

COMMENTS TO TRIS 2024/0707/NL

This document comments the TRIS notification 2024/0707/NL on the “Amendment of the Environmental Management Act in connection with the introduction of an annual obligation for circular polymers, circular polymer units, and a register of circular polymers units (legal amendment for a Circular Plastic Standard)”, known in the Netherlands as the National Circular Plastic Standard

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1. Introduction

We would like to draw the attention of the European Commission and the Dutch government to its initiative to amend the Environmental Management Act in connection with the introduction of an annual obligation for circular polymers, circular polymer units and a register of circular polymer units.

As the Belgian Federation for Chemicals, Life Sciences and Polymers, we have the unique distinction of covering both very demanding users as well as manufacturers of plastics. essenscia covers the entire value chain, from basic substances to recycling, including chemicals, detergents, healthcare products and food contact materials. Our coverage is therefore very broad.

2. Assessment of the proposed amendment

The amendment does not use the definitions established by the European Commission in its latest regulations with the aim of promoting the circular economy and the use of circular materials in new products. The Dutch government introduces new terms such as circular polymer or circular polymer unit, without defining what a unit is. The definition also refers to "sub-products", which are usually called "components". In addition, a polymer processor is apparently any economic operator who modifies a pure polymer before placing it on the market. This therefore includes polymer producers, masterbatchers, compounders and converters (using the usual nomenclature).

The Commission's aim is to promote circularity by bringing all Member States up to the already highest standards for collection, sorting and recycling, based on the achievements in Belgium or the Netherlands. The incorporation of circular material is defined as an essential compliance requirement for the first placing on the market and for the making available of final products on the market of a Member State.

However, the Commission takes care to ensure that the incorporation of circular material is without prejudice to the product standards applicable according to the use of the final product by an end user or consumer. By opting for a non-discriminatory approach for any plastic product, the Dutch proposal rejects this principle. The trading system is therefore a way of circumventing the necessary requirements for placing on the market by shifting the burden of compliance from one sector using plastics to a less demanding one.

The Commission recognises that the stakeholders in the value chain must contribute to the placing on the market of recyclable and effectively recycled products in order to support a circular economy of materials that can be used for new products.

By targeting only plastic economic operators, the Dutch proposal suggests that the requirements of the economic operator placing the final product on the market are the sole responsibility of the plastic converter. This is unfair and inconsistent with the already published European legislation (CPR, PPWR, ELVR, ESPR). Although it claims the opposite, as the requirements apply to the placing on the market and making available on the NL market, this proposal has the aim of impeding the internal market, affecting both national and non-Dutch companies.

With regard to the principle of complementing EU regulations, the Dutch government has obviously failed to take into account that the legislation currently under discussion, like secondary legislation acting as regulations, obliges Member States to put their national initiatives on hold. In addition, by proposing 15-30% recycled content, the text aims below the requirements for placing on the market, for which targets and deadlines have been set by EU regulations for the whole of Europe, to achieve large-scale recycling of all circular materials, not just plastics.

With regard to the newly published regulations, if a Member State wishes to go beyond the requirements of EU law, the competent authorities of the Member State must demonstrate that they are solving an environmental problem and that their initiative will bring environmental benefits without causing economic disruption. Although the Dutch government is trying to reassure stakeholders, the simple principle of setting up a trading system is, in our view, an economic disruption.

We also understand that this is not a closed proposal and that it may be extended. Therefore, indicating that this proposal would only apply to Dutch companies does not exclude the possibility that the scheme could be extended by a simple implementing amendment, without the need for consultation.

3. Conclusions

Our reading of this proposal is that the lexical differences with European legislation considerably complicate European harmonisation, creating national specificities that can be likened to marketing restrictions. The proposal necessarily relates to the placing on the market of products, in accordance with European legislation, while breaking the European intention to make the entire value chain of manufacture, use and management of waste co-responsible. The complementarity of the proposed mechanism to European legislation, and its environmental benefits related to the product placed on the market, has not certainly been demonstrated.

The obstacle to the single market is implicit.

About essenscia

essenscia is the Belgian federation uniting the chemical industry and life sciences sector, advocating for the collective and specific interests of more than 720 companies active in chemistry, plastics, pharmaceutical and biotechnology.

essenscia brings together both international businesses and SMEs, collectively representing 95% of the total turnover within the sector. Its primary role is to provide a bespoke service to its members, offering expertise and guidance on sector-specific issues.

As a trusted advisor across various domains, essenscia diligently advocates for the collective interests of its affiliated businesses, navigating the landscape of policymaking and political engagement. Through proactive representation, essenscia ensures that the concerns and aspirations of the association's members are effectively communicated and addressed at all levels of governance.

To ensure the highest quality of service, essenscia's organisational structure mirrors the Belgian political structures and competency distribution across the country.

Contacts with the federal government and European policy are facilitated through essenscia's overarching operational framework. The three regional departments – essenscia Brussels, essenscia Wallonie, and essenscia Vlaanderen – serve as key intermediaries, engaging with the Brussels, Walloon, and Flemish governments on behalf of sector companies. Contacts with the federal government and European policy are carried out through essenscia's transversal operation.

essenscia actively defends sectoral interests at the European, Belgian federal, and regional levels by engaging with key stakeholders such as Cefic (the European Council of Chemical Manufacturers' Federations), PlasticsEurope (representing polymer producers), European Plastic Converters (representing polymer compounders, masterbatchers, and converters to plastics), the Federation of Belgian Companies FEB-VBO (Verbond van Belgische Ondernemingen - Fédération des Entreprises de Belgique), Voka (Flanders' Chamber of Commerce and Industry), and AKT (l'Union Wallonne des Entreprises).

In response to legislative proposals or the implementation of European or Belgian laws that may impact the activities of essenscia's members, the organization uniquely represents diverse interests across the value chain. It provides accurate technical assessments and consistent regulatory reviews, taking robust and relevant positions to express various constraints and requirements throughout the value chain

The information hereby provided is assumed to be accurate to the best of our knowledge at the date of the last revision. essenscia cannot be held responsible for related changes, inaccuracy, or misuse of this information.



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