Feedback on the textile part of the Waste Framework Directive

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We have read the 800 pages with background documents and the proposal itself to see whether it, based on our knowledge, proposes policy measures that can reduce the environmental burdens that are so pressing to address. This will, for clothing and other textiles, need to be one or more policy measures that do not strengthen fast fashion nor plastics/synthetics, which are closely linked, as a cheap and virtually endlessly available raw material is the enabler for this business model. Our proposals are based on this simple goal: Reduction of environmental burdens through simple and effective measures, and ensuring they are in line with other measures, such as the EU's plastic strategy for 2030.

This said, reading 800 pages and digesting the content (even though half of the text was about food), proved to be quite demanding work, so bear with us.

Faulty data underpinning the background documents

The data situation for textiles and the environment is critically poor and bad figures and outright false, planted information abound. We would recommend reading Walter Lutz's statement on LinkedIn [1]. Lutz is mainly concerned that several citations and references are problematic, something that we have also seen in the background document for ESPR. As they form the basis for the impact assessments and the final choices, we tend to agree with Lutz and his thorough follow-up of links and references. We certainly spot this in the data underpinning the bias against cotton, based on outdated and faulty studies that have been debunked, and even deemed illegal to use in consumer-facing green claims by the Norwegian Consumer Authority [2].

In Assessment Document 3, p. 32, we found the following claims, where we have underlined the incorrect information:

"It is estimated that the fashion industry is responsible for 10% of global carbon emissions – more than international flights and maritime shipping combined." [3]

"With respect to fibre composition, it is estimated that cotton is the most prevalent fibre type covering 37%, followed by polyester (32%), polyamide (8%) and wool (4%). Polypropylene, viscose and acrylic recorded minor values (each ~3%)" [1] .
«Cotton is considered especially problematic because it requires huge quantities of land, water, fertilisers and pesticides." [3]
The environmental impacts of organic cotton can be drastically reduced compared to conventional cotton, as it uses less water and pollutes less [3].

Proposal: When using numbers and data, go to the primary source and evaluate them. Remove all the false claims like those underlined above and ensure that the documents' bias against cotton is removed.

EPR is about waste

The cracks in the foundation for the revised WFD, are well addressed by Lutz, so we will instead concentrate on some other concerns that we have surrounding how the EPR is framed, and how the eco-modulation ties in with the ESPR and PEF logic, and also the focus on 'durability, repairability and recyclability' that underpins EU's Textile strategy and what will be included in the Digital Product Passport (DPP). These are also the pillars of the WFD for textiles, as these features are predictive of what one expects to become waste, as opposed to what gets used long, reused, prepared for reuse or recycled.

Underpinning the eco-modulation is predicting lifespan, or Duration of Service (DoS). This has been based on the research by Consumption Research Norway SIFO at Oslo Metropolitan University, which is cited in the 3rd of the four assessment papers, on page 138. The average length for DoS is 5,4 years, so this is what the EU predicts for all clothes and textiles (whether shoes and other leather goods are exempt, is a little unclear). As products that go on sale will somehow include the EPR fee (either by the consumer paying the fee or the company absorbing it in their costs), the logic goes that before the money can actually be used for waste treatment five years of non-EPR fee covered textiles to the tune of 25 million tons (5 million per year) will somehow have to be dealt with. This is because the fee will not be retroactive. But textiles are not used for 5.4 years, some become waste without having been used, whereas other products are used for decades. An average number of years gives no meaning whatsoever. Lifespan can be measured through different methods (wardrobe studies and waste audits, also called waste composition studies or picking analysis) but cannot be estimated through the product's strength. What determines the duration of use of an apparel or footwear product is the product's *worth for the consumer*. This again will influence the technical lifespan, as what one values one takes better care of. A weak silk dress can go from one generation to the next, while a strong polyester dress can be used once and then be discarded. The same goes for repairability; most clothing and textiles are repairable but are not repaired as their value is perceived as being low [4].

If we stick to the argument in the proposal for the directive that the fee should not be retroactive, this will be a good argument for using waste as the source of the fee (explained below) and not import/sales statistics. This will ensure that once products become waste, the producers are paying for them becoming waste, rather than waiting 5.4 years down the line before the money can actually be used in the system. Not only will the fee be leveraged when the product enters a waste stream but will also ensure equal treatment regardless of the sales

[1] Here the assessment document refers to a forthcoming JRC Technical report on Material Flow Analysis of textile, which is in itself problematic as it is not accessible to readers.

channel (internet sales, private import, etc.). If we use waste as the starting point to calculate the fee, the same surveys can also be used to modulate the fee and to ensure knowledge for good onward processing of the waste, a point which we will return to. Capturing ultra-fast fashion sold via the internet and under toll levels for import will be much harder to do with the 'to-market' model. As the non-EU ultra-fast-fashion brands that have no resale value at all, may also be brands that do not register to pay EPR fees voluntarily in the WFD system, there needs to be an effective way to capture these and make sure they pay their share.

Looking upstream, rather than downstream

The proposed methodology for eco-modulation looks at what is put on the market and assumes that after a given time this becomes waste. In other words, the methodology looks downstream and is based on assumptions, not data. If we instead turn our perspective around 180 degrees towards the source (production) and take as our point of departure the waste, we will have reliable data and not least have the opportunity to add waste reduction into the eco-modulation.

In the WFD the mandatory data collection is mentioned several times, mainly in connection with estimating what products are best suited for reuse, preparation for reuse and recycling. If this is being mandated by the EU, the data generated at this End-of-Life point can be used to provide reliable data on the DoS. This data can be used to eco-modulate fees, develop better information for consumers, for PEF apparel and footwear category rules, and to establish ecodesign rules that are effective in keeping garments in use for longer. At this point several things can be assessed: How long the DoS has in reality been (season/year of production must be mandated on product labels), if the product has been used at all (an intact price-tag is a tell-tale clue) combined with the reuse value for a second-hand market (the sorting facilities already have price-lists or list of brands they don't resell because they don't have value on the secondhanded marked) and to what degree the items are worn out – in which case they need to go either to preparation for reuse or recycling. And lastly, how recyclable they are, based on fibre composition, disruptors, etc. There will be brands that never end up in municipal waste (some of them those small micro-enterprises or smallest SMEs) that if collected, their products will command a very high resale price. This data can possibly be collected through machine learning/artificial intelligence/photo recognition, and of course, much of the data will at a later stage be included in the DPP. Much simpler and intuitive - and less administration.

Proposal: Take the waste hierarchy seriously and use waste audits for data acquisition and improvements both upstream and downstream and use this as a basis for the eco-modulation fee. Once the year products go to market or when they are produced is clearly marked on the products, DoS will be easy to assess and can be used to eco-modulate the fees.

Lack of data as a recurring issue

The focus on downstream solutions (recycling) and the clear lack of upstream focus, is perhaps understandable when the assessment documents several places point to the lack of reliable data on both the use-phase and End of Life phase, and therefore on DoS. This means that a real focus on waste prevention is lacking. In the 4th document, the following is stated on page 85: "There is currently no sound method of estimating textile waste (collected and discarded in mixed municipal waste)." <u>This is not true.</u> We have reliable methods both for examining waste (waste audits/waste composition studies) and clothes in use (wardrobe studies) that can say something about waste generation. The question is rather whether there is a will to carry out representative surveys. Work has begun to refine the methods [5], which can well be combined

in the work that must be done anyway to monitor the waste and ensure knowledge of downstream solutions as we see it already being done, e.g., in France [6].

Proposal: Use waste audits combined with wardrobe studies and other empirical methods instead of theoretical averages as a starting point for realistic DoS.

Fee based on ease of recyclability and weight

If the proposed regulation is to avoid strengthening fast fashion, it should not favour synthetic materials (plastics). As synthetic textiles are lighter than natural materials, there is a risk that synthetic fibres will be advantaged if the fee is based on weight (kilograms) and not the number of products. So far, it is also a problem that there is no methodology suitable for eco-modulation based on textiles' environmental impact, with the current PEF methodology potentially advantaging synthetic materials and lacking real data on the use face (DoS).

How the above basis for eco-modulation based on weight and other parameters is going to be aligned with the following from the third assessment document, page 141, is a little unclear: "(…) it is proposed that the fee modulation under EPR is strictly aligned with those ecodesign requirements and related performance measurement rules. ESPR ecodesign requirements are going to be minimum requirements to secure that the least performing textiles are not allowed on the market or information requirements that may be based on classes of performance, taking into account a variety of parameters relevant for the assessment of the sustainability of textiles, including at the end-of-life stage." Some guidance on how this will work, surfaces in the fourth document, where the fee will, among other things, be modulated on recyclability – where a t-shirt is described to be easy to recycle as opposed to products with "disruptors" (mentioned several places).

The average fee for the t-shirt is estimated at 12 cents, while it seems to be assumed that products with disruptors (e.g., zippers and buttons) or that are especially complex, will pay a higher fee. Also, weight is a parameter, affording a thin synthetic jacket a lesser fee than a heavy wool jacket. So, what the world doesn't need more of – thin synthetic t-shirts – will have an advantage in this eco-modulation model. If, in addition, the PEF methodology is added into the mix (as ESPR specifies the use of PEF for environmental footprinting), the result will be more fast fashion, more plastics and more microplastics [7]. We are aware that microplastics are mentioned in the assessment documents as a major problem; however, unless concrete tools that do not encourage cheap synthetic materials are implemented, fast fashion is not going out of fashion any time soon.

Proposal: Do not base the eco-modulation fee on weight, as this will benefit lighter, synthetic fibres and will, once again, not curb fast fashion. The fee should be based on DoS and the cost of reuse/recycling. Lowering or eliminating the fee should be based on resale or reuse value.

Exempting micro-sized companies or not

Who is going to be mandated to pay the fee, and how these will need to be registered in a producer registry in any EU country separately where their goods are sold seems unnecessarily complicated. In assessment document number 4, there is a lengthy discussion on whether micro-sized companies should be included or excluded (micro-sized being defined as having less than 10 employees). As both the time-consuming registration for many markets for a micro-sized business (or even a small-sized SME) selling perhaps one or two items in a country outside their main market, this seems very cumbersome. With online sales, this is bound to

happen (the need to register). However, one could question if these items will ever reach the waste fractions, a question we will come back to shortly. Or rather, when they do reach a waste fraction, the chances of the item gaining a high resale price, is fairly predictable. Furthermore, when the same document analyses how the administrative fees will disproportionally affect enterprises according to size, it states that "it is clear that in the case of micro-enterprises the impact as a percentage of turnover is far higher than for other sizes of enterprise – almost 0.6% of turnover compared to around 0.06% for the next largest category of 10-19 persons, 0.02% for 20-49 persons category, and a negligible impact for the larger sizes of enterprises" (page 66). Again, the proposal awards fast fashion, as these companies are the largest, also having staff who can handle this administrative burden as part of their daily routines.

Looking at the cut-off numbers, another concern arises. A company that produces in Europe, instead of in Asia, will have to employ more staff than companies who outsource all operations. In addition, if a company has a guarantee system in place, where they repair products free of charge, they will also have to employ more workers. This will be penalized in the way the system is currently set up, and only those micro-sized enterprises with less than 9 employees are exempt. The fact that they do repair, is in line with the waste hierarchy, but not then incentivized.

Proposal: Consider whether there are other ways of calculating which companies are excluded than the number of employees, for example, actual profit, the number of products put on the market, etc.

Mandating data collection

As stated in the assessment documents, e.g., page 85 in document 4: "Assessment of the robustness of the data on re-use of textiles to be reported to the Commission for the first time in mid-2023 under the WFD. Estimated apparent consumption and textile waste generated need to be fine-tuned to better assess the amounts of unsold and returned goods (…)." How will this be estimated if the companies are not willing to share this information unless one looks at the waste streams?

This conundrum was pointed out by several stakeholders, in the assessment document 4, page 19: "Stakeholders also identified the lack of sufficiently robust data on used textiles and textile waste as a barrier to developing sufficient waste prevention programmes." As the data flow is envisioned to be handled by the EEA, as stated on page 7 in document 4, it would be helpful for the EEA to have guidance as to how to collect meaningful data for pan-European comparisons., However on page 163 in document 3 it says: "The collection and validation of textile waste data would be carried out by Eurostat or the EEA, with annual reporting of data by Member States."

According to Document 2 p. 85:
"The Waste Statistics Regulation (WStatR) 72 provides for data collected biennially. Textile waste is included under W076 'Textile Waste' and it is measured in tonnes. Textile waste comprises two entries in separately collected municipal waste fractions (20 01 10 clothes, and 20 01 11 textiles)."

Good data is of course important for good regulation. We will argue that the data is collected with waste audits both with regard to measures upstream (waste minimisation) and measures downstream (better utilisation), as well as monitoring and enabling the possibility of setting

concrete targets for reducing quantities of clothing and other textiles put on the EU market. Such a triple purpose based on thorough research will ensure cost-effective work.

Proposition: Adopt a standardized method for data collection, which includes both up- and downstream issues. Using waste audits biennially will result in a solid database, alongside mandating dates on products that go to market.

Actual alignment is only possible with a downstream tool

Without a proper understanding of garment and textile disposal, ecodesign criteria will be unable to effectively mitigate waste. Proper EPR based on waste audits can strengthen ESPR, more so than the other way around.

Document 4 p. 70 states: "Full alignment between the two legislations in terms of scope and standards (e.g. on the design factors and measurement tools) is a top priority for the Commission. In practice, it is important to ensure that fee modulation under EPR is fully consistent with the ESPR sustainability criteria and their measurement standards. This will provide the clearest policy signal and prevent unnecessary administrative burdens. This approach is also strongly supported by the textiles industry."

This is fine, however, with the lack of consistent and good data that could be collected in a short time span in a collaborative effort – how is this alignment going to save us from fast fashion, overproduction and overconsumption? A quick look at the results from a short six-week, four intern-light project [5, 8], gives promising results on both what we can see as premature waste, and what needs to be implemented immediately in order to gain the knowledge base to feed into EPR, ESPR AND PEF, to align these tools in a meaningful way with the Textile Strategy, Green Claims Directive, the Plastic Strategy and EU's Green New Deal. The interns have also looked at the feasibility of using AI to make the data collection faster and more robust.

Proposal: Take seriously that there is neither data nor methods currently being used that make PEF, ESPR, etc., fit for purpose, i.e., to compare environmental impacts. If we want true alignment, we need a method that delivers on DoS data in a meaningful way.

Description of the method

Our proposal for data collection on the use phase and DoS is through waste audits.

Waste audits are used for other product groups to say something about use. In food, this form of analysis is used to monitor how much edible food is thrown away from private households [9], and to monitor and reduce food waste from institutions, along with other important data. Waste audits of textile waste streams as a resource for knowledge, will make it possible to do the same for clothing. Read more in our suggestion for empirically based policy measures [10].

Proposal: Use a now proven data collection method that will save time, money and work, while at the same time offers a 'win-win' for basing EPR on the waste hierarchy, ensuring waste reduction and putting fast fashion out of fashion. As the method can also offer valuable data input to PEF and ESPR, what is not to like?

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