



# EUROPEAN BUSINESS PRIORITIES FOR THE CIRCULAR ECONOMY ACT



# KEY MESSAGES

The Circular Economy Act (CEA) must position circularity as a pillar of European industrial competitiveness and open strategic autonomy, intervening only where genuine market barriers persist and where it would consolidate the existing acquis before introducing new obligations.

## **1 HARMONISE THE SINGLE MARKET FOR SECONDARY RAW MATERIALS**

The CEA must be grounded in an internal market legal basis under Article 114 TFEU and deliver genuine harmonisation of EPR rules, End-of-Waste criteria and waste shipment requirements.

## **2 CREATE DURABLE MARKET DEMAND FOR SECONDARY RAW MATERIALS**

The CEA should support demand through well-calibrated public procurement criteria, targeted fiscal measures, and selectively applied recycled-content requirements.

## **3 ENSURE A STRONG ENFORCEMENT AND A LEVEL GLOBAL PLAYING FIELD**

The CEA must ensure products sold on the EU market, including via online marketplaces, meet the same requirements as EU-produced goods. Strong enforcement must be consistently applied across Member States.

# 1. CIRCULARITY: A CENTRAL PILLAR OF INDUSTRIAL COMPETITIVENESS AND STRATEGIC AUTONOMY

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The transition to a circular economy has evolved from an environmental objective into a fundamental pillar of European industrial competitiveness and open strategic autonomy. In a global landscape defined by geopolitical instability and increasingly fragile supply chains, the ability to retain high-value resources within the European economy is a strategic necessity and a matter of resilience. Circularity offers an important shield against resource scarcity. It must be understood in a broad sense, encompassing not only reuse, repair and recycling but also more generally the use of renewable materials. A more resource-efficient and sustainable economy strengthens long-term resilience by diversifying supply chains and improving material recovery, helping Europe withstand external shocks while remaining open and competitive.

The upcoming Circular Economy Act (CEA) can be the “missing link” to incentivise a shift in circular business models. At the same time, Europe has already developed several horizontal and sectoral legislations on the circular economy. It is also engaged in a significant effort to simplify the legislative acquis. **It is therefore crucial that the CEA intervenes where genuine barriers persist and where action at the European level can provide real added value.**

In November and December 2025, BusinessEurope organised a series of three workshops to discuss the upcoming CEA. The workshops discussed the lessons learned from existing policies, the remaining barriers and the possible solutions. This position paper builds on these exchanges and on further consultations with the BusinessEurope membership. It puts forward the key areas where we see high potential for the CEA to overcome some of the remaining barriers and identifies important issues which need to be tackled but do not require a policy intervention via the CEA.

## THE EXISTING EU CIRCULAR ECONOMY POLICY LANDSCAPE

The European Union has established a substantial acquis on the circular economy, primarily concentrated on product design and waste management. This framework includes, but is not limited to, key legislative instruments such as the Waste Framework Directive (WFD), which sets clear material recovery targets, the Packaging and Packaging Waste Regulation (PPWR), which sets out recycled content targets for plastic packaging and mandates packaging recyclability by 2030. The Critical Raw Materials Act (CRMA) further reinforces circular economy objectives by strengthening material security and promoting higher recycling capacities for strategic raw materials. Sector-specific legislation, including the Waste Electrical and Electronic Equipment (WEEE) Directive, the End-of-Life Vehicles (ELV) Regulation, and the Batteries Regulation, complements this framework by addressing circularity challenges in key value chains. The use of eco-modulation fees within EPR systems has signalled a continued shift away from linear models by incentivising more sustainable product design choices. More recently, the Eco-design for Sustainable Products Regulation (ESPR), which introduces performance and information-based sustainability requirements for products placed on the EU market, and the use of the Digital Product Passport (DPP), which is intended to create more transparency, have further reinforced this framework.

However, despite progress in sectors such as textiles, plastics, and packaging, the current landscape is characterised by significant disconnects. While the EU has been effective at regulating product design requirements, it has struggled to build a structural market framework that ensures materials are efficiently produced, designed, recovered and re-introduced into the economy in a way that preserves industry competitiveness and at a cost that is affordable to society.



## THE REMAINING CHALLENGES

The key challenge is no longer the availability of circular solutions in many cases, but their ability to scale, including through phased implementation timelines that account for sectoral readiness and existing regulatory frameworks.

Significant structural barriers continue to prevent the circular economy from reaching its full potential. For some sectors, persistent price differentials between virgin and recycled materials are symptomatic of deeper failures, including market distortions, infrastructure gaps and insufficient demand for high-quality recycled materials.

An additional major contributor to these issues is fragmentation across 27 national regimes, which creates artificial borders for resource flows and makes harmonisation a prerequisite for success. The lack of unified EU approaches to EPR, End-of-Waste (EoW) criteria, and waste shipment rules constitutes a major obstacle to industrial operations. In practice, materials may be classified as products in one Member State and as waste in another, creating a compliance patchwork that imposes significant logistical and administrative costs on companies. This undermines the business case for cross-border recovery and does not necessarily deliver better environmental outcomes. National gold-plating accentuates these problems. This is particularly visible in packaging EPR, where producers, especially SMEs and cross-border sellers, must navigate multiple national registration systems, divergent data requirements, and duplicative reporting obligations.

## BUSINESSEUROPE EXPECTATIONS FOR THE CEA

BusinessEurope believes that the Circular Economy Act must position circularity as a core pillar of European industrial competitiveness, predictability, and resilience. The CEA must build on, improve and where possible streamline existing legislation rather than layer new obligations upon it. It should move beyond a predominantly waste-focused approach and establish a coherent framework for resource management that enables materials to circulate efficiently within the Single Market. This should address barriers across value chains. It should also reflect the fact that circularity pathways and market dynamics differ significantly across materials and sectors. For some materials, circularity can go beyond recycled-content requirements and should reflect effective collection and sorting, high-quality recycling and remanufacturing, and the ability to maintain intrinsic material characteristics across multiple recycling loops.

In addition, circular economy models can be significantly strengthened through industrial symbiosis across European value chains, enabling companies to reuse by-products, reduce waste streams and improve resource efficiency.

To be effective, the CEA must be evidence-based, proportionate and focused on

- strengthening of the Single Market, reducing fragmentation and providing legal certainty for investment in circular value chains;
- supporting the development of well-functioning markets and, where appropriate, demand for secondary raw materials;
- ensuring a strong enforcement and level playing field globally.

## 2. STRENGTHENING THE SINGLE MARKET

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To deliver a functioning European market for secondary raw materials and a step-change in waste management performance, **the CEA should be grounded in an internal market legal basis under Article 114 TFEU**. Only a harmonised framework can address the persistent fragmentation of waste management rules across Member States, which continues to undermine both environmental outcomes and the free movement of materials.

Despite decades of EU waste legislation, performance remains highly uneven across the Union, with large disparities in landfilling, incineration and recycling rates. The recent, targeted revision of the WFD has not resolved these structural shortcomings. As recognised by the European Commission, divergent waste rules are among the most significant barriers to the Single Market.

An internal market legal basis is therefore essential to ensure common rules, legal certainty, and a level playing field across the EU. It provides the foundation for harmonisation measures that allow circular value chains to scale, reduce external dependencies, and strengthen EU industrial resilience. Approaches relying primarily on environmental legal bases risk perpetuating fragmentation and weakening the effectiveness of the CEA.

More specifically, a fundamental priority for the CEA must be the **effective harmonisation of EPR rules**, across existing and future product and waste streams covered by EU legislation, while safeguarding producers' autonomy in EPR execution. The current landscape of national systems imposes redundant financial and administrative costs, limiting economies of scale necessary for specialised recycling operations. Cross-border flows within the EU are essential to match supply and demand.

For an effective harmonisation of EPR at EU level, the following must be considered:

- Harmonisation should establish and enforce a minimum set of common EU requirements, definitions, and reporting obligations within protection of commercial data, while prioritising outcome-based requirements and administrative simplification, preserving incentives for high-performing systems, and safeguarding producers' ability to organise compliance through Producer Responsibility Organisations (PROs).
- EPR eco-modulation should be more transparent, proportionate, and non-discriminatory, based on harmonised methodologies. Where relevant, common minimum requirements for PRO governance should be considered to support consistent performance and accountability. The CEA should also reaffirm strict enforcement of Article 8a WFD and full application of the net-cost principle<sup>1</sup>, ensuring that fees paid by producers are effectively reinvested in collection, sorting, and recycling infrastructure without cross-subsidisation between materials. Eco-modulation criteria should maintain the integrity of the fee structure, but they must also reflect the role of EPR as an instrument for driving circularity beyond waste management and recycling.
- The CEA should reaffirm that Extended Producer Responsibility remains a producer-led principle. The establishment of state-owned or state-run PROs should be explicitly prohibited, as such models would risk undermining the accountability logic embedded in Article 8a WFD and reversing progress achieved in recent EU waste legislation reforms. Individual producer responsibility should also remain a permitted compliance route, in business-to-business sectors where direct take-back models are well-established, defined and effective.

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<sup>1</sup> The net-cost principle, as established under Article 8a of the Waste Framework Directive, requires that EPR fees reflect the actual costs of collection, sorting and recycling of the products covered, and that revenues are reinvested in those end-of-life management activities.



- Digitalisation can play an important role. A one-stop-shop approach to producer registration and reporting, supported by interoperable digital interfaces across Member States, would prevent 27 parallel compliance models from re-emerging in digital form and significantly reduce administrative costs for companies operating across borders. Digital tools should also enhance the traceability of material flows (distinct from product-level Digital Product Passports) and support effective enforcement against free-riding operators within EPR systems. Any harmonisation framework must allow each product sector to maintain EPR structures suited to the specific characteristics of its products at end-of-life – from collection and sorting to processing and final treatment – while enabling environmentally sound management practices to be adapted accordingly.
- For sectors where end-of-life costs are already internalised by other actors in the value chain, any new EPR obligations must avoid cost duplication and demonstrate clear added value.

Furthermore, the absence of **harmonised and up-to-date EoW and by-product criteria** remains a critical bottleneck, creating legal ambiguity that discourages investment. While work has begun on plastics, textiles and construction and demolition waste, progress is slow and resource-intensive, and diverging national interpretations continue to create uneven regulatory conditions.

The EU requires a more agile, proportionate and harmonised EoW and by-product framework. This can include accelerated procedures for strategically relevant material streams while legal certainty for long-term investments in infrastructures.

Once End-of-Waste and by-product status is granted, it should apply consistently across the EU, providing predictable outcomes for operators and authorities. The Commission's role should be strengthened to support harmonised implementation, including coordination and guidance where divergent national interpretations risk fragmenting the Single Market. Where appropriate, mutual recognition of national End-of-Waste and by-product determinations should be facilitated to prevent regulatory divergence from becoming a barrier to intra-EU material flows.

It must equally be clarified that once materials or products cease to be classified as waste, activities higher up the waste hierarchy – including repair, reuse, and refurbishment – fall outside the scope of waste law requirements. This is essential to ensure that the CEA supports the full range of circular business models without creating unnecessary regulatory burdens for operators engaged in pre-recycling circularity strategies.

Finally, the CEA should prioritise **streamlining waste shipment procedures** through digitalisation and simplified “green-listing” for non-hazardous waste streams. Current procedures, including multiple notifications for certain waste streams such as batteries and mixed non-hazardous plastic waste, lead to unpredictable approvals and logistical delays. Modernising these rules is a prerequisite for industrial resilience, increasing the access to raw materials for recycling within the EU, reducing reliance on imported primary materials from geopolitically sensitive regions and supporting the long-term stability of European supply chains.

The streamlining of procedures should be accompanied by risk-based enforcement, enabling smoother flows for compliant, well-documented shipments while intensifying controls targeting high-risk streams and illegal operators. Harmonised enforcement protocols, shared data, and coordinated checks – including through a workable rollout of the Digital Waste Shipment System – should be developed to ensure compliant operators are treated consistently across Member States.

## BUSINESSEUROPE RECOMMENDATIONS FOR THE CIRCULAR ECONOMY ACT

- Adopt an internal market legal basis under Article 114 TFEU to ensure harmonised rules, legal certainty, and a level playing field across Member States.
- Harmonise EPR schemes through a unified EU framework covering scope, definitions, metrics, and reporting obligations, supported by interoperable digital systems and a harmonised minimum dataset, including a clear ban on staterun PROs.
- Establish EU-wide End-of-Waste and by-product criteria to ensure harmonised rules allowing relevant secondary raw materials and industrial side-streams to lose their waste status and re-enter the European economy as resources.
- Streamline cross-border shipments within the EU by implementing simplified waste shipment procedures.

### 3. CREATING MARKETS AND DEMAND FOR SECONDARY RAW MATERIALS (SRMs)

A successful circular economy depends on a strong and predictable business case for secondary raw materials. Without sufficient demand signals, investments in circularity capacity and innovation will remain limited. At present, this business case is often weakened by market failures and policy frameworks that remain largely oriented towards a linear economic model. To close the circularity gap, the CEA should support creating demand for secondary raw materials and providing clear, credible market signals that support long-term investment across value chains.

Well-designed market incentives are central to achieving this objective. While public procurement should not be considered a primary tool for demand creation, public authorities can play a supporting role on sector-specific basis, including through Green Public Procurement and, where justified, through targeted mandatory approaches in sectors with significant public demand such as construction and public infrastructure. Where used, **environmental criteria in public procurement** should be clear, comparable, and technology-neutral, and based on a life-cycle assessment of environmental performance, rather than single indicators. Criteria should go beyond recycled content alone and reflect broader circularity outcomes such as, durability, reparability, upgradeability, modularity, and recyclability. In applying such criteria, contracting authorities should have regard to proportionality and accessibility, ensuring that methodologies do not create disproportionate barriers for SMEs.

In addition, well-calibrated fiscal measures, such as **reduced VAT rates**, simplified margin schemes or similar measures tailored for products with a higher circularity performance can further improve the competitiveness of circular solutions. The most appropriate measure should be determined based on objective criteria, including recycled content, product lifespan, reuse potential, and end-of-life recycling rates. Targeted fixes to remove adverse VAT impacts in specific circular flows (e.g., donation of goods), accompanied by proportionate anti-fraud safeguards, can also support circular outcomes.



A coherent and targeted approach to **recycled-content requirements** is also important. Recycled-content requirements can be an appropriate instrument to stimulate demand and unlock investment in sorting and recycling infrastructure where clear market barriers exist and additionality can be demonstrated. Where such requirements are introduced, based on existing product legislation (e.g. ESPR, PPWR), they should follow a thorough impact assessment and be limited to sectors where they are technically feasible, affordable, safe, and environmentally justified, taking into account product specifications and material characteristics.

Finally, stronger connections are needed between suppliers and users of secondary raw materials across European value chains. Even where high-quality secondary raw materials are available, manufacturers may lack the information, confidence, or contractual certainty needed to integrate them into production processes. Through the implementation of the ESPR and other existing tools, **improving transparency** performance, and environmental characteristics, supported by consistent product information and relevant digital tools, can help build trust across value chains.

In this context, the CEA could lay the groundwork for market-based tools that help companies credibly demonstrate circular performance and reduce information asymmetries along value chains, to be developed at a later stage once further work has been carried out on their objectives, scope and practical implications.

#### **BUSINESSEUROPE RECOMMENDATIONS FOR THE CIRCULAR ECONOMY ACT**

- **Develop market incentives such as well-designed environmental and circularity criteria in public procurement, or reduced VAT rates.**
- **Adopt a coherent approach to recycled-content requirements by applying targets selectively based on impact assessments, limited to sectors where they are technically feasible, safe, and environmentally justified and economically viable.**

#### **IN ADDITION**

- **Improve transparency and information flow across European manufacturing value chains by implementing the ESPR and other existing tools.**
- **Initiate further work on the objectives, scope and practical implications of market-based circularity performance tools, with a view to developing them where genuinely value-adding for specific sectors and products.**

## 4. ENSURING A STRONG ENFORCEMENT AND LEVEL PLAYING FIELD GLOBALLY

European companies are subject to high circularity, safety and sustainability obligations. Where enforcement of existing EU rules remains insufficient, competition from actors who do not meet or deliberately circumvent these requirements creates market distortions that undermine the transition to circular models. A primary driver of this imbalance is the growth of direct imports from third countries via e-commerce, where many products bypass Extended Producer Responsibility schemes and fail to meet EU requirements on material composition, product safety, or traceability.

To address these gaps, the primary response must be to strengthen enforcement across the Single Market. **Online marketplaces directed towards, and selling to, the European market hold a responsibility for products they sell to the EU market**, in line with the intermediary liability framework established under the Digital Services Act. Clear responsibilities, robust and risk-based market surveillance, and closer coordination between national authorities are essential to ensure effective compliance, including timely and proportionate corrective action where products fail to meet EU legal and sustainability requirements.

Furthermore, the EU must improve the monitoring of the continued **export of valuable secondary materials**, commonly referred to as “scrap leakage”. While we caution against blanket export restrictions, improved monitoring of exports of strategic secondary materials is necessary to safeguard European value chains, improve circular economy and prevent the loss of resources critical to industrial resilience. This is about ensuring that European industry is not undercut by weaker enforcement abroad, while strategic materials leave the Single Market without adequate oversight.

In practice, this requires a stronger focus on monitoring and verification requirements through export documentation and traceability, enabling authorities to identify high-risk material streams and ensure compliance with existing rules. Enhanced cooperation and information-sharing between customs, environmental, and market authorities is therefore a prerequisite for scaling circular solutions across the EU.

### BUSINESSEUROPE RECOMMENDATIONS

- **Strictly enforce EU rules for products sold via online marketplaces by holding platforms accountable for compliance with product safety and sustainability, in line with existing intermediary liability frameworks.**
- **Strengthen market surveillance and equal treatment of EU and non-EU operators by improving coordination and information exchange between national competent authorities.**
- **Improve the monitoring of exports of strategic secondary materials through strengthened documentation and traceability requirements, applied in a proportionate, evidence-based, and WTO-compatible manner.**



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