use of captured CO_2 Similarly, the contribution of the circular economy to avoiding and reducing CO_2emissions under the EU ETS must be taken into account positively in order to create further incentives for recycling and the use of recycled materials. The BDE therefore calls for:

- **Decarbonisation of thermal waste treatment ("waste-to-energy" – WtE) through CCUS: The system must offer sufficient stability to enable the high investments in CCUS projects to be made. The revenues must be earmarked for the decarbonisation of waste disposal processes.**
- **Avoidance of distortions in the European waste market and carbon leakage: The inclusion of waste incineration plants must not give other treatment methods at a lower level of the waste hierarchy a competitive advantage, thus leading to ecologically undesirable shifts in volume (an advantage for (= exclusion of) recycling is desirable).**
- **A level playing field for all waste treatment methods (WtE, co-incineration of substitute fuels, MBT, landfill): Pricing should cover all greenhouse gas emissions, in particular landfill emissions must be included.**
- **The system must be feasible: public structures in the waste market, the predictability of fee calculation and long-term contract structures must be taken into account, and reporting requirements must be harmonised and technically feasible.**

6. Establishment of an EU Circular Economy Agency to consistently implement and enforce European waste and circular economy policy

The Commission's 2023 Early Warning Report showed that a large number of Member States are not achieving the EU's waste policy targets. Appropriate structures therefore need to be created to help Member States implement EU requirements and to penalise infringements and inadequate implementation.

This requires additional human and financial resources, which should be pooled in a special organisational unit. The BDE therefore calls for:

- **The establishment of a European Circular Economy Agency, whose main task is to support Member States in implementing the requirements and to monitor compliance with them.**

VI. Impacts of Measures to Promote the Circular Economy in the EU on International Trade

The impact on international trade, particularly in the area of waste electrical and electronic equipment, the improvement of the internal market for recycled raw materials, the promotion of supply and demand for recycled raw materials, and the improvement of waste management systems is difficult to predict.

However, the BDE is convinced that a more resilient European economy will also have a positive impact on international trade. Third countries that depend on sales in the EU will have to raise their environmental and sustainability standards, which will benefit both the primary and secondary industries. Above all, however, the Circular Economy Act offers the opportunity to stimulate investment in European recycling technologies. Ambitious recycled content quotas give market participants from both the EU and third countries the necessary certainty that the corresponding investments are economically viable. In this respect, the CEA not only offers opportunities for the European single market itself, but also creates an important pioneering role for the international economy in terms of sustainability and secure supply.