

Part 2 - Questions

A. Identification of the main perceived regulatory failures

For the purpose of this consultation, regulatory failures are defined as situations in which the regulatory environment hampers the efficient functioning of the waste markets (i.e. where waste meant to be recycled or recovered can move freely within the EU, without unjustified restrictions) and fails to ensure optimal implementation of the waste hierarchy (according to Article 4(1) of the EU waste framework directive, the following waste hierarchy shall apply as a priority order: prevention; preparing for re-use; recycling; other recovery, e.g. energy recovery; and disposal).

1. Do you think there are any regulatory failures or obstacles currently affecting the functioning of EU waste markets?

- Yes, a large amount
- Yes, but limited
- No (go to Section B)
- Don't know (go to Section B)

2. What do you think is the most important aspect of policy and/or legislation that creates distortions in the waste markets or creates unjustified obstacles to the proper functioning of waste markets in the EU?

There is a need for a comprehensive product - resource-based – waste legislation to support the use of secondary materials recycled from organic waste and for setting up a coherent legal framework for biowaste. Recycling biodegradable wastes and resource efficiency should lie at the heart of environmental policy. According to the 'Communication on Future Steps in Bio-Waste Management in the European Union' (COM(2010)235) the EU produces between 118 and 138 million tonnes of biowaste each year. Currently, approximately 75% of this material is landfilled and only 25% is recycled into products such as compost, digestate and biofuels (e.g. biogas). A key reason for this is that binding biowaste recycling targets (based on separate collection) are missing.

There is a need to oblige the Member States to:

1. introduce separate collection of biowaste, as a prerequisite to produce quality recycled materials which can replace primary products (fertiliser, soil improver, growing media) and to set recycling targets for biowaste.
2. introduce effective controls on the quality of separately collected biowaste, which cover commercial and industrial sources as well as household (domestic) sources,
3. educate householders and workers about which wastes should go in which bins and particularly in the case of biowastes, how to identify home compostable and industrially compostable (and in future digestible in anaerobic digestion) caddie liners, bin liners and packaging and check whether they are allowed to go in the biowaste bin.

3. Could you provide an example of such a regulatory failure/obstacle? Please describe it briefly.

Waste Framework Directive

Article 22 of the Waste Framework Directive just "encourages" EU Member States to set measures "as appropriate" for separate collection and biological treatment. Specifically in new EU Member States as well as in some Mediterranean countries (GR, PT, parts of ES) this resulted in "doing nothing" in terms of proper biowaste recycling. Achievements in diversion of biodegradable waste were very limited or based on false and not reliable statistics. The European Compost Network has further commented on these issues in its response to this consultation.

The REA highlights that in the UK the WFD's Article 22 provisions have led to too much growth in production of Compost-Like-Outputs (CLO) and Digestate-Like-Outputs (DLO) produced from sorting and treating residual wastes at Mechanical and Biological Treatment facilities. In the UK, if not sent to a disposal or energy recovery operation, CLOs and DLOs are restricted to use in land restoration under waste regulatory controls, i.e. they are not allowed to be spread on agricultural land or in any market other than land restoration. Restoration sites are not uniformly spread across the country and this means that often materials have to be transported long distances to the nearest suitable site at considerable expense. Regulators in the UK are concerned about shortage of suitable sites nationally. Growth in production of CLO, DLO and energy generation from the combustion of residual wastes is likely to continue growing in the UK because reduced tonnages of garden (plant tissue) waste are separately collected from household kerbsides. Increasing numbers of local authorities in England have changed from separately collecting garden waste under general taxation for their services to households to extra, separate charging for households that opt-in to separate collection of their garden wastes.

EU Landfill Directive

The EU Landfill Directive does not give a precise definition of 'PRE-treatment'. Hence some EU Member States interpreted that also a mechanical separation would fulfil this requirement for landfilling of MSW. This by no means contributes to the diversion of biodegradable waste from landfills, i.e. to mitigation of GHG emitted from landfills. Only lately the Decision of the EU Court of Justice in its 'SENTENZA DELLA CORTE (Sesta Sezione)' from 15 October 2014 clarifies that pre-treatment aims at the stabilisation of the organic fraction included in MSW.

4. What do you think this regulatory failure/obstacle is linked to? (multiple answers possible)

- EU legislation or policy
- National policy, legislation or administrative decisions
- Regional policy, legislation or administrative decisions
- Local policy, legislation or administrative decisions

Please briefly describe which specific policy/policies, legislation(s) or decision(s) is/are to blame for this:

EU Waste Framework Directive

... § 11 missing biowaste as mandatory fraction in the targets for recycling

... § 22 missing obligation for introducing separate collection of biowaste in the member states

Commission Decision 2011/753/EU on ...rules and calculation methods for verifying compliance with the targets set in Article 11(2) WFD:

- (i) Methods do not create a level playing field in EU and create incorrect and not traceable reporting statistics.
- (ii) Biowaste that is home composted should not be included in figures for waste counted as recycled;
 - (i) correct data cannot be achieved,
 - (ii) home composting should be regarded as waste prevention activity because the "holder" does not "discard or intend or is required to discard" this part of "biowaste" (he/she keeps it in his/her garden, turns it into compost and uses the compost in his/her garden or allotment)

National Level

- (i) In the majority of EU Member States no separate collection and treatment of biowaste is in place which sets a consistent framework and legal driver including long-term investment security in biowaste recycling infrastructure (separate collection logistics as well as biological treatment facilities). Consequently no, or very limited, introduction of separate collection for biowaste has taken place in these countries. In England (within UK) there might be more policy support for separate food waste collection in future but the tonnage of separately collected garden waste

seems to be declining as more local authorities decide only to separately collecting it where the household pays a fee for this specific service (inefficient!).

- (ii) In some EU Member States;
 - a. no full implementation of the EU waste legislation because of reluctant and inefficient control / reporting / statistics etc,
 - b. missing taxes for landfilling and incineration of biodegradable waste,
- (iii) Lack of requirements in legislation and policy measures which support high quality of biowaste when it is separately collected.

Regional and local level

- i.) Guidance and education is needed
- ii.) In some EU Member States waste management plans are needed and in the UK there is a lack of effective requirement for planning and waste authorities to work together to ensure that the right capacity is available amongst the right types of infrastructure.
- iii.) There is no proper waste charging system promoting separate collection and recycling (e.g. PAYT applicable to residual waste)

5. Which of the following impacts do you think such regulatory failure/obstacle has within the EU? (multiple answers possible)

- Reduces reuse or recycling
- Reduces recovery, including energy recovery
- Increases waste generation
- Leads to increased environmental impacts
- Leads to reduced resource efficiency
- Other
- None

If relevant, please provide additional information in relation to your above reply.

The low rate of biowaste recycling in the EU as a whole is a regulatory failure which has several negative impacts including the following:

- composting and/or digestion of biodegradable wastes provides composts and digestates which confer a range of benefits to soils to which they are added, can be used in the manufacture of topsoil and can at least partially replace peat in many growing media products.
- anaerobic digestion can produce valuable energy in the form of biogas, which can be used as renewable transport fuel, or for electricity and heat generation which contributes to decarbonisation of Europe's economy and improves its energy security. Therefore, low recycling rates of biowaste also have a negative impact on climate change.
- the approximate 78 million tonnes of biowaste which are currently still landfilled in the EU cause GHG emissions of approximately 110 million tonnes CO₂-equivalents.
- composting and/or digesting these 78 million tonnes of landfilled biowaste would additionally:
 - generate 150 PJ of renewable energy in form of biogas or biomethane with 11 million tonnes CO₂-equivalent savings by replacing fossil fuel (oil), if all of the 78 million tonnes of biowaste is digested
 - make available large amounts of renewably-sourced nutrients:
 - 400 000 tonnes of nitrogen (N)
 - 120 000 tonnes of phosphorus (P₂O₅)
 - 450 000 tonnes of potassium (K₂O)

6. How did you become aware of this regulatory failure/obstacle? (multiple answers possible)

- Reported by members of your organisation
- Through complaints reported to the authority
- From literature
- From own market analyses
- Own experience
- Other

If relevant, please provide additional information in relation to your above reply.

7. What actions are you aware of that could solve or mitigate this problem? (multiple answers possible)

- Not aware of any actions
- Legislative changes
- Changes in the policy or decision-making by authorities
- EU guidance on waste legislation or policy
- Co-operation between authorities in different Member States
- Co-operation between authorities in the same Member States
- Other

If relevant, please provide additional information in relation to your above reply.

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8. Are there other important aspects of policy and legislation that distort the waste market or create obstacles to the functioning of waste markets? If yes, please describe these taking into account the previous questions.

Plastics and requirements applicable to packaging waste intended to be recovered via biological treatment

It is our experience that when plastic contaminants (particularly those which are visible to the human eye) are present in composts and digestates, this harms markets which use composts and digestates. The harming of markets can occur when they are intended to be used under waste regulatory controls and is a particular risk when they are placed on the markets as a product.

In part, risks to compost and digestate markets could be mitigated by requiring in the Packaging Waste Directive that packaging intended to be recovered by means of biological co-treatment with separately collected, biodegradable, non-packaging wastes is limited to packaging (e.g. caddie liners, bin liners, single use carrier bags, food and drink packaging) that is:

- independently certified compliant with European Norm 13432¹ and has an independently certified minimum bio-based C content of 50 %, and/or
- independently certified compliant with a standard or published criteria for home compostable packaging that is officially recognised as acceptable by the European

¹ BS EN 13432, Packaging – Requirements for packaging recoverable through composting and biodegradation – Test scheme and evaluation criteria for the final acceptance of packaging

Commission or an EUMS's competent authority, and has an independently certified minimum bio-based C content of 50 %.

Any packaging that is not independently certified compliant with EN 13432 and/or an officially recognised standard or published criteria for home compostable packaging is not likely to adequately biodegrade in a small, medium or large scale composting process nor in anaerobic digestion processes that include a composting phase. Such packaging will be difficult to efficiently and correctly identify and is likely to cause significant losses to useable compost / digestate output during screening / centrifuging and, in the worst cases, can prevent composted / digested material from achieving product status (i.e. compliance with UK EoW criteria for composts or UK EoW criteria for digestates).

REACH

While composts that achieve product status (complies with EoW rules) and biogas are exempt from REACH declaration, this is still not the case for digestates that achieve product status. Digestate that complies with EoW rules (national or EU-wide) should be clearly exempt from REACH registration.

Funding schemes

The remaining paragraphs in this answer are comments from the European Compost Network, in which REA has made some changes to 'pillar' items 4) and 5).

Funding schemes of the Structural and Cohesion Funds / Operational Programme Environment in the past were focussed on large waste management infrastructure such as for waste incineration, landfill, Mechanical and Biological Treatment, and waste separation plants. There was a very weak link between resource efficiency, recycling strategy and the needed integrative approach at local/regional level.

Local authorities are responsible for proper implementation of EU and national waste management regulations. With a view to efficient and effective use of EU and national funds, cost-effective solutions using simple and applied technologies, but effective as regards, recycling, separate collection, acceptance and creating local green jobs, should be the priority paradigm when allocating EU funds for sustainable waste management projects at local and regional levels.

The pillars would be:

- 1) separate collection schemes for biowaste,
- 2) shifting from anonymous road containers to door to-door collection of residual waste, biowaste, packaging and paper,
- 3) establishment of [household waste] recycling centres,
- 4) building of composting and anaerobic digestion facilities in locations that are not too close to sensitive receptors and protected habitats as well as within economic transport distance to markets for composts and digestates that are not landfill or incineration (whether with or without energy recovery),
- 5) locating anaerobic digestion facilities where suited waste streams (e.g. catering waste, food industry etc.) arise in sufficient quantity and their demand for energy crop inputs is balanced with needs for growing non-energy crops,
- 6) emphasis on knowledge transfer and exchange, training and education programmes.

B. Obstacles to the functioning of waste markets connected to the application of EU waste legislation or other EU legislation

9. Do you consider that there are any obstacles to the functioning of waste markets connected to the application of EU waste legislation or other EU legislation?

- Yes, many
- Yes, but limited
- No (go to part C of the questionnaire)
- Don't know (go to part C of the questionnaire)

10. What are the drivers/causes of these regulatory failures or obstacles to the efficient functioning of waste markets?

(Rate in a scale of 0–5, with 0 not important, 5 very important)

a. Application of the system of notification- and consent requirements under the Waste Shipment Regulation (Articles 4-17 and 26-33 of the Waste Shipment Regulation).

between 0 and 5

b. Application by national authorities of the provisions concerning waste shipments through transit countries (Waste Shipment Regulation).

between 0 and 5

c. Other controls imposed on waste or waste shipments by application of EU waste legislation.

between 0 and 5

d. Different interpretations of the definition of 'waste' according to the Waste Framework Directive.

between 0 and 5

e. Diverging classifications of waste as 'hazardous' or 'non-hazardous' (Waste Framework Directive).

between 0 and 5

f. The distinction between 'recovery' and 'disposal' (Waste Framework Directive).

between 0 and 5

g. Application of the 'proximity principle' resulting in an outcome which is inconsistent with the waste hierarchy (Waste Framework Directive and Waste Shipment Regulation).

between 0 and 5

h. Divergent application of the so-called 'R-codes', i.e. the recovery operations listed in Annex II to the Waste Framework Directive.

between 0 and 5

4

- i. Application of national end-of-waste criteria established in accordance with the Waste Framework Directive, see further Article 6(4) of the directive.

between 0 and 5

- i. Application of national end-of-waste criteria established in accordance with the Waste Framework Directive, see further Article 6(4) of the directive.

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- j. Application of the grounds for reasoned objections to shipments of waste for recovery, as listed in Article 12 of the Waste Shipment Regulation, or the requirement for environmentally sound management (ESM), see further Article 49(1) of the regulation.

between 0 and 5

0

- k. Other obstacles not listed above.

between 0 and 5

If relevant, please provide additional information in relation to your above reply.

Comments about item i)

The European Biogas Association's and European Compost Network's response to this consultation has called for the establishment of EU-wide End of Waste rules. They have explained various reasons why, and in theory such rules would have a net beneficial effect across the EU. However, there are limitations of national EoW rules that ECN has claimed but the REA doesn't agree with (see sub-points A) and B) below) and we are extremely concerned that DG GROWS's draft criteria would prevent nearly all UK digestate that currently has product status (under national EoW rules) from being placed on the domestic market and the EU market as product. Furthermore, a minority of UK composts that currently have product status (under national EoW rules) would be prevented from being placed on the domestic market and the EU market as product. We have commented in more detail about the serious implications in our response to the Commission's recent consultation on Circular Economy and in our communications to DG GROWS during their work towards revising the EU Fertilisers Regulation.

The ECN's response to this consultation made two criticisms of the role that national EoW rules could play in supporting cross-border movements of compost and digestate products between EU Member States. The REA disagrees with these criticisms but this answer box doesn't allow enough characters for us to explain why (and also make an entirely different point about classification of AD in the paragraphs after this one)! We will send you an email on this important topic and our concerns and suggestions about possible restrictions on how animal by-products must be processed when producing compost/digestate that complies with EU EoW rules.

[The blue text below in this section would not fit in the text box for answering question 10. Consequently it is provided in this version of REA's response to the consultation, emailed to the Commission on 8th September 2015. It provides the remainder of REA's comments about item i) in the list above, which is a very important issue for the UK as we have already well established EoW rules for composts and digestates made from source separated biodegradable waste.]

Over-restrictive intentions regarding treatment of animal by-products

In connection with revision of the EU Fertilisers Regulation to include EoW rules for composts and digestates made from source separated biodegradable wastes, DG GROWS and DG SANCO indicated in a letter to the Fertilisers Working Group (18 November 2014) that when producing compost/digestate with EU product status, if the treatment process composts or digests animal by-products (ABPs) it would be restricted to using only the 'Standard Transformation Parameters' stated in EU Regulation No. 142/2011's Annex V, Chapter III, Section I (i.e. minimum 70 °C, minimum 1 hour, maximum particle size 12 mm). This regulation includes 'Alternative Treatment Parameters' (Annex V, Chapter II, Section II, point 1), the efficacy of which has to be proven to the competent authority, by supplying evidence more extensive than is required when using the STPs and complying with limits on pathogen content which are equally strict (where the pathogen indicator species tested are the same).

The REA highlights that any EU-wide EoW rules for composts and digestates must allow processing of ABPs according to STPs OR ATPs, as per the rules set in EU Regulation No. 142/2011. N.B.: the ATP rules (Annex V, Chapter III, Section II, points 1 and 4a)) are NOT the same as this regulation's provisions that allow EU Member States to establish their own national rules for treatment of certain types of low risk ABPs (Annex V, Chapter III, Section II, points 2, 3 and 4b)). In the UK, we currently have a significant proportion of compost and digestate product producers who treat ABPs according to national rules or to the ATP rules in EU Regulation No. 142/2011. Many of them following national rules could switch to following ATP rules and should succeed in validating production as per ATP rules (proving efficacy of treatment to the competent authority). It is important to understand that the majority of them would find it very difficult and costly to change to following the regulation's STP rules. The consequence of only allowing STP rules when producing EU-EoW digestate/compost products from ABPs could be a very significant loss in amount of compost and digestate product produced in the UK*. This would distort the established UK markets for compost and digestate products by reducing their size and we would hope that UK land-based markets for composts and digestates with waste status would increase by a corresponding amount, otherwise this renewable resource will end up in landfills or incinerators.

* So far, responses from industry and analysis of the competent authority's public data shows that at least 22 composting/digestion processes follow national ABP rules, and collectively treat approx. 781,500 input tonnes per annum. In addition, it's unclear which ABP treatment rules least 16 composting/digestion processes are following, and there are 55 processes following STP or ATP rules (probably mostly STP rules but the necessary data is not available/has not been gathered that would enable us to know what the proportions actually are).

National EoW rules can work in the EU market

The ECN's response to this consultation made two criticisms of the role that national EoW rules could play in supporting cross-border movements of compost and digestate products between EU Member States. The REA disagrees with these criticisms.

A) ECN wrote: 'In principle setting national end-of-waste criteria is a meaningful option. But there is one important aspect which then distorts the possible transboundary market: even if the material is complying with the national end-of-waste criteria the PRODUCT needs to be notified under the Waste Shipment Regulation if the importing country would not agree with the product status according to its own trading and use rules for the respective substance/waste-derived material.'

REA responds by highlighting that if the product complies with national EoW rules of the EU Member State in which it is intended to be used AND with national EoW rules of the EU Member State in which it is produced there is no need for notification under the Waste Shipment Regulation.

B) ECN wrote: 'Also another example makes the national EoW scheme meaningless when it comes to EU-market: composted biowaste having been sanitised and processed under national implementation rules following the ABP Regulation (EC)1069/2008, might not be accepted by the

importing country which has implemented more demanding/stricter hygienisation rules, even though the compost has achieved product status in the exporting MS!'

REA responds by acknowledging that ECN's comment about national ABP rules is a correct concern. However, ECN might not be aware that EU Regulation No. 142/2011 allows the use of Alternative Transformation Parameters (see our text on this above), the efficacy of which has to be proven to the competent authority by supplying evidence more extensive than is required when using this regulation's Standard Transformation Parameters, and complying with limits on pathogen content which are equally strict. The ATP rules are not the same as national ABP rules (also stated above) and unlike national ABP rules, ATP rules don't restrict the use of the compost/digestate to just the national market of the country in which it was produced (see EU Regulation No. 142/2011, Annex V, Chapter III, Section II, point 4a)). I.e. EU Regulation No. 142/2011's ATP rules allow a compost/digestate that complies with them (and all other relevant ABP rules) to be placed on ANY market within the EU, not just the domestic/national one. This means that national EoW schemes remain meaningful when it comes to placing ABP-derived compost/digestate products on the EU-market!

Concluding comments on EoW rules

The REA understands that national EoW rules become superseded when EU-wide EoW rules with the same scope (for the same waste-derived resource and its uses) are established. The UK's national EoW rules are working well and geared to the characteristics of our composting and anaerobic digestion industries. The different characteristics in terms of input materials, process management and minimum safety and quality requirements in EU Member States' standards and national EoW rules (where the latter exist) are difficult to reconcile in a one-size-fits all set of EU-wide EoW rules (we have given examples above about why we are concerned). It IS possible to increase markets in the EU for compost and digestate products by encouraging EU Member States to establish their own national EoW rules and make bi-lateral agreements where it would be beneficial to trade these products across their borders. This may not be as efficient as establishing EU-wide EoW rules in terms of cross border trade between EU Member States but it would be far less harmful than setting EU-wide EoW rules that will in the short to medium term reduce the quantity of compost/digestate product produced in the UK, may cause some UK producers to go bankrupt, and are likely to drive change in which biowastes are turned into products and how much energy crop is co-digested with biowaste.

(Item h) Consider Anaerobic Digestion classification and a better WFD definition for the recycling of biodegradable wastes

How should we classify anaerobic digestion within the context of the Waste Framework Directive, Annex II, Recovery Operations?

Excerpts from Annex II:

'R 1 Use principally as a fuel or other means to generate energy (*)'

'R 3 Recycling/reclamation of organic substances which are not used as solvents (including composting and other biological transformation processes)'

According to these current classifications and associated notes in Annex II, it seems that anaerobic digestion of biodegradable wastes might be an R1 or an R3 activity (the latter because AD is at least partially a biological transformation process), depending on the main purpose of digesting this resource, what the process produces (biogas and digestate), perhaps their energy efficiency when they process municipal solid waste, and what happens to the process outputs (biogas and digestate, and not process by-products).

The REA suggests that revision of the Waste Framework Directive includes a definition of 'recycling' which is specific to and appropriate for biodegradable wastes (including biowastes). In this context, recycling could be defined as 'any recovery operation, including an anaerobic or

aerobic digestion process which recovers energy, in which biodegradable wastes are biologically transformed into:

- products, materials or substances suitable for use – without any further treatment or minimum storage period - as a soil improver, biofertiliser, or ingredient in a medium that supports the germination and growth of plants (e.g. growing media, manufactured topsoils); and
- also biogas and/or utilisable heat in the case of anaerobic or aerobic digestion.

The REA has commented in more detail on these WFD 'recovery' and 'recycling' topics in section 2 of our Position Statement submitted in response to the Commission's recent consultation on circular economy. Our above suggested definition of recycling in the context of biodegradable wastes has been updated a little since we responded to the circular economy consultation.

11. Please provide qualitative or quantitative evidence of the impacts of these distortions (e.g. in terms of additional costs for businesses, missed new job opportunities, environmental impacts etc.)

C. Obstacles to the functioning of waste markets arising from national, regional or local rules or requirements and decisions which are not directly linked to EU legislation

12. Do you consider that there are any distortions created by waste policy, requirements or decisions taken at national, regional or local levels?

- Yes, many
- Yes, but limited
- No (go to question 15)
- Don't know (go to question 15)

13. What are the drivers/ causes of these market distortions?

(Rate in a scale of 0–5, with 0 not important, 5 very important)

a. Differing taxes or fees leading to internal or cross border 'shopping behaviour', i.e. waste is transported to locations where it is cheaper to manage to the detriment of more environmentally sound management options which are locally available.

between 0 and 5

0

b. Distribution of roles and responsibilities for municipal authorities and private companies in waste management.

between 0 and 5

3

c. Development of waste treatment networks leading to local overcapacities or under-capacities for different types of waste treatment (e.g. incineration) to the detriment of higher positioned treatment steps in the EU waste hierarchy.

between 0 and 5

- d. Inefficient use of available capacity in recycling or energy recovery in a neighbouring country or within the country itself.

between 0 and 5

- e. Regulatory barriers that lead to shipments of waste in spite of facilities existing nearer to the source that could treat the waste in an equivalent or better manner in terms of environmentally sound management and the waste hierarchy.

between 0 and 5

- f. Design and implementation of extended producer responsibility schemes leading to competition distortions or market access problems for producers and waste operators.

between 0 and 5

- g. Permits and registrations which are not linked with EU legislation, requested from companies established in other Member States, even if they have fulfilled similar requirements in their home Member State.

between 0 and 5

- h. Excessive controls on waste or waste shipments by national/regional/local policy, decisions and legislation that go beyond EU requirements ('gold plating').

between 0 and 5

- i. Distribution of roles and responsibilities for municipal authorities and private companies in waste management.

between 0 and 5

- j. Other obstacles not listed above.

between 0 and 5

If relevant, please provide additional information in relation to your above reply.

Point c on over-capacity is a concern. In some parts of the UK there is over-capacity for anaerobic digestion of food waste, which leads to the operators charging reduced fees for accepting and treating this waste. Removal of physical contaminants during waste preparation at the facility is the most cost-effective and technically-effective stage (after the food waste has been collected) but reduced fees can affect the extent to which physical contaminants are removed. Composters in areas of AD over-capacity for food waste also experience pressure to reduce their fees for accepting and treating biowaste. They tend to charge lower fees than AD operators and so the challenge they

face to cost-effectively remove physical contaminants in the biowaste is even higher. UK markets for composts and digestates are sensitive to the presence of physical contaminants.

Relevant to points b), c) and d) is that divisions between roles within local authorities and insufficient working together and with industry can lead to mismatch between treatment capacity for biodegradable and residual wastes and the collected amounts of these wastes. In the UK the best waste management option for a particular waste stream is sometimes not chosen because the waste collection authorities and waste 'disposal' authorities have different perceptions about the most cost-effective and target-effective solutions. Sub-optimal waste management is less likely in a unitary authority, where there is no division between waste collection and 'disposal' aspects.

In addition, planning and waste authorities should be required to work together to ensure that the right capacity is available amongst the right types of infrastructure. Amongst other things, this means taking into account planning applications for facilities that manage private sector wastes as well as facilities for managing wastes from households, the public sector, and other sources where the local authority has provided the collection service.

14. Please provide qualitative or quantitative evidence of the impacts of these distortions (e.g. in terms of additional costs for businesses, missed new job opportunities, environmental impacts etc.)

15 a. Please rank the three most important drivers of market distortions and obstacles according to their importance with respect to being tackled first to improve the efficient function of waste markets. Please indicate the relevant number and sub-letter from 10a)-k), 13 a)-j).

In our view the 3 most important obstacles which have to be tackled first are the following:

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15 b-c.

- 15 b. Cannot rank them. They are all equally important.
- 15 c. Not enough knowledge to rank them.
-

16. What do you feel are the negative impacts within the EU of such obstacles? Please rank them between 0 (no impact) to 3 (high impact).

a. Increased waste generation or less reuse

b. Less recycling

between 0 and 3

c. Less recovery, including energy recovery

between 0 and 3

1

d. Less environmentally sound management of waste

between 0 and 3

3

e. Less resource efficiency

between 0 and 3

2

f. Lack of market access

between 0 and 3

3

g. Other

between 0 and 3

If relevant, please provide additional information in relation to your above reply.

D. Final questions

17. Do you consider that there are large differences between the Member States in the way their waste markets function?

- Yes, very large differences.
- Yes, but the differences are small.
- No differences.
- Don't know.

18. Please briefly describe the differences between Member States, perceived as obstacles to the functioning of waste markets:

- 1) Different interpretation of EU Waste legislation (waste hierarchy, pre-treatment, implementation of the ABP-Regulation as regards catering waste treatment under national rules), waste reporting in specific on recycling and diversion targets
- 2) Different permitting systems / standards for treatment plants
- 3) Different treatment standards (minimum requirements)
- 4) Few national end-of-waste rules for composts and digestates made from biodegradable wastes* and different voluntary standards for these renewable resources / product standards (

* This obstacle is reduced when there is good understanding of how to establish national EoW rules and enable cross-border trade between EU Member States).

19. What solutions would you propose in order to address the regulatory failures or obstacles you have identified above?

1) EU biowaste legislation: Obligation for separate collection of biowaste in combination with binding recycling targets for biowaste to be implemented by EU Member States. This combination provides sufficient flexibility for national/regional planning for integrating home composting with introduction of separate collection and biological treatment in regions and local areas where this is best suited and efficient.

2) Establish EU-level policy that encourages EU Member States to establish their own national End-of-Waste rules for compost and digestate (as is already allowed under the WFD) and bi-lateral agreements in respect of product trade between their borders. Provide guidance and resources for educating key stakeholders about how to do this.

3) Digestate that complies with EoW rules (national or EU-wide) should be clearly exempt from REACH registration.

4) Re-allocate EU funds to support separate collection and recycling at all levels, embedded in a comprehensive recycling planning. Biowaste separate collection, composting, and anaerobic digestion for waste streams that enable cost-efficient biogas production should be a special focus herein.