

Feedback to the COM Call for Evidence on the

Circular Economy Act

The TÜV Association welcomes the European Commission's initiative to establish a Circular Economy Act (CEA) as a key pillar of the Clean Industrial Deal and the Competitiveness Compass. The proposed Act has the potential to significantly accelerate Europe's transition toward a resource-efficient, climate-neutral, and competitive circular economy.

This requires a coherent and robust legislative framework enforcing circularity requirements and providing incentives for investments in circular products and business models across the Single Market. In order to overcome market fragmentation, the CEA should establish EU-wide end-of-waste and by-product criteria for priority streams, coupled with common quality classes for secondary raw materials. Clear, uniform rules will reduce transaction costs, enable cross-border trade in secondary inputs, and give manufacturers confidence to utilise/employ and produce secondary raw materials at scale.

To achieve these goals, trust, transparency and verifiability of circular value chains are essential. Harmonised standards, robust conformity assessments and effective market surveillance form the foundation of functioning circular markets and ensure fair competition across the Single Market.

By speeding up the shift towards circular business and production models, the EU can reduce its dependency on primary raw materials, which has become a matter of strategic importance in light of global market volatility and supply chain vulnerabilities.

Strengthening the circular economy through greater harmonisation

The current waste legislation is shaped by a complex mix of European, national, and local rules. Since the launch of the EU Green Deal, numerous directly applicable regulations have been introduced, shifting the focus of circular value creation more strongly towards product design and sustainable-by-design principles. This shift in perspective is expressly welcomed. However, companies increasingly struggle to determine when a material becomes waste or ceases to be so – and consequently, which legal framework applies.

At the same time, the criteria for defining an “end-of-waste” and “by-product”-status remain inconsistent across the EU and are interpreted differently by Member States. This lack of harmonization creates legal uncertainty and can impede the cross-border movement of secondary raw materials, thereby slowing down progress in the circular economy.

To address these challenges, the European Commission should ensure that definitions used across different legislation – particularly in the Ecodesign Regulation, the Batteries Regulation, the Packaging Regulation, and the Critical Raw Materials Act – are coherent and that the distinction between “waste” and “non-waste” is clarified. Furthermore, product stream-specific specifications are needed to enable a clear and straightforward determination of an “end-of-waste” and “by-product” status. The overarching goal must be to facilitate the safe and efficient use of secondary raw materials within the circular economy.

Ensure quality and traceability of secondary raw materials

Europe must avoid a two-tier system that treats secondary materials as second-class. As the Commission rightly notes, consumers and sellers of secondary raw materials face information constraints and asymmetries and risks of fraud. Thus, secondary raw materials will only gain broad acceptance if they are held to the same requirements as virgin materials – without exceptions for imports.

Independent third-party testing, inspection and certification services are essential to build trust and verify that secondary materials meet defined performance, safety, and environmental criteria. Conformity assessment bodies can ensure that only materials and products complying with the defined criteria are placed on the EU market. A good example is the Battery Regulation which requires an independent validation of batteries’ recyclability and recycled content information. Building on these provisions, the EU should adopt binding requirements for the quality, sustainability and traceability of secondary raw materials, paired with robust and effective conformity assessments.

To verify and trace recycled contents, the “chain of custody” international standard (ISO 22095) can be applied. The standard creates a framework for traceability of products and materials in all sectors. Until recently, such standards have only existed for specific industries, such as the timber or cocoa industries. ISO 22095 is the first international standard to provide generally applicable definitions, overarching

approaches for design, implementation and organisation, as well as five models for the design of traceability in supply chains. The traceability of products and materials is just as important for processing companies as it is for marketing purposes.

Strengthen demand for secondary raw materials

Secondary materials often compete with primary materials which can be priced more competitively depending on global conditions. To enhance resilience and scale up recycling capacity, the EU has set recycled-content targets for certain plastics and metals. It should now extend binding material- and product-specific recycled-content quotas to additional sectors – provided that three conditions are met:

- Availability: sufficient volumes and grades of recyclate,
- Clarity: unambiguous definitions of recyclate origin
- Trust: robust, third-party conformity assessment (independent third-party verified recycled/reused/reusable content claims substantiated by certification)

As EU-made circular materials compete with imports of uncertain provenance, quality and environmental standards, accurate product declarations and the authenticity and traceability of certificates for non-EU recyclates must be ensured. In parallel, the EU and Member States should foster circular “lead markets” through public procurement and a calibrated mix of financial, customs and fiscal instruments to increase demand, reinforce strategic autonomy and offset competitive disadvantages.

Promote innovative and safe materials

For a successful circular economy, it is also necessary to decide which chemicals and materials are to be used in future. To achieve the goal of climate neutrality, materials and products must be produced without fossil raw materials. Impacts on human health, the preservation of natural areas and biodiversity must also be given greater focus.

In the medium term, well-explored, harmless materials that have been independently tested should be compiled in a positive list that is regularly updated. In this way, only materials that are harmless to human health and the environment will be used in future. The work on such a common pool of materials should be designed as an iterative process that regularly records the development status of alternative materials. This idea has already been incorporated in the revised Drinking Water Directive providing for a positive list of materials that may come into contact with drinking water. An independent certification of these materials would allow for a high level of transparency and trust vis-à-vis all stakeholders including consumers.

Drive forward standardisation

The EU should better align framework legislation with standardization to speed up innovation and market uptake. If Europe wants its circular-value-creation model to scale globally, EU rules must be aligned with and promote international standards.

The EU should therefore encourage participation of all stakeholders (industry, research, civil society and TIC companies) in international standardisation bodies and better coordinate and promote its own position therein. Circular economy as a pivotal field of standardization should also be a major focus of the upcoming revision of the Standardization Regulation. Whoever sets standards determines the rules and defines the market.

Recent Commission standardization requests to CEN and CENELEC – such as M/543 (2015) on material efficiency and M/584 (2022) on plastics recycling and recycled plastics – have advanced the regulatory ecosystem for circularity. The experience and organizational insights gained there should be used for future assignments. The aim must be to systematically and effectively anchor future standardization assignments across all Directorates-General in the Commission.

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