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# FEAD statement on the destruction of unsold textiles under EU Ecodesign for Sustainable Products Regulation (ESPR)

***Responsibilities of a possible incompliance must be very clear***

**FEAD sees a possible ban on textile destruction in the Ecodesign Regulation critically**. FEAD welcomed the ESPR to introduce ecodesign requirements on recyclability and recycled content in products. However, such ban does not strictly represent an ecodesign requirement, so that the thematic reference is not clearly recognisable.

Without entering into a (possible) legal obligations/prohibitions to destroy (unsold) goods, it must be noted, that where the holder of the goods decides to discard them as waste, whether required or not (‘waste’ means any substance or object which the holder discards or intends or is required to discard), (waste) operators have a legal obligation to treat them as waste in line with the EU environmental and waste legislation. After collection and sorting of the waste, this can be either prepared to be re-used, recycled/recovered or disposed depending on the situation.

FEAD warns that **a ban on textile destruction entails the risk of a shift of responsibility from producers to waste management companies** by leaving the corresponding goods to them for further ‘use’. This should be clearly rejected, since producers and traders, but not waste management companies, should be the addressees and obligated parties of a textile destruction ban.

**The responsibilities of a possible incompliance must be very clear.** Such responsibility **cannot fall on the waste operators but must be on the producers of the goods and/or the producers of the waste** as we will not be able to assess the status of each good individually once received. The person (legal/physical) that intents to discard the goods is the only one that can and should certify whether the goods were unsold and fall under the potential destruction ban and should therefore be the only one to determine and be responsible for deciding upon the management of such goods.

This applies also to possible exemptions to a potential prohibition to destroy unsold goods. The responsibility of possible incompliances linked to these exceptions (fraud) cannot fall on the waste operators.

***Recycling cannot be considered as destruction***

Recycling cannot be understood as destruction as the legal definition is very clear, meaning a recovery operation by which waste materials are reprocessed into products, materials or substances. Recycling is thus the recovery of materials to put them back in the economy and not a destruction process of products. There is a clear difference between recycling and energy recovery and disposal that has failed to be recognized and/or to be acknowledged.

Regarding property rights, it is questionable whether a ban on destruction can be justified from an environmental point of view, if the definition of ‘destruction’ is also to include recycling. If recycled, the textiles will be kept in a circular loop.

***Donations instead of destruction?***

**The word ‘donation’ does not necessarily need to be followed by the word ‘social’!**

FEAD warns the EU legislator that the promotion of specific enterprises (‘*social* enterprises’) **distorts the market and puts at risk the quality** of the handling of the donated products. The risks increases when there is no definition of ‘social enterprises’ and in general no means to avoid loopholes by which any actor can become a ‘social enterprise’ not subjected to the strict EU product and environment legislation.

A ‘donation’ implies that somebody receives the textiles free of charge whereas waste management is a professional service to producers. If the intention is to avoid overproduction, instead of donating or destroying, **producers could be obliged to take back their bad or unsold products and to re-introduce them into their production cycle** as far as possible. Production waste (including from re-introduction of unsold products) should be managed as usually.

In addition, FEAD would like to stress that **‘preparation for re-use’ is a waste management activity** in line with the waste hierarchy. To ensure a level playing field and the environmentally sound management of the (donated) goods (waste), **only permitted companies can be allowed to treat it in line with EU legislation.**

The role of professional waste actors must be safeguarded. **Promoting donations to ‘social enterprises’ instead of professional waste management companies does not ensure the environmentally sound and qualitative management of waste textiles but jeopardises traceability** (including unregulated shipments as ‘second hand goods’). The definition of waste is crucial (being discarded as such in line with Art. 3 paragraph 1 Waste Framework Directive). As soon the goods have a waste status only permitted operators can be allowed to handle them.

FEAD is the European Waste Management Association, representing the private waste and resource management industry across Europe, including 18 national waste management federations and 3,000 waste management companies. Private waste management companies operate in 60% of municipal waste markets in Europe and in 75% of industrial and commercial waste. This means more than 320,000 local jobs, fuelling €5 billion of investments into the economy every year. For more information, please contact:

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