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European Commission

DG Grow, Unit E.3 - Notification of
 Regulatory Barriers
 DG Environment B.3 - Waste Management
 and Secondary Materials

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Berlin, 16 December 2021

Reference: European Bioplastics' response to French notification 2021/644/F on Draft Legislative Decree on consumer information of waste-generating products

On 04 October 2021, the French *Ministère de la transition écologique* notified the European Commission of the draft "Decree on consumer information on the environmental qualities and characteristics of waste-generating products". This provides public information on the environmental qualities and characteristics of waste-generating products, as well as indicating premiums and penalties paid for environmental performance.

Among the measures notified, the decree takes into account the following characteristics: reparability and durability, compostability, incorporation of recycled material, use of renewable resources, re-use opportunities, recyclability, presence of precious metals, presence of rare earth elements, presence of hazardous substances, traceability and presence of plastic micro-fibres.

European Bioplastics, representing the interests of around 70 members producing bio-based and/or biodegradable and compostable plastics, would like to highlight some elements of the notified draft decree which raise concern for the sector we represent, in particular the definition of "recyclability" and "compostability".

Definition and criteria for "recyclability"

Regarding the definition of "**recyclability**", the French draft decree outlines 5 criteria that need to be satisfied:

"(1) the ability to be efficiently collected locally, through the population's access to local collection points

(2) the ability to be sorted, i.e. directed to certain recycling channels in order to be recycled

(3) the absence of elements or substances that will disrupt the sorting, recycling or limit the use of the recycled material

(4) the extent to which the recycled material produced by the recycling processes used represents more than 50% of the bulk of the waste collected

(5) the ability to be recycled on an industrial scale and in practice, in particular through a guarantee that the quality of the recycled material obtained is sufficient to guarantee the sustainability of the outlets, and that the recycling chain can demonstrate sufficient ability to take charge of the products that can be integrated into it".

These restrictive criteria for the use of the term "recyclable" will significantly limit the development of innovative materials. Many bio-based & compostable plastics are also mechanically and chemically recyclable materials. However, establishing a value chain takes time and resources thus, for the moment, collection and recycling streams for these innovative materials are not in place "at scale". Therefore, these measures clearly discriminate against bio-based and compostable plastics in two ways. Firstly, they limit the contribution of these materials towards reducing the EU's (and France's) GHG emissions, thereby mitigating the impacts of climate change and secondly, they restrict the definition and scope of "recyclability" of plastic materials.

In addition, the notified measure it is not compliant with the European Directive on Packaging and Packaging Waste (n. 1994/62) which sets the conditions under which packaging is considered recoverable in the form of material recycling. This measure could, in turn, undermine the ongoing process carried out by the European Commission to review the above-mentioned Directive and criteria, as part of the European New Circular Economy Action Plan.

Definition and criteria for "compostability" and "compostable packaging"

European Bioplastics would also like to highlight that the definition provided for "compostable packaging" items lacks coherence with the current European Directive on Packaging and Packaging Waste. The draft decree proposes the limitation of labelling for compostable items to only those which comply with the French national standard on "home composting" NFT 51-800. However, compostable packaging entering the food waste collection and organic recycling systems in composting plants have to comply with the Essential Requirements of the European Packaging and Packaging Waste Directive (1994/62) and the relative European harmonised standard EN 13432. This standard applies to all packaging (compostable plastics and paper) and, in the case of compostable plastics, this is tested by "comparing" it to cellulose, ensuring that it behaves (biodegrades) as a cellulose-based material would. Finally, restricting labelling for compostable plastic packaging to "home compostable" certified plastics only would breach the current European legislation on packaging with no benefit for the composting process or for enhanced consumer understanding.

We remain at your disposal for any further information or clarifications related to the issues raised in this submission.