



COM (2020) 98

A new Circular Economy Action Plan: For a cleaner and more competitive Europe

The AK's position

The present Communication covers a part of the scene (as already addressed in the European Green Deal and in the Industrial Strategy), outlines the starting point and proposes measures to initiate the transition from a throwaway society to a circular economy, focusing on a new framework for sustainable product policy.

The AK supports the broad approach of the existing Communication, which rightly focuses on the phase of production and subsequent use of the products, addresses many of the problems clearly, and also becomes surprisingly specific in the proposed measures. Nevertheless, omissions and imbalances in the "First" Circular Economy Package are addressed by AK in advance and must be remedied. This applies in particular to the lack of social dialogue, the still inadequate precautions taken to ensure that the necessary consumer information is available independently of manufacturers' interests, and the lack of provisions in the EU Waste Framework Directive (WFD) among other things to prevent self-dealing within the framework of systems for Extended Producer Responsibility (EPR). This is followed by comments on the individual chapters of the Communication.

General remarks – The story so far

AK already participated in the EU consultation on the circular economy¹ and submitted a position paper in October 2015.² Then, AK strongly welcomed the intention of the European Commission (EC) to present a more ambitious initiative – as compared to the proposal from 2014³ – to promote the circular economy. AK already made detailed and critical comments in advance on questions of the EPR (December 2013).⁴

In January 2016, AK generally welcomed the "First" Circular Economy Package⁵ presented in December 2015 – with its EU Action Plan⁶ and the legislative proposals related to waste appended to the communication – as an extremely broad strategy for the circular economy; however, it also clearly

highlighted the aspects which needed improvement.⁷ Unfortunately, amendments to the waste-related legislative proposals, which are aimed, inter alia, at preventing self-dealings in EPR schemes, did not obtain the necessary majority in the European Parliament. In November 2018, AK gave detailed comments on the proposal for a directive on the reduction of the impact of certain plastic products on the environment (COM (2018) 340) and supported many aspects of it.⁸

Most recently, AK supported the European Green Deal with the letter of 18.12.2019 to EU Commission President van der Leyen and the position paper⁹ of February 2020. AK has also noted with interest the new industrial strategy (which the existing Second Circular Economy Package is intended to form part of or extend) and is in the process of formulating a statement on it. Of course, AK also supports the broad approach of the existing Communication, which rightly focuses on the phase of production and the subsequent use of the products, addresses many of the problems quite clearly, and becomes surprisingly specific in the proposals for measures.

Circular Economy is still thought too narrow

Nevertheless, AK must remember the omissions and imbalances in the "First" Circular Economy Package. They show that the circular economy is still conceived of too narrowly. If they are not remedied, the success and effectiveness of this Second Circular Economy Package will also be impaired. This relates to the lack of **social dialogue**, the still inadequate precautions – so that the necessary **consumer information** is available **independently of manufacturer interests** – and the lack of specifications in the Waste Framework Directive, among other things, so that **self-dealing within the framework of EPR schemes** is prevented, as well as the assessment of **what expectations can realistically be placed on such systems**.

Circular Economy needs a comprehensive and ongoing social dialogue ...

A broad approach – as outlined in this Communication in particular – will have not only a positive environmental effect, but also a social impact reaching far beyond the envisaged impact on employment promised in the Communication, and which may not always be positive or beneficial for all those concerned. The transition to a circular economy also requires a **process of social transformation**.

It is unacceptable that the **comprehensive and ongoing social dialogue** required for this purpose is not even mentioned in the Communication – unlike in the first EU Action Plan. It is also surprising from the point of view of employees when it is claimed that the positive net employment effects of the circular economy should only depend on whether “employees acquire the skills required for the transition to a green economy” (Chapter 5.p. 19 of the Communication). It also seems too narrowly conceived to consider only the **social economy** (and its promotion) in this context, although AK does not deny the need for support (Chapter 5. p. 19 of the Communication). However, none of this is a sufficient response to the social question, just as it is not sufficient for the Commission to state that the “**European Circular Economy Stakeholder Platform**”¹⁰ will continue to be the place for the exchange of information between stakeholders” (Chapter 5. p. 19 of the Communication). The necessary social dialogue can only be one “at eye level”; it needs legitimation, which is not the case with a platform¹¹ composed in this way, and it will not be limited to an exchange of information: Social dialogue means **participation by the social partners also at the European level**, which has not been the case so far.

AK advocates **systematic involvement of both sides of the social partnership throughout all sub-steps of the processes – from determining the facts on the impact on welfare and employment to the development of policy proposals**. As an essential part of the new industrial strategy and especially of the European Green Deal, success will depend on the coordination of measures in all three areas, which seems unthinkable without systematic involvement.

... and significant improvements from a consumer perspective

When the Waste Framework Directive was passed, too little attention was paid to **consumer associations** being among the stakeholders who should be included when the Commission wishes to initiate an **exchange of experiences between Member States on implementation of the new requirements for EPR schemes**. The same also applies to the **dialogue which the Member States are required to regularly invite relevant stakeholders to engage in under Article 8a(6) of the Waste Framework Directive**.

The wording of Article 8(5) of the Waste Framework Directive does not currently indicate that at all. The focus on “involved” stakeholders is not a very useful limitation, since it can only be understood to include the producers, distributors and recycling industries involved in such schemes. That does not allow for the necessary critical overview, which should also include the outside perspective of those concerned. Strictly speaking, not even **municipalities and towns** would be included since they normally only have contractual relations with the EPR schemes. In order to understand who the “involved” stakeholders include, we should at least refer to Article 8a(6) of the Waste Framework Directive¹²; the English version defines them more broadly as “relevant stakeholders involved”. The **civil society organisations** named there should be understood primarily as **consumer associations**.

Too little attention has been paid to the fact that **consumer information independent of manufacturers’ interests is all the more necessary in the course of measures taken by the circular economy**. Article 8a(2) of the Waste Framework Directive does not state clearly enough that (independent) consumer information on waste avoidance must be a task for the Member States which cannot be delegated. In practice, the fact that EPR schemes have to bear the costs of information also means that they determine the content of information in line with their own interests, which results from the fact that producers and distributors of the products covered are typically involved in EPR schemes. The definition of sustainable consumption cannot be left to EPR schemes. It will not be possible to collect effective and credible consumer information or devise targeted, viable measures to raise awareness – as this draft directive also considers necessary – in that manner. **Private and public consumer associations** in Member States are already making wide-ranging contributions in this respect and **should be the first point of contact for Member States**. And they need much more support – including financial support – to do so.

Requirements of the Waste Framework Directive for EPR schemes stop at the “half-way point”

Furthermore, the requirements which have now been adopted in Directive (EU) 2018/851 for EPR schemes do not make it clear that self-dealing in the scope of such schemes is prevented. The stipulation contained in point (a) of Article 8a(1) of the Waste Framework Directive to “define in a clear way the roles and responsibilities” in EPR schemes is vague or even meaningless. **It would be better to state clearly that incompatibilities and conflicts of interests have to be avoided.**¹³ If companies which are active as service providers of EPR schemes in the collection, sorting or re-use of waste¹⁴ also have decisive influence in the boards of company owners in EPR schemes, not only will it have a negative effect on competitiveness in the relevant markets, but costs will also rise and the environmental objectives may even be undermined.

The ARA packaging collection system is a negative example in Austria’s view; the European Commission has investigated it for abusing its dominant market position¹⁵ and imposed a fine of 6 million euros in 2016.¹⁶ However, the proceedings only focussed on superordinate questions and did not even address the question of self-dealing. Large contractors of ARA that are active both in the collection (~ two large food store chains) and recovery of packaging waste (industries for the recovery of recyclable waste) are, unfortunately, still represented on the supervisory board at ARA, which is the central decision-making body.¹⁷ The fact that the cartel-like ownership structure could continue to exist in ARA may explain why the approach of the Directorate-General for Competition of the European Commission has not shown the desired competitive success in the relevant markets, where competitors continue to be overshadowed.¹⁸

In Austria, the effects of this are particularly evident in the upcoming implementation of Article 9(1) of the EU Single Use Plastic Directive 2019/904. Here, ARA represents with undisguised vehemence the interests of those economic circles, above all the major forms of food retailing such as certain large bottlers, who wish to prevent implementation by means of a **compulsory deposit on drinks in cans and disposable plastic bottles** in order to be able to continue to cling to the “convenience of disposability”. ARA’s “own interests” are also likely to play a role here, since implementing the deposit independently of ARA’s interests could seriously weaken ARA’s still monopoly-like position on many of the markets concerned – and thus the interests of major firms that are well represented in ARA. It is also from these economic circles – led by ARA – that the greatest opposition to binding measures **to increase the**

proportion of drinks in food retail outlets filled in returnable drink packaging, which has long been due, is to be expected.¹⁹

Innovative environmental policy means lessening environmental impact along the whole value chain; EPR schemes are not a real solution to that

Finally, we should remember that **innovative environmental policy** must always endeavour to bring about a real, significant and effective lessening of the environmental impact of certain products and their use throughout the whole value chain (from the cradle to the grave). This requires first of all that they are carefully identified, which cannot be left to the manufacturers alone. And then you need **incentives for ecodesign; the product utilisation phase should be designed to be environmentally friendly.**

However, we must be aware of the **limits of EPR and EPR schemes.** Progress can only be expected here if ambitious requirements are introduced, particularly at European level. Simply delegating the task to EPR schemes is useless because producers and distributors (and the recycling industries which are often represented on these bodies) naturally do not have an interest in waste avoidance, i.e. avoidance of their products. The legislator must therefore always ask which player/stakeholder can best implement this specific goal. It is not necessarily the producer. Furthermore, the trend to expand waste take-back schemes means that it will become increasingly more difficult for environmental targets to be met individually by producers (e.g. through compulsory participation in order to minimise the free rider problem). **Professionally managed take-back schemes are therefore normally an instrument to finance waste disposal, but give individual producers scarcely any more incentive to incorporate ecodesign, resulting in a conflict of objectives.**²⁰

Comments on the individual chapters of the Communication

On Chapter 1. Introduction

Nothing can be added to the dramatic findings of the Communication at the beginning of this document about how the limits of the Earth's carrying capacity have already been exceeded, how global resource consumption and global waste volumes will nevertheless continue to increase if nothing is done, and to what extent the resource extraction and processing practices currently in use contribute to climate problems, biodiversity loss and water stress. AK supports the goals already stated in the European Green Deal of achieving **climate neutrality by 2050 and decoupling economic growth from resource use**.

For AK, the further **priority objective** explicitly mentioned by the Commission in this context of **"leaving no one behind" in this changeover** is particularly welcomed. The employee representatives will of course pay particular attention to this aspect in the Europe-wide implementation of the Circular Economy Action Plan by the Commission and the Member States, point out undesirable developments, and regard the **Social Dialogue** – already mentioned at the beginning and comprehensively understood – as an indispensable building block for this.

While the Communication now propagates the **"circular economy"** as a goal, uses terms such as **"regenerative growth"** and speaks of **"sustainable products"**, AK would like to draw attention to the fact that these terms have significant imprecisions. The **term circular economy** sounds like a "promise of a better world". Looking at the different and contradictory proposals put forward, it becomes clear how vague this term is and how easily it can be used for particular interests. The **question of which products should be addressed with which measures on the basis of which targets and at which stage of their life cycle – production, consumption, waste – is still far from answered**.

There has long been no guarantee that management of substances "in a cycle" **brings about a real, significant and effective lessening of the environmental impact of certain products and their use** throughout the whole value chain (from the cradle to the grave). The aim must be a significant reduction in environmental pollution. **To this end, it is necessary to keep an eye on these environmental burdens in their entirety in order to be able to reliably derive the relevant fields of action and instruments for the coming years**. A stakeholder consultation using the "menu of possibilities" – as past Commission consultations have done and as "resonates" with this Communication – cannot do this; it only indicates the preferences and concerns of each stakeholder. From AK's point of view, a central task for all future projects and decisions must be to **provide a better basis for decisions on the environmental impacts associated with consumption and production in Europe, so that the right course can be set on the basis of facts**.

The approach of the Swiss Federal Office for the Environment (BAFU) is exemplary in this context – and also in comparison with efforts at European level. In order to have a **better basis for decision-making for its recommendations on priorities to policy-makers**, in 2011 it calculated for the first time the **total environmental impact of consumption and production in Switzerland**.²¹

It was important to include the entire life cycle of the products in the analysis because many goods are imported into Switzerland and thus an analysis of the environmental impacts occurring only within Switzerland is not sufficient. In order to combine these into a total burden, they were quantified using the **ecological scarcity method**²² as so-called environmental impact points (EIP). **Methodologically, this goes far beyond the classic approach of defining environmental indicators**. EIP assess different emissions to soil, water and air as well as the consumption of natural resources. Greenhouse gases are considered as well as water pollution and land use.

The most striking result from the study is that imports account for about 60% of Switzerland's total environmental impact. This illustrates Switzerland's dependence on natural resources and production processes abroad and also shows that Switzerland shares responsibility for the global state of the environment. **The most ecologically relevant consumption areas are food and housing with 28% each and mobility with 12%.** It is not only in total that the **large proportion of environmental pollution occurring abroad** is striking: In most areas of consumption, this is significantly greater than the proportion of environmental pollution in Switzerland. Only the mobility sector causes slightly more environmental pollution in Switzerland than abroad. The **analysis of environmental pollution in Switzerland by the various economic sectors (excluding exports) shows that agriculture (30%), energy, waste management, hotels and restaurants and transport are the most important.**

In 2014, BAFU used the same method to study the **development of Swiss environmental pollution between 1996 and 2011²³**. The most significant result is that the environmental impact at home has decreased significantly, but has been largely offset by **increasing environmental impact abroad**. The share of emissions caused abroad has risen from around 56% in 1996 to around 73% in 2011. BAFU recommends that, in order to achieve a level that is compatible with nature, the total burden should be halved.

In fact, the production sector of the European economy is particularly challenged in this context. It is therefore also to be **welcomed that the Commission explicitly characterises the Action Plan on the circular economy as an "indispensable part of the new EU industrial strategy"**.

The Communication also refers to a study on behalf of the Commission, according to which this transition (in the more positive scenario calculation) would create a little additional GDP growth until 2030 and 0.7 million additional jobs until then. However, with a total of around 230 million jobs in the EU, this result is only just in positive territory²⁴, which is practically meaningless. It should be noted that the scenario calculation assumes a decreasing share of imports (which is understandable) but does not see any changes in the export share. This is unlikely to be realistic if other economic regions also take initiatives in the direction of the circular economy, which is likely and would be welcome. Moreover – and this is a similar assessment by AK – this estimated net effect hides the massive inevitable changes that lie behind it, because products are to be used for longer (negative

effect on demand) and material resources are to be re-used (value chains change). The resulting changes will affect both Member States and individual sectors in completely different ways (positive or negative) or to different degrees. For example, substantial declines in employment in the construction industry are offset by an unsurprising expansion in the waste and recycling industry.

Even these structural effects from the study, which are only briefly and roughly outlined here, **show one of the main tasks: A positive overall balance of the structural change triggered by a circular economy can only be achieved if the qualified workforce is available for the growing sectors in order to be able to take advantage of all growth opportunities. At the same time, comparable good jobs are available in other sectors for workers from shrinking sectors.**

In the view of AK, there is an urgent need to **monitor developments regularly over the period of structural transition, to analyse them with studies, and to implement appropriate measures if negative developments are identified**. This must address a wide range of issues – changes in trade flows, industrial dynamics, skills needs, employment effects, etc. Therefore, AK also supports the establishment of a sound monitoring framework as addressed in the Action Plan. This should look beyond the economic effects to the impact on the welfare of the people. From AK's point of view, **it is precisely these questions that should be dealt with in the Social Dialogue, which was mentioned at the beginning and which is comprehensively understood**. AK advocates systematic involvement of both sides of the social partnership throughout all sub-steps of the processes in order to determine facts, including the impact on welfare and employment, and to develop policy proposals.

From AK's point of view, the Communication speaks somewhat "naively" of the fact that companies could increase their profitability if they moved towards closed cycles. This may be the case at one time and then again not, but by no means across the board. Indeed, management would be negligent if, in the light of the current market economy logic, it did not make use of existing margins of productivity and profitability. **In any case, it is not foreseeable that the conversions to be demanded will be achieved via the market alone. Rather, it can be assumed that a large number of government initiatives, regulations and subsidies will also be necessary** to move companies in this direction and to build up the corresponding markets (e.g. secondary raw materials markets) for the new value chains. The current Action Plan fortunately takes up this approach.

However, particular care must also be taken to ensure that the new structures are designed as free as possible from unfair distortions of competition. It is not surprising that companies with a strong market position will also try to play out their special position in the newly created markets (as part of the measures in the circular economy). Therefore, the EU and Member States must pay **equal attention to these issues when creating new EPR schemes**, for both environmental and economic reasons. In the worst case, they would both weaken the ecological effects in the resource cycle (e.g. in recycling) and at the same time lead to excessive costs for industry, thus weakening it in international competition. Rich illustrative material about the dangers and distortions that threatened to arise was already available from the very beginning of the implementation of the EU Packaging Directive – especially through the so-called Green Dot System.²⁵ **The need to prevent self-dealing in the context of packaging collection systems**, as mentioned above, is only one facet of the problem among many. The importance of cartel authorities taking consistent action against such cartel-like shareholder structures has been demonstrated by the example of ARA's sister system, the "Duales System Deutschland" (DSD). There, the Bundeskartellamt took action against the cartel-like shareholder structure (similar to ARA) in DSD with a prohibition order from 2003 onwards. These players had to leave DSD, which also broke the DSD monopoly in German household packaging collection. Since then, the costs of the (German) Packaging Ordinance for consumers have almost halved from around 2 billion euros/year to less than 1 billion euros/year.²⁶ If, for example, the cost reductions of the dual systems in Germany from the opening up of competition in 2003 to 2011 are applied to Austria, packaging collection in the household sector in Austria is likely to cost not 140 million euros but only around 90 million euros. Potential savings of up to 50 million euros are a considerable and by no means negligible amount.

On Chapter 2. Sustainable Product Policy Framework

In order to be able to implement a circular economy, the core of this Communication is a (new) framework for a sustainable product policy. The aim is to develop measures that ensure the path towards climate-neutral, resource-efficient and cycle-oriented products. In addition to regulations – i.e. statutory provisions – voluntary agreements and incentives are also addressed as possible measures. It must be ensured that, in the case of voluntary agreements, appropriate minimum implementation requirements and adequate monitoring measures are defined in advance. Therefore, particular attention should be paid to the envisaged joint (Commission plus Member States) controls and market surveillance measures to enforce existing sustainability requirements. Incentives in the sense of subsidies etc. are to be provided after possible transition phases exclusively where there is an over-fulfilment of legal regulations. Close coordination of the measures with other Commission policies is essential for successful implementation; important points have already been identified in the Action Plan and would need to be clarified and implemented in the future. Examples include standardisation, research/technology/innovation - Horizon Europe, skills, investment/ERDF, taxation, health and safety at work, but also initiatives at global level - for example through implementation in trade agreements and natural resources agreements.

Given the complexity of the project, AK also considers it appropriate to start with individual, particularly relevant product groups or value chains (see Chapter 3) and then to gradually expand to other areas.

One important point is certainly the **strengthening of the position of consumers and public purchasers**. To this end, the Commission would like to examine the further strengthening of consumer protection against greenwashing and premature obsolescence and to establish minimum requirements for sustainability labels/logos and for information tools. This project is welcomed. AK also proposes to include such provisions in the criteria (black list) of the **Directive on Unfair Commercial Practices (Directive 2005/29/EC)**, to ensure that misleading commercial practices are considered unfair in any case if environmental claims or claims about the life cycle of products are advertised which cannot be substantiated or if sustainability seals/logos are used to deceive. Similarly, it should be considered misleading to withhold essential information relating to life cycle and the availability of repair services, spare parts, and repair instructions. These proposed rules would ensure that misleading claims could also be adequately sanctioned.

On Chapter 2.1 Designing sustainable products and On Chapter 2.2 Empowering consumers and public buyers

One of the key objectives of the Communication is to ensure a sustainable product policy. Products must be designed in such a way that they have a **long service life and are easy to repair**. These are the most important criteria for creating the conditions on the product side for a long service life by consumers. On the other hand, not only the life cycle but also the actual service life of products is an essential element in the debate on sustainable product policy, which is often neglected. The service life is determined by the consumers, though it is not solely their responsibility, but rather is also influenced by the corresponding framework conditions and infrastructure (e.g. offering new products, technological innovations, advertising, social pressure). This requires a **comprehensive strategy that addresses several levels of actors and action**. The necessary measures are to be seen as an interplay of mutually influencing factors.

Top priority is given to regulatory requirements of the political sector, which lay down corresponding (minimum) criteria for products; these are indispensable and in any case preferable to voluntary measures. Those addressed in regulatory policy measures are primarily companies (in particular manufacturers in product design, dealers in the service, repair and maintenance sector), which are responsible for ensuring the conditions for durability and reparability. Consumers must be further strengthened by pushing for the enforcement of their rights or by mandatory product information.

An effective steering instrument, as also stated in the Communication, is the **Ecodesign Directive**. There have been positive steps in this direction in recent years. For example, the most recent regulations (October 2019, including household washing machines and dishwashers) have already taken more progressive steps – such as a minimum period of availability for spare parts – and these are welcomed. However, in order to establish the Ecodesign Directive as a pioneering instrument in the field of sustainable product policy, **the measure still requires immense further development and expansion**. This concerns in particular:

- **Making better use of the existing opportunities**
 - **Improved durability**: The Ecodesign Directive should therefore establish a **minimum durability** of products for the individual product groups, giving consumers certainty about their life cycles.
 - The **availability of spare parts** as well as the costs involved are an important aspect in order to increase the service life or life cycle of equipment and reduce replacement purchases.

At the same time, the price of the spare parts must be attractive and in proportion to the product.

- In the area of **repair**, measures should be taken to enable consumers to repair simple problem cases on their own (e.g. appliances should be opened with conventional tools (ban on special tools), warranty rights should be retained even when the appliance is opened, and repair instructions for the most common product faults must be included in the operating instructions). On the other hand, independent repairers must have full access to design and troubleshooting, even for more complex problems. Here, special attention should be paid to software; the manufacturer's commitment to non-proprietary programs would be an essential prerequisite.
- **Integration of further product groups into the directive (also non-electronic)**: Consumers have a **right to repair**; this concerns **all consumer goods**. It is therefore necessary to extend the Ecodesign Directive to other products, including non-electronic products such as furniture, toys, etc., in order to ensure this right or to take other regulatory measures to ensure it.
- It often takes several years to **implement a regulation**. Given the rapid pace of technological change and the changing product range, this is far too long and should be drastically reduced.
- **Ensure** compliance with the regulations by massively expanding market surveillance: **Appropriate control mechanisms are also needed to ensure effective application of the Ecodesign Directive and to prevent circumvention of the Regulations**. Market surveillance in the area of implementation of the Ecodesign Directive is extremely weak. In Austria, for example, according to the latest available report from 2013, 53 and 66 inspections were carried out in 2011 and 2012 respectively, but not a single laboratory test or physical inspection was carried out.²⁷ The European Parliament suspects that 10-25% of all products covered by the Directive do not comply with its requirements. There is therefore a need for a strong expansion of effective market surveillance instruments. There is a need for concrete guidelines on how many products (depending on turnover figures) need to be controlled in each Member State. To this end, the Member States should also be better networked with each other.
- However, in order to ensure **legal certainty for consumers** in this context, a coordination of

warranty laws is necessary. For example, **the minimum life cycle laid down in the Ecodesign Regulation must be linked to corresponding warranty rights.**

The EU Directive on the sale of goods (2019/771) also plays an important role in connection with life cycle and in particular for the **enforcement of consumer rights.** Currently, there is considerable room for manoeuvre for individual Member States, but further restrictions are needed which apply equally to all Member States. In the interests of consumer protection, the most favourable specifications for consumers should be selected:

- The warranty period should be generally extended and the reversal of the burden of proof should be increased to two years.
- Repairs must be carried out immediately; if the unit must be sent for repair, a replacement unit must be provided.
- In order to be able to check compliance with the directives (in particular, the Ecodesign and the Sale of Goods Directives), more comprehensive representative actions are needed.

However, in addition to the Ecodesign Directive and the warranty, further measures are needed to increase the life cycle of consumer products. One important measure would be a **mandatory lifetime rating on consumer goods**, similar to the energy efficiency label. Another possibility would be the mandatory publication of a **lifetime guarantee**: Manufacturers are free to choose the service life, but this is linked to an obligatory guarantee. These are seen as relevant measures to increase the overall service life. In any case, both measures must ensure that there is no opposite effect and the manufacturers use this measure to level the service life ever more strongly downwards.

Technological innovations like the introduction of the smartphone or the flat screen lead to a significant reduction in service life. In the future, the range of “smart” products that replace conventional electronic or mechanical products will increase. This development is viewed sceptically from an environmental and consumer policy perspective. It is to be feared that the use of smart technologies will rapidly reduce the life span of products, as software updates are only available to a limited extent. Furthermore, products suddenly require other (and more) resources, which further burdens the environment both through the extraction of resources and through their disposal. These developments are unlikely to be stopped, so **the Ecodesign Directive, for example, but also the Warranties Directive must be used to ensure that the lifetime of products does not suddenly decline as a**

result of these technologies (e.g. by ensuring software updates for a certain period of time). At the same time, from a social point of view, it must be ensured that alternatives to such smart products continue to exist, since not all consumers want these new products.

The strengthening of the **right to repair** is welcomed; the measures listed in the Ecodesign Directive should apply to all product groups. **Information on the reparability of a product** before purchase can influence consumers’ purchasing decisions and thus contribute to more environmentally-friendly behaviour. Last year, there was an initiative by the Commission to develop a repair label to reflect such information; we welcome the development of such a label.

Other measures include **financial incentives to make repairs more affordable and more attractive compared to a new purchase.** Various incentive systems are possible here (e.g. reduction of VAT on repairs or subsidies via vouchers or reimbursement via employee contributions), as is already being implemented by Sweden, for example. However, this requires an EU-wide regulation. In addition, however, **standardisation of certain product parts** which are similar to the respective product group (e.g. charging cables for electronic devices, but also components built into the devices, manufacturer-independent hardware and software (open source)), could also help to increase the availability of spare parts, as these would then be available independently of the manufacturer.

Voluntary measures such as innovative design and business models can only be **complementary** measures, but should be encouraged by policy. Marketing departments in companies are other important players who can push for longer service lives. However, attention must be paid to preventing **greenwashing** (see above). The Communication refers to **new business models** (“product as a service”, p. 5); these are welcome in principle, as high-quality and generally expensive products become affordable even for financially weak households. However, these will only be attractive if the respective products are cheaper in the long run than a qualitatively similar purchased product.

Other important measures would be an **increased service offer** from dealers and/or manufacturers in case of repairs and problems with existing products. If the dealer/manufacturer e.g. offers a replacement device for the duration of the repair or if the dealer/manufacturer takes over the organisation of the repair (e.g. contacting the repair centre, sending in the broken device etc.), then considerable hurdles (besides the costs) are reduced here, which often prevent a repair.

For consumers, the **market offer of individual products is currently unclear and inscrutable**. There are immense numbers of variations of similar products from the same manufacturer. This **leads to significant disadvantages for consumers, but also for the environment**: First, it is difficult to understand the advantages and disadvantages of the respective products in comparison to each other in light of the range of products on offer. Second, the large number of product variations makes the availability of spare parts more difficult (because separate parts must be available for each model). Third, independent test organisations also find the testing work more difficult, since the constant introduction of new models means that tests can only be carried out for a fraction of the range on offer and, furthermore, the tests lose their validity very quickly, since the tested product soon disappears from the market again. Fourth, the constant introduction of new products on the market massively shortens product sales cycles, which leads to the devaluation of old goods, making them harder to sell, which in turn can lead to massive environmental pollution (in the case of disposal). Fifth, consumers may be under the impression that there is a constant flow of major new product innovations, leading to a feeling of missing something and, in turn, to social pressure to buy new equipment. From the consumer's point of view, a reduced and more transparent product range (e.g. through uniform and comprehensible model and type designations) would be desirable, which is also characterised by longer product offering cycles. Longer product cycles can be achieved on the manufacturer's side, for example, through modular design in which only specific components are updated. But marketing also plays an important role in connection with product cycles. In particular, advertising that implies that early replacement of products would be desirable should be minimised. At present, no basis or possibility for legal implementation is (yet) seen for these presented measures. Where options exist in this respect, regulatory measures would be preferable.

At the same time, however, an **overall view of society** is needed: With the focus on the debates on the **"good life for all"**, it is a social question of what kind and to what extent consumption is desirable. It is important to negotiate discourses on consumption on a social, rather than individual, level. This requires action at a broader level, which will initiate reflection and discourse. Education, especially in schools (but also in adult education) and information would be possible approaches here. A discourse thrives on mutual exchange, which is why media can also play an important role here. This perspective is completely missing from the Commission paper so far. Therefore, **a strategy must also be developed at the societal level, in which the effects and alternatives of this consumer society are discussed**. This requires a critical (in the

sense of reflected) discussion of the topic of "the good life for all" in the education sector (e.g. through consumer education in schools), as well as information offensives and debates supported by the media, but also by the public sector.

Conclusion on sustainable product policy

To achieve the goals of sustainable product policy, it is not enough to simply put isolated measures in place; what is needed, is a comprehensive strategy, complementary measures that take effect at different levels. Only a comprehensive transformation of the current way of doing business – in this context, for example, giving priority to "repair" and "longer use" instead of product replacement purchases – will make this possible in terms of a sustainable product policy. **First and foremost, manufacturers and retailers must be instructed by legal requirements to take the first steps towards a durable product range**. First of all, it requires a change in the framework conditions and the range of products on offer so that consumers can make environmentally-conscious decisions with regard to purchase, but also in the actual use and disposal phases. In addition to this, however, a large number of accompanying measures are also needed to make long service lives attractive (financially and socially).

On Chapter 3. Key Product Value Chains

On Chapter 3.1. Electronics and ICT

Regulatory or standardisation measures are very welcome from a consumer policy perspective. The more universally designed the individual parts are, the more independent they are from specific suppliers, making it easier for consumers to obtain spare parts (this independence also ensures a longer period of availability of spare parts) or to retrofit their equipment. These measures should not be limited to chargers, but should include other components in ICT devices (e.g. batteries).

Take-back systems for mobile phones, tablets and chargers: This measure is seen ambivalently. On the one hand, many old (electronic) devices are hoarded unused in private households; every tenth respondent in Austria still has at least five mobile phones at home, according to a representative online survey by AK.²⁸ In this sense, measures that lead to the return of this unused equipment for re-use, treatment for re-use, or recycling, would be desirable. On the other hand, at the psychological level, take-back systems also ease the "bad conscience" of consumers and increase incentives to buy new appliances again. Attention should be paid to such rebound effects. Such systems are also

already used by companies (e.g. in the textile sector); for example, it is possible to return old clothes to the shop in bags, for which consumers receive a voucher to buy new clothes. These types of take-back systems are not effective and are classified as greenwashing measures. There are therefore concerns that traders could implement similar practices in the ICT sector.

On Chapter 3.2. Batteries and vehicles

The proposed **elements of the new regulatory framework for batteries** are all supported. However, the experience gained in Austria since 1992 with the so-called “fridge sticker” – which is very similar to a deposit²⁹- clearly speaks against the repeated **calls for the introduction of a deposit system for batteries**. The functionality of deposit systems in the beverage sector is based on the fact that it is sufficient to return the empty container in order to be able to demand payment of the deposit amount; no further proof that the deposit amount has been paid is required. In the case of the “fridge sticker”, consumers were forced to keep the “sticker” or later the “voucher” in paper form separately for years, which meant that more than 50% of these vouchers were lost and therefore the deposit amounts could no longer be redeemed. A **deposit system for durable goods** can only be a viable option if, from the consumer’s point of view, **it is sufficient** to return the spent battery or accumulator in order to be able to demand payment of the deposit. **As long as the operators of such deposit systems consider it necessary that consumers are additionally forced to keep receipts for the payment of the deposit amount and then present them when returning the goods, such deposit systems are categorically rejected**. In this way, the “fridge sticker” created a “deposit slip” amounting to a “double-digit million amount” which would have changed hands and become the property of the operators if it had not been transferred back to the Federal Government by means of a separate law³⁰ on measures (i.e. forcibly **against** the will of the private operators) before the expiry of the limitation period.

On Chapter 3.3. Packaging

Packaging was one of the first material flows to become subject to product-related waste regulations under the EU Packaging Directive 94/62/EC. The fact that this directive was not adopted on the basis of environmental but internal market competence has always made it difficult to pay more attention to waste prevention. In order to initiate a ban on plastic carrier bags, a separate directive (Directive (EU) 2015/720) with a separate derogation from Article 18 of Directive 94/62/EC was needed. It is disappointing (and is in serious contrast to the full-bodied announcements of the ambitions associated with this Communication) that the EC cannot

bring itself to make a **clear commitment to the multiple use of beverage packaging** in this Communication either, **with specific measures such as the crediting of multiple uses against the recycling and recovery rates to be achieved**, where this is known, has been sufficiently tested, and its environmental benefits have been demonstrated.

The need to prevent self-dealing within the framework of **packaging collection systems**, as mentioned earlier and in Chapter 1, is only referred to once again because of the importance of the matter from the consumer’s point of view.

On Chapter 3.4. Plastics

The importance of the project to establish **minimum recycling percentages for certain priority waste streams** (packaging, building materials, vehicles) cannot be overestimated in view of the associated potential to contribute cost-effectively to the reduction of greenhouse gas emissions.

The **project will also have to take into account the intensification of competition in the demand for recycling services**. Existing collection and recovery systems should be obliged to leave it up to their licensees to decide whether they wish to commission these services themselves (i.e. whether they have the option of claiming the right to deliver an equivalent³¹ quantity of collected waste at no additional cost) or whether they wish to use the services of the system for this purpose as well.

On Chapter 3.5. Textiles

The textile industry is a vivid example of the reckless use of ecological resources and human labour. To achieve greater sustainability in this area, a comprehensive strategy is needed, as stated in the Communication. First and foremost, the textile sector is characterised above all by the quantity of supply (often at the expense of quality) and low price; there is an oversupply of goods, and the range of goods in the shops is extended or exchanged every week. Clothing has become a disposable product. According to a survey by Greenpeace from 2015, every adult German owns about 95 items of clothing (excluding underwear and socks). Tops and trousers and especially shoes are only used for a short time. 92% of the respondents cite wear and tear of clothing as a reason for disposing of them, two thirds no longer like the clothing.³² A general change is needed here, both in terms of supply and in society. Here too, the framework conditions must first be changed. A constantly changing assortment of goods causes consumers to feel that they are no longer fashionably dressed enough and leads to new purchases. This requires a rethink in the

textile industry, especially among cheap mass suppliers. According to a survey by Greenpeace, quality is also a major reason for disposal. In order to enable the re-use and recycling of textiles, the quality of the clothing must be improved. In social terms, educational measures similar to sustainable product policy are needed to raise awareness and increase competence (see Chapter 2.).

On Chapter 3.7 Food, water and nutrients

AK welcomes the coherent approach of the Circular Economy Package, which aims to create **synergies with the EU's industrial policy, biodiversity strategy, "from farm to fork" strategy and the future forestry strategy.** Furthermore, AK welcomes **initiatives and subsidies to reduce soil sealing.**

The **aim should also be to protect the environment from pollution** through the coherence of the circular economy with other EU policies. Investigations show that residues from medicines, antibiotics, hormonally-active substances or even microplastics are spread into the environment via sewage sludge on agricultural land and that these micro substances are distributed in the environment (soil, water). Even if a large portion of the microplastics is removed in the course of wastewater treatment, the resulting sewage sludge represents a considerable path for microplastics (as well as other micro substances) into the soil³³. There are estimates that between 63,000 and 430,000 tons of microplastics are introduced into agricultural land in Europe every year (Nizetto et al 2016 in Umweltbundesamt, 2020). To protect soil and water resources, AK proposes a **European ban on the spreading of sewage sludge on agricultural land.**

It is evident that the **issue of the bio-economy** should be taken into account in a European Circular Economy Package. **All efforts to reduce CO₂ emissions into the atmosphere are necessary to achieve the European climate targets.** However, the bio-economy should not only be dealt with in this section. **The AK recommends that the bio-economy should also be addressed in particular in Section 3.8 Waste,** as there is also potential for the bio-economy in waste management. **Biomass is basically a limited resource** and there is a conflict of aims between material utilisation and energy utilisation. Forcing the use of energy can also have negative ecological consequences for the environment, which is why the AK takes a differentiated view of bio-economic measures for the agricultural and forestry sectors. Freely available agricultural land and wood for material use is rather limited.

A bio-based transition is strongly limited by the availability of land, and the expectations of the agricultural sector with regard to increased biomass

production are often somewhat overestimated.

For example, there are calculations in Austria from the material use of fossil raw materials to bio-based substitution. A study was carried out to determine how much land would be required for completely bio-based industry in Austria. Scenarios have been calculated where all production in Austria is substituted by a bio-based system with fossil raw materials, pre-products, and finished products. In each case, the land, fertiliser and water requirements were estimated and compared for the appropriate framework. A bio-based substitution at the raw materials level will result in around 3.8 million more hectares of arable land (agricultural and forestry land in total) being required for agricultural and forestry operations. Furthermore, around 650,000 tonnes of fertiliser per capita will be needed and around 148 million cubic metres of water. Although organic farming could reduce the need for fertilizers and water, it would also increase the amount of land required by 50%³⁴.

As the substitution of fossil raw materials increases the pressure on nature and the environment due to an increasing demand for biogenic raw materials, the question of limited resources and land and their eco-friendly use must be seen as a key parameter from the outset. **Pressure on biomass as a resource must not lead to the intensification of agriculture and forestry with an accompanying negative impact on biodiversity.** According to the report of the World Biodiversity Council, millions of species worldwide are threatened with extinction in the coming years, with the intensification of agriculture, among other things, contributing to this.

In the bio-economy, **social aspects** must also be given **equal** consideration. These include in particular questions of distributive justice. The affordability of products and services must be guaranteed. In addition, working conditions and the quality of jobs must be taken into account.

On Chapter 4. Less Waste, More Value

AK basically supports the line expressed in this section. However, not just the implementation of the adopted requirements for EPR schemes should be improved. **Effective precautions** should finally be taken **to prevent self-dealing in EPR schemes,** as already called for in the beginning. If waste reduction targets are announced for specific waste streams, this should in any case include **targets to promote reusable packaging.**

It is difficult to understand what expectations are placed on the **harmonisation of separate collections** in the Member States. This is a task that can be

confidently left to the Member States. Instead, AK in this context would like to point out the central importance of the prosperous development of national waste management systems³⁵

- demanding technical specifications for the various recycling, recovery and disposal paths,
- a consistently implemented ambitious landfill ban (for non-pre-treated waste) and
- a landfill tax (with steering effects).

On Chapter 5. Making Circularity Work for People, Regions and Cities

This chapter, which is obviously dedicated to the aspect of participation in the project under development, gives a very **ambiguous and, from the point of view of consumers and employees, unsatisfactory picture**. The ongoing involvement of local and regional authorities is of course important. Whether the presented formats are suitable cannot be judged. The **participation of consumer associations** in all the product-related initiatives is not even mentioned, although consumer information on the various circular economy initiatives independent of manufacturers' interests is essential.

References to the possible effects on jobs and to the promotion of the social economy cannot replace the **involvement of employee representatives and the necessary social dialogue**, which is no longer addressed at all in this Communication. Even the "European Circular Economy Stakeholder Platform" mentioned above cannot replace this social dialogue, which must take place at all levels.³⁶ For all this, we will only refer to the **critical remarks in the introductory chapter**. These omissions and imbalances have already affected the "First" Circular Economy Package and must be urgently remedied. How questionable the **prospective employment effects** are has already been discussed in Chapter 1.

As far as the **promotion of the social economy** is concerned, AK supports such initiatives. It is no longer appropriate for such activities to be financed in Austria exclusively by labour market funding. **It should become a matter of course that local authorities provide financial support here as part of their waste prevention activities**. Similarly, **EPR schemes should be required to provide adequate support for such initiatives**. Usually, however, they see little reason to do so, because the manufacturers and distributors represented in these systems tend to see socio-economic enterprises as unwelcome competitors – sometimes even as

unwelcome watchdog organisations – that one does not want to support at all.

On Chapter 6. Crosscutting Measures

On Chapter 6.2. Getting the Economics right

According to the Communication, sustainable products, services and business models should become the norm. In AK's view, **this requires binding rules for corporate due diligence with regard to human rights and the environment along supply chains**. Experience to date shows that voluntary measures by companies and non-binding rules are not sufficient to prevent human rights violations and environmental damage along the supply chain (this includes supplier companies in the Global South). According to a recent study published by the Commission (study on due diligence requirements through the supply chain)³⁷, only one in three companies in the EU carries out due diligence measures with regard to human rights and the environment. AK therefore calls for binding EU legislation. The announcement by Commissioner Reynders³⁸ that the Commission will propose binding EU legislation by 2021 at the latest is warmly welcomed.

In order to implement the objectives of the Action Plan for the Circular Economy (see Chapter 6.), the Commission intends to promote the integration of sustainability criteria into corporate strategies by improving the corporate governance framework. According to Commissioner Reynders, this is about corporate responsibility for damage to people and the environment. AK welcomes this approach. However, AK points out that the **creation of a binding EU regulation on corporate due diligence obligations** must go far beyond the corporate governance context.

On Chapter 7. Leading Efforts at Global Level

In order to support the "global transition to a circular economy", the Communication states that it should be ensured that "Free Trade Agreements reflect the enhanced objectives of the circular economy". It is generally to be welcomed that the EC recognises EU trade and investment policy as an essential policy area, whose coherence with the goals of the circular economy must be examined. Ultimately, however, the concrete (re)orientation of EU trade and investment policy will determine the extent to which the EU will be able to meet this objective.

It is an undisputed fact that international trade, with

its global value chains and long transport routes, contributes to a further increase in greenhouse gas emissions.³⁹ More and more emissions are linked to international trade. Studies show that about one third of the European GHG footprint is generated outside the EU. The emissions can primarily be attributed to imports from raw materials, agricultural products, and industrial products. At the same time, about 17% of the emissions produced in the EU are exported, mainly from industrial production.⁴⁰

Although European industry will continue to depend on imports of raw materials, at least in the medium term, it is this sector in particular that is still subject to serious violations of workers' rights and environmental pollution. Moreover, the mining of raw materials is linked to a systematic overuse of natural resources.⁴¹ Similar problems arise in the international transport sector, essential to maintaining global value chains. Emissions from international freight transport are projected to almost quadruple by 2050 if no changes are made.⁴² At the same time, labour standards are frequently undermined, especially in this industry.⁴³

By setting specific priorities European trade and investment policy contributes significantly to the conditions of global trade, both at multilateral level and in bilateral trade agreements. European trade and investment policy must therefore be reoriented and focused on people and the environment rather than the profit interests of multinational corporations. This is the only way to ensure that trade rules do not conflict with the objectives of the circular economy or even undermine the ambitious intentions of the European Green Deal. As already explained in more detail in the AK position on the European Green Deal⁴⁴, AK reiterates once again that a trade and investment policy that takes workers and the climate crisis seriously must meet the following criteria:

- The chapters on sustainability must be supplemented with an **enforcement mechanism** that ultimately makes it possible to impose sanctions in the event of violations of the established, internationally recognised labour and environmental standards. In addition to international social standards⁴⁵, it must be ensured that multilateral environmental agreements are also ratified, implemented and applied. At present, the Trade and Sustainable Development Chapters are toothless since they are explicitly excluded from the general dispute settlement procedure of trade agreements. Trading partners have nothing to fear if they fail to meet their commitments to ratify, implement and apply labour and environmental standards. This currently also applies to references to the Paris Agreement. Developing countries that

have historically contributed little to the climate crisis should receive concrete support measures with regard to labour and environmental standards – for example through technology transfer and capacity building.

- The ratification and implementation of the commitments of the **Paris Agreement** as well as non-withdrawal (non-rescission) must be anchored as an **“essential element” clause** in all trade agreements. It should be borne in mind that all existing EU trade agreements do not yet fulfil this requirement.
- Supplementing the EU Emissions Trading Scheme (EU ETS) with an EU-wide minimum price and a **Border Carbon Adjustment (BCA)** to prevent undesired effects of trading on climate protection efforts, especially carbon leakage.
- **A completed impact assessment and impact analysis**, which examines not only the economic and social effects but also the environmental and climate damage of a trade agreement and draws appropriate consequences for the trade agreement, must be a prerequisite for the commencement of trade negotiations. For example, commitments in the context of regulatory cooperation, which make climate protection ambitions more difficult or contradict them, must be removed from the agreements.
- WTO rules must be reviewed to make them compatible with the priority of combating the climate crisis and effectively combating environmental and social dumping.
- **End Investor State Dispute Settlement (ISDS) without replacement.** The rapid conversion of energy systems from fossil to renewable energy sources requires with a fundamental economic structural change. To facilitate this, protection standards and special rights of action for investors against states that adopt climate protection measures must be made a thing of the past as quickly as possible. In this context, AK refers to the controversial Energy Charter Treaty (ECT), on the basis of which investors can sue states for climate protection measures. As part of the ongoing process to modernise ECT, the EU must work to ensure that investment protection standards and ISDS are removed without replacement.

Footnotes

- 01** Public Consultation on the Circular Economy – http://ec.europa.eu/environment/consultations/closing_the_loop_en.htm
- 02** AK EUROPA position paper “Towards a Circular Economy”, October 2015 – <https://www.akeuropa.eu/towards-circular-economy>
- 03** AK EUROPA position paper “Communication of the European Commission ‘Zero Waste Programme for Europe’ and Proposal for a Directive COM(2014)397 final”, 7 October 2014 – <https://www.akeuropa.eu/communication-european-commission-zero-waste-programme-europe-and-proposal-directive-com2014397>
- 04** EU study on Guidance for Extended Producer Responsibility: Answers by the Austrian Federal Chamber of Labour (AK) within the scope of the Stakeholder written consultation: questionnaire on possible golden principles and guidance, December 2013 – <https://www.akeuropa.eu/eu-study-guidance-extended-producer-responsibility-answers-austrian-federal-chamber-labour-ak>
- 05** Closing the loop: Commission adopts ambitious new Circular Economy Package to boost competitiveness, create jobs and generate sustainable growth – https://ec.europa.eu/commission/presscorner/detail/en/IP_15_6203
- 06** Communication from the Commission of 2.12.2015 COM(2015) 614 final: Closing the loop – An EU action plan for the Circular Economy – see also the conclusions of the Council of June 2016 – <https://www.consilium.europa.eu/en/meetings/env/2016/06/20/> or <http://www.consilium.europa.eu/en/press/press-releases/2016/06/20/envi-conclusions-circular-economy/>
- 07** AK position paper on the EU Circular Economy Package, January 2016 – <https://www.arbeiterkammer.at/interessenvertretung/umweltundverkehr/umwelt/stellungnahmen/EU-Kreislaufwirtschaftspaket.html>
- 08** AK EUROPA position paper “Directive on the reduction of the impact of certain plastic products on the environment” of November 2018 – <https://www.akeuropa.eu/directive-reduction-impact-certain-plastic-products-environment>
- 09** AK EUROPA position paper “The European Green Deal”, <https://www.akeuropa.eu/communication-european-green-deal-0>
- 10** The European Circular Economy Stakeholder Platform is a joint initiative of the European Commission and the Economic and Social Committee – <https://circulareconomy.europa.eu/platform/>
- 11** Cf. already the criticism of the predecessor committee “High Level European Platform for Resource Efficiency” – AK EUROPA position paper “Zero Waste Programme for Europe” S 3 – <https://www.akeuropa.eu/communication-european-commission-zero-waste-programme-europe-and-proposal-directive-com2014397>. The “colourful composition” of the European Circular Economy Stakeholder Platform is shown in the fact that Mr Scharff is represented in the Coordination Group as a representative of the Circular Economy Coalition for Europe (CE-C4Europe), which calls itself a think tank: Mr Scharff is one of the board members of the private Austrian packaging collection system ARA, which was founded in 1992; in 2016 the EC imposed a fine of 6 million euros on ARA for abuse of its dominant position (Case AT 39759 – Market foreclosure by ARA, notified under document number C(2016) 5586) – see more details below and what conclusions can be drawn from them
- 12** “(6) Member States shall ensure a regular dialogue between relevant stakeholders involved in the implementation of extended producer responsibility schemes, including producers and distributors, private or public waste operators, local authorities, civil society organisations and, where applicable, social economy actors, re-use and repair networks and preparing for re-use operators.”
- 13** A proposal for a minimum standard for EPR schemes stated the following: “When schemes for collective implementation of extended producer responsibility are established, Member States shall ensure that current or future contractors of these schemes cannot be direct or indirect members or owners of these schemes.” Collection systems like Fost Plus in Belgium do not act as customers of collection and re-use services (in contrast to ARA in Austria or DSD in Germany). This means that the municipalities continue to commission the collection and sorting of waste, but receive financial support from the producers.

- 14** For example, large retailers in the food sector, producers that are also owners of sorting, recycling or re-use companies, or paper producers or producers of glass or metal packaging; a negative example in Austria's view is the ARA packaging collection system: the European Commission has investigated it for abusing its dominant market position – see AK position paper of October 2015, loc. cit. p. 9, on this very point.
- 15** EC press release of 18.07.2013: https://ec.europa.eu/commission/presscorner/detail/en/IP_13_711; see in this connection the EC decision against ARA of 16.10.2003, OJ L 75/59 of 12.03.2004; see the judgment of the Court of 22.03.2011 – Altstoff Recycling Austria/Commission (Case T-419/03) OJ C 139/15 of 7.05.2011
- 16** Summary of Commission Decision of 20 September 2016 relating to a proceeding under Article 102 of the Treaty on the Functioning of the European Union and Article 54 of the EEA Agreement (Case AT.39759 – ARA Foreclosure) (notified under document C(2016) 5586); For the course of the proceedings, see http://ec.europa.eu/competition/elojade/isef/index.cfm?fuseaction=dsp_result&policy_area_id=1,2,3&case_number=39759
- 17** Regarding the effects of such self-dealing on the environment, consumers and competition, see the contributions in BAK's reports on competitiveness 2002/ Part 1 p. 67, 2008/p. 134, 2010/p. 136, 2012/p. 63, 2013/p. 70 and 2014/p. 82; Hochreiter, ARA-System – Marktöffnung in Sicht? Wirtschaftspolitik-Standpunkte 03/2013, 9 and more recently ARA-System – Marktöffnung in statu nascendi, Wirtschaftspolitik-Standpunkte 02/2015, 19 https://emedien.arbeiterkammer.at/viewer/image/AC12370441_2015_2/19/LOG_0015/
- 18** ARA's market shares for each packaging material have scarcely dropped at all and still lie between 70% and 80%; see <http://www.vks-gmbh.at/metamenu/wisenswertes/marktanteile.html> or <https://secure.umweltbundesamt.at/eVerpackung/veroeffentlichung.xhtml?jsession-id=C858D2DD480C24E34CAD31560CA0FE7F.everpackungnode01>
- 19** For all this, see the extensive explanations, also on the changeable history in the AK position paper "Directive on the reduction of the impact of certain plastic products on the environment" from November 2018 loc. cit. from p. 5 ff with further references.
- 20** See also AK position paper titled "Towards a Circular Economy", October 2015 loc. cit. from p. 5 f, p. 8 ff
- 21** <https://www.bafu.admin.ch/bafu/en/home/documentation/publications.html>
- 22** <http://esu-services.ch/projects/ubp06/>
- 23** <https://www.admin.ch/gov/de/start/dokumentation/medienmitteilungen.msg-id-53860.html>
- 24** And this is lower than the figures given in the Communication on the First Circular Economy Package; even then AK did not consider the state of research to be sufficient to estimate the employment and growth effects of the circular economy sector in detail – <https://www.akeuropa.eu/towards-circular-economy>
- 25** Cf. DG Competition Paper Concerning Issues of Competition in Waste Management Systems 2004 – https://ec.europa.eu/competition/sectors/energy/waste_management.pdf; P. Kienapfel and G. Miersch (2006), Competition issues in waste management systems, Competition Policy Newsletter No 1 pp 52-56.
- 26** Press release: Bundeskartellamt submits sector inquiry into dual systems – Opening up of the market to competition reduces the costs of packaging disposal by one billion euros/year; Bundeskartellamt, Sector inquiry into dual systems – Interim assessment of the opening up of the market to competition, report pursuant to Section 32e of the ARC – December 2012 at https://www.bundeskartellamt.de/EN/AboutUs/Publications/Sectorinquiries/sectorinquiries_node.html
- 27** Federal Ministry of Science, Research and Economy. Market surveillance 2010-2013.

- 28** Wieser, Harald, Nina Tröger and Renate Hübner. 2015. The service life and obsolescence of used goods in the age of acceleration: an empirical study in Austrian households. Vienna Chamber of Labour (AK Wien). https://www.arbeiterkammer.at/infopool/wien/Bericht_Produktnutzungsdauer.pdf
- 29** Cf. more details under https://www.arbeiterkammer.at/interessenvertretung/umweltundverkehr/umwelt/abfall/Elektroaltgeraete_und_Altbatterien_entsorgen.html or <https://wien.arbeiterkammer.at/interessenvertretung/umweltundverkehr/umwelt/abfall/Kuehlschrankpickerl.html>
- 30** See below <https://www.arbeiterkammer.at/interessenvertretung/umweltundverkehr/umwelt/stellungnahmen/Kuehlschrankpickerlgesetz.html> and https://www.parlament.gv.at/PAKT/VHG/XXIV/SNME/SNME_05288/index.shtml (AK Statement on inter alia the Federal Act on the Return of Consumer Contributions for the Disposal of Refrigeration Equipment of 2.12.2010) and https://www.parlament.gv.at/PAKT/PR/JAHR_2010/PK0993/#XXIV_I_00981 (reported in parliamentary correspondence) or Federal Law Gazette 2010 I 111 with Article 50 – Federal Act on the Return of Consumer Contributions for the Disposal of Refrigeration Equipment <https://www.ris.bka.gv.at/eli/bgbl/I/2010/111>
- 31** This refers to the share of the collected quantities recorded by the system, which corresponds to the licensee's share of the total licensed quantity of the system.
- 32** Greenpeace. 2015. Disposable clothing. <https://www.greenpeace.de/presse/publikationen/wegwerfware-kleidung>
- 33** Cf Federal Environment Agency, 2020: Mikroplastik in der Umwelt (Microplastics in the environment) <https://www.umweltbundesamt.at/fileadmin/site/publikationen/REP0727.pdf>
- 34** https://nachhaltigwirtschaften.at/resources/nw_pdf/schriftenreihe/201803_stoffliche-nutzung-fossile-rohstoffe.pdf
- 35** AK position paper "Towards a Circular Economy", October 2015 loc. cit. from p. 5 ff
- 36** The "Battery Alliance" mentioned in Chapter 3.2. and the "Alliance for the Plastic Circular Economy" mentioned in Chapter 3.4. are probably entirely attributable to the economic side – https://ec.europa.eu/germany/news/20190430-batterieallianz_de or <https://cor.europa.eu/en/events/Pages/Circular-Plastics-Alliance---Packaging-Working-Group.aspx>
- 37** <https://op.europa.eu/s/n4Cd>
- 38** <https://responsiblebusinessconduct.eu/wp/2020/04/30/speech-by-commissioner-reynders-in-rbc-webinar-on-due-diligence/>
- 39** Dominique Bureau, Lionel Fontagné, Catheline Schubert (2017). Trade and Climate: Towards Reconciliation. Notes du conseil d'analyse économique, Conseil d'analyse économique, 37.
- 40** Richard Wood, Karsten Neuhoff, Dan Moran, Moana Simas, Michael Grubb & Konstantin Stadler (2019): The structure, drivers and policy implications of the European carbonfootprint, Climate Policy, DOI: 10.1080/14693062.2019.1639489
- 41** <https://www.ejatlus.org/>
- 42** International Transport Forum (2015): The Carbon Footprint of Global Trade. Tackling Emissions from International Freight Transport. <https://www.itf-oecd.org/sites/default/files/docs/cop-pdf-06.pdf>
- 43** <https://awblog.at/ausbeutung-und-umweltverschmutzung-auf-hoher-see/>
- 44** AK EUROPA position paper "The European Green Deal" – <https://www.akeuropa.eu/de/mitteilung-zum-europaeischen-gruenen-deal-0>
- 45** See AK statement on the non-paper on the sustainability chapters – <https://www.akeuropa.eu/de/non-paper-commission-services-trade-and-sustainable-development-tds-chapters-eu-free-trade> of November 2017



Contact us!

In Vienna:

Werner Hochreiter

T +43 (0) 1 501 651 2624

werner.hochreiter@akwien.at

Iris Strutzmann

T +43 (0) 1 501 651 2167

iris.strutzmann@akwien.at

Nina Tröger

T +43 (0) 1 501 651 2318

nina.tröger@akwien.at

Roland Lang

T +43 (0) 1 501 651 2518

roland.lang@akwien.at

Henrike Schaum

T +43 (0) 1 501 651 2774

henrike.schaum@akwien.at

Bundesarbeitskammer Österreich

Prinz-Eugen-Straße 20-22

1040 Vienna, Austria

T +43 (0) 1 501 65-0

www.arbeiterkammer.at

In Brussels:

Peter Hilpold

T +32 (0) 2 230 62 54

peter.hilpold@akeuropa.eu

AK EUROPA

Permanent Representation of Austria to the EU

Avenue de Cortenbergh 30

1040 Brussels, Belgium

T +32 (0) 2 230 62 54

www.akeuropa.eu

About us

The Austrian Federal Chamber of Labour (AK) is by law representing the interests of about 3.8 million employees and consumers in Austria. It acts for the interests of its members in fields of social-, educational-, economical-, and consumer issues both on the national and on the EU-level in Brussels. Furthermore the Austrian Federal Chamber of Labour is a part of the Austrian social partnership. The Austrian Federal Chamber of Labour is registered at the EU Transparency Register under the number 23869471911-54.

The main objectives of the 1991 established AK EUROPA Office in Brussels are the representation of AK vis-à-vis the European Institutions and interest groups, the monitoring of EU policies and to transfer relevant information from Brussels to Austria, as well as to lobby the in Austria developed expertise and positions of the Austrian Federal Chamber of Labour in Brussels.