



VLOPs and EPR schemes Position and draft solution

Austrian Federal Economic Chamber (WKO)
EU Transparency Register No 10405322962-08

June 2025

WKO on VLOPs and EPR schemes: There is need for a legal clarification in the WFD to solve a serious problem: VLOPs, i.e. “very large online platforms” (such as Temu or Shein from China) should be responsible for ensuring that producers from third countries who contract directly with consumers to import products from third countries via the platform pay the financial contributions to EPR schemes (or the VLOPs pay for the producers). VLOPs create a problem for the local retail trade sector all over Europe as well as for **EPR schemes** (EPR = “extended producer responsibility”). Products and packaging are imported into the EU without contributing financially to the EPR schemes which organise the collection and treatment of waste streams (such as packaging, electrical and electronic equipment and batteries). In the future, such EPR schemes are planned for textiles, too. The lack of financial contribution to EPR schemes (so called “free-riding”) through these producers from third countries, of course undermines EPR schemes since they have to deal with waste streams from third countries which are not financed in advance (contrary to EU packaging and products which are financed in advance through payments from producers/importers to EPR schemes). The proposal below was tabled by Austria during the trilogue negotiations on the WFD this spring but was unfortunately not implemented except for a recital on the subject. The recital shows that there is a need for a solution.

AT Proposals (Ministry for Climate Action - BMK now BMLUK) for legal tools dealing with very large online platforms that allow consumers to conclude distance contracts with producers

It became clear from the talks among the Member States attending the TAIEX session that more legal tools are required by the authorities for effective enforcement of extended producer responsibility regarding very large online platforms that allow consumers to conclude distance contracts with producers. Within the current legal framework, the tools are insufficient and do not allow the effective enforcement of extended producer responsibility regarding third country producers that are concluding contracts with consumers directly using these very big online platforms. Meanwhile European producers and their compliance can be effectively monitored. This difference in enforcement possibilities is having a detrimental effect on the competitiveness of EU producers.

The following proposal focuses on the main problems and makes suggestions on how to address them, by establishing a level-playing field. Most importantly, very large online platforms need to be held accountable for their producers to fulfil their extended producer responsibility. The proposal shall also ensure that the Commission supports the Member States to monitor the producers and platforms concerned. Especially the customs authorities are an invaluable and necessary supporter moving forward and, in the future, an automatic exchange with the EU Customs Data Hub is necessary for efficient enforcement.

The following suggestions are a significant and essential step in the right direction and towards strengthening the European economy. In general, it should be noted that the suggestions shall apply to all product groups to which the extended producer responsibility scheme applies, including packaging.

Art. 8b WFD new

Liability of very large online platforms

(1)

The Member States shall ensure that providers of very large online platforms, according to the list of designated very large online platforms published in the Official Journal of the European Union, which allow consumers to conclude distance contracts with producers, shall assume the extended producer responsibilities of the producers utilizing their platforms for products that are subject to the extended producer responsibility scheme. These providers shall obtain the required information to fulfil the extended producer responsibility obligations from producers that offer products that are subject to these obligations.

(2)

This obligation does not apply insofar as this platform provider can prove that the producer offering on its platform fulfils the following conditions in the Member State, in which the consumer is located:

- the producer is registered in the relevant register of producers;
- the producer has entrusted a producer responsibility organisation, insofar as this is legally required,
- an authorised representative is appointed, insofar as this is legally required,
- the products offered and sold on the platform that are subject to extended producer responsibility are disclosed to the provider of the platform by the producer, and sorted by category;
- upon request of the competent national authority, all information and documentation necessary on products offered and sold on the platform that are subject to extended producer responsibility shall be made available in a language that can be easily understood by that competent national authority.

Art. 8c WFD new

Central register of producers

(1)

To facilitate the monitoring of compliance with extended producer responsibility a central register of producers shall be established by the Commission. This central register shall include all data as provided by the national registers of producers and it shall be designed to be interoperable.

(2)

In order to facilitate the work carried out by customs authorities in the implementation of this Regulation, it is necessary that this central system operated by the Commission is interoperable with the EU Customs Data Hub once it is set up.

Art. 33a WFD new

(1)

For the release for free circulation of products that are subject to the extended producer responsibility scheme on the union market designated directly to the consumer the consignor must state:

- a) the registration number of the producer, of the Member State in which the consumer is located and
- b) as legally required the registration number of the authorised representative designated to represent the producer in the Member State, in which the consumer is located.

(2)

The competent authority responsible for monitoring extended producer responsibility may access data stored or otherwise available in the EU Customs Data Hub to the extent necessary for enforcing Union legislation and for cooperating with customs authorities.



Contact:

Thomas Fischer, Austrian Federal Economic Chamber (WKO), Expert for Waste Management and Legislation, Environment and Energy Policy Department, +43 590 900-3015, thomas.fischer@wko.at

