



DG ENVIRONMENT
Daniel Calleja Crespo
Director General

Meeting with Amazon

26/02/2019 11:30

BRIEFING NOTE

Scene setter / Context:

You will meet Amazon's Sustainability Director for the World, Ms Kara Hurst, based at the Seattle Headquarter, to exchange views related to the overall circular economy agenda, waste minimization and product responsibility. Ms Hurst's bio is attached as Annex I.

Commission is ready to cooperate with Amazon and the e-sector to strengthen circular practices and act as facilitator. Offer the possibility to increase dialogue via the European Circular Economy Stakeholder Platform's umbrella, and encourage Amazon to provide input to the European Commission on the circular economy potential in the e-sector – in view of the next policy cycle.

Amazon recently met with Director Kestutis Sadauskas, on 6 February. You can find the minutes of the meeting in Annex II.

Name of main contact person:

Telephone number:

Directorate/Unit:

B1

Lines to take

[EU circular economy policies]

- We have **delivered more than 90% of the 54 actions** included in the Circular Economy Action Plan. Next steps:
 - We will reach full implementation within the term of the current Commission's college. In the first quarter of 2019, we will publish the initiative "**Towards an EU Product Policy Framework contributing to the Circular Economy**", an analysis of the potential for circular economy in certain product groups and to what extent EU product policy tools are currently addressing this potential.
 - The Commission will report on its contribution to the circular transition through a **Circular Economy Action Plan implementation report**, which we expect to adopt in the first quarter of 2019. The report will also explore untapped potentials in the circular economy.
- The Commission considers circular economy an irreversible megatrend that will shape public policies in the next decades. **Commission's actions on the topic will continue in the next policy cycle, based on current successes.**
- **Online retailers** are placed at a **crucial position** in the supply chain - between producers and consumers. They play an important role in the transition to circular economy by influencing both production patterns and consumer behaviour, and **we are interested to explore how to increase circularity in the sector.**

[Issue of Amazon's practices for unsold products]

- We are aware of the **recent reports from French media** on Amazon's alleged practices regarding some unsold products. Such practices are concerning and embedded in the current **outdated** economic linear model, which has negative consequences on the environment (e.g. increased waste, lack of separate collection, etc.) and are a missed economic opportunity for both the company and the economy.
- In the recent meeting Amazon had with the European Commission on 6 February, Amazon explained that they are trying to develop a new service/system for sellers on line to allow them to donate unsold stock to charity. However, they mentioned that they are encountering a barrier in the different levels and settings of VAT systems in Member States. **Commission's services from the Environment and the Taxation Directorates are in contact to learn more and exchange on the topic.**

[Circular Economy benefits for Amazon]

- As Amazon bases its reputation and market on deploying innovative business models, it is best placed to engage with circular economy, which is first of all an **innovation race**:

- It is in **Amazon's interest** to embrace circular economy and adjust current bad practices. Circular economy is a megatrend for the decades to come; hence, **first comers will likely set the standards and the practices that will apply in the future.**
- **In business, timing is everything**, as Amazon's own history and business model show: **business as usual today means a competitive gap tomorrow.** Time to act is now.

[Amazon's circular economy practices]

- Commission is aware and welcomes Amazon's recent initiatives about circular economy, such as "*Amazon Second Choice*" on reuse, refurbishing, and recycling information for customers – that have the chance to receive gift cards in return of selling back items they no longer need or want. **We would see with favour an increase in the list of eligible items, as currently not all items are included in the programme.**
- Moreover, Amazon's programme to **reduce packaging** have an important role to play in the shift towards a more circular design and waste prevention. This is an important issue for the EU since the generation of packaging waste has been consistently growing.

[What can Amazon do?]

- However, Commission thinks that such initiatives would be more transformative if framed within a **comprehensive commitment towards a circular economy** – involving circular practices at different stages of Amazon's business cycle (e.g. packaging, end-of-life, separate collection, market for recycled materials, etc.).
- Amazon is also in the position to increase information for customers in order to support **sustainable consumption** – for example with information on duration and reparability of items for sale in their e-shops. Sustainable consumption is a key component of the circular economy transition, and Amazon is in the position to empower consumers to make their contribution.
- Amazon can already increase circularity and environmental performances within its operation by applying to **EMAS**, Commission's EU Eco-Management and Audit Scheme. EMAS is a premium management instrument for companies and other organisations to evaluate, report, and improve their environmental performance. It is the most credible and robust environmental management instrument on the market. This is a great opportunity, as **it enhances performances, as well as credibility and reputation.**
- We are interested to explore the high potential of circular economy in e-commerce. **I invite Amazon to submit ideas for the next policy cycle in a letter to the European Commission.** We are interested also on the broader nexus digital / circular economy, and Amazon's expertise (as well as Amazon's new adoption of Artificial Intelligence in its operation) would be a useful input to future discussions.
- Encourage Amazon to participate in current global efforts against plastics pollution. The Commission would see with favour a **commitment to reduce or eliminate single use plastics from Amazon's packaging.**

[Strengthening cooperation]

- The Commission is ready to help and start a closer cooperation with Amazon to facilitate circular economy best practice sharing within the retail and the e-commerce sector. The **European Circular Economy Stakeholder Platform** could provide a **useful umbrella to foster our cooperation**.
- I welcome Amazon's proposal (from the meeting on 6/02) to **get involved in future workshops/events related with digitalisation and circular economy**. Commission's services will follow up on this with Amazon.

[Extended Producer Responsibility]

- The EU waste legislation and the Circular Economy Action Plan in general promote the Extended Producer Responsibility (EPR) as a promising tool to not only cover the financial burden of dealing with waste but also to make a greater link between products' design and its end-of-life treatment.
- The EU legislation is extending the mandatory application of EPR to a growing number of products. It is already applied to electrical and electronic equipment, cars, batteries. From 2025 the EPR will be obligatory for all packaging put on the market although many EU Member States have already introduced this obligation in their national laws.
- The revised Waste Framework Directive sets out **general minimum requirements for the EPR schemes** that will have to be met by all schemes in the EU. This includes clarification on the types of costs that should be covered by the producers and a requirement that fees paid by the producers are to be **eco-modulated** based on criteria such as products' durability, reparability, reusability, recyclability and the presence of hazardous substances. This new obligation is expected to provide an economic incentive for better design, more in line with circular economy.
- It is clear that **all goods, also those sold on-line have to be covered by the EPR obligation**. The experience to date shows that many sellers putting their goods on the EU market do not fulfil their obligations, this is especially symptomatic of on-line sales of electric and electronic goods as well as batteries. The new requirements make it clear that Member States should ensure better enforcement, including in distance selling. The Commission is tasked with supporting exchanges of best practice between EU Member States on this point.
- **We are aware that producers and retailers plea for more harmonised and simplified rules across the EU to facilitate the compliance.**
- In order to **facilitate a more harmonised approach**, the Commission is working on a guidance document for Member States to help them with the interpretation of the concept of fee modulation, but also to support the national authorities with the issue of better compliance, also in distance sales. The guidance is scheduled to be adopted by the end of 2019.

Background

Recent reportage in French Media

According to French media, every year Amazon destroys about three million unused products in France alone (estimate, based on 3-month flow in one of Amazon's centres in France). The products are those offered by external merchants on Amazon's marketplace, and are kept in Amazon's distribution centres. The contract between Amazon and its external merchants supposedly states that unsold goods **can be returned to the merchant or destroyed**. Items that have spent too much time on the shelves are landfilled, according to French media.

The main issue seems to be economic: producers have the possibility to choose whether to take the unsold items back or to let Amazon dispose the items. However, journalists claim that the billing system proposed by Amazon to producers for taking back their items is disadvantageous and does not encourage sustainable practices (26 euros/m³ au départ, 500 euros/m³ after 6 months, 1 000 euros/m³ after 1 year).

Response of Amazon to criticisms, mentioned in a recent meeting with DG ENV on 6 February 2019:

During the meeting Amazon had with Director Kestutis Sadauskas, Amazon's representatives mentioned that products destruction is a cost to Amazon, and they stressed they are willing to limit it, for example "Warehouse Deals" allow damaged and returned products to be marketed; Amazon is developing new services for sellers on line to allow them to donate unsold stock to charity, but they affirm they encounter systemic problems related with non-homogeneous VAT systems in the EU.

Follow-up policy actions in France to Amazon's case:

Minister Brune Poirson had announced actions to tackle the issue, in the context of the new *project de loi* to implement the national Circular Economy roadmap. In particular, he announced the intention to make illegal for companies the practice of destroying unsold goods. However, such actions are not currently included in the *project de loi* under discussion, as the **current** text will «*orienter les invendus de textiles, linge de maison et chaussures en priorité vers le réemploi, la réutilisation et le recyclage* », with no actions foreseen for other types of products (e.g. electronics).

Amazon's initiatives related with circular economy

Delivering Shipment Zero, a vision for net zero carbon shipments

Amazon delivered on 18 February its 'Shipment Zero', Amazon's vision to make all Amazon shipments net zero carbon, with 50% of all shipments net zero by 2030. They now see a path to net zero carbon delivery of shipments to customers, and are setting an ambitious goal to reach 50% of all Amazon shipments with net zero carbon by 2030. They are not doing this on their own, but will continue to use their scale and the feedback customers to enable and encourage suppliers up and down the supply chain to reduce their own environmental impact.

To track progress and as part of an overall commitment to sharing our sustainability goals, they plan to share Amazon's company-wide carbon footprint, along with related goals and programs, later this year. This follows an extensive project over the past two years to develop an advanced scientific model to carefully map Amazon's carbon

footprint to provide business teams with detailed information helping them identify ways to reduce carbon use in their businesses.

Amazon Second Chance

Established in November 2018, the one-stop shop help customers to learn how to minimize their impact on the environment through reuse, refurbishing, and recycling – and create a system to make trade-in possible.

- Trade it in: trade-in eligible items that costumers no longer need or want, receiving an Amazon gift card in return.
- Recycle devices: For Electronic items Amazon Second Chance provides information to recycle the devices.
- To buy used items at Amazon Warehouse,
- Amazon Product Support available free for 90 days post-purchase to help customers figure out what is wrong and teach how to fix items step-by-step.
- Recycle packaging ; Second Chance provides detailed information on where and how to recycle Amazon packaging.

Other CE initiatives

- In 2016 Amazon lunch a nationwide initiative in its North American Fulfillment Centers to **donate excess food to Feeding America**, a U.S.-based non-profit organization, whose mission is to feed America's hungry through a nationwide network of member food banks.
- **“Frustration-Free Packaging”** is packaging that is made of 100% recyclable materials, easy to open, and designed to ship products in their original packaging, which eliminates the need for an additional shipping box. Since 2008, Frustration-Free Packaging has grown to include more than 750,000 products. As of December 2017, Amazon’s sustainable packaging innovations have eliminated 215,000 tons of packaging material and avoided 360 million shipping boxes.
- Amazon recently **invested \$10 million** in “Closed Loop Fund”. Over the next 10 years, Amazon’s investment will increase the availability of curbside recycling for 3 million homes in communities across the US, diverting 1 million tons of recyclable material from landfill and eliminating the equivalent of 2 million metric tons of carbon dioxide.

EPR (Extended Producer Responsibility)

Issue for e-commerce:

In the EU, the producers have an extended producer responsibility for several types of products sold on-line via platforms such as amazon, including the electrical and electronic equipment and batteries. Most of EU Member States also mandate EPR for packaging while the revised Packaging Directive makes it mandatory for all types of packaging from 2025.

Across the EU there is a growing problem of producers selling products on-line either individually or via platforms such as Amazon that do not fulfil their obligations to finance the end-of-life treatment of products they sell (including packaging). With a growing share of on-line sales and without a more decisive enforcement action this problem may jeopardise the functioning of extended producer responsibility systems and will put producers fulfilling their obligations at a competitive disadvantage.

On the other hand, Amazon complains about the complexity and fragmentation of the EPR schemes across the EU due to each Member State having separate rules, collecting different fees, etc. This is perceived as an administrative burden by the sellers and may contribute to the problem of free-riding, including the non-intentional avoidance of the obligation.

EU policy:

Extended Producer Responsibility schemes form an essential part of efficient waste management. They put the obligation on producers to take operational or financial responsibility for the end-of-life phase of their products (including packaging). The EPR is an approach to ensure financial contribution by producers to the costs of waste management, and thus an economic instrument to stimulate better design to reduce such costs. Currently EPR is mandatory for producers of electrical and electronic equipment, batteries and vehicles. The revised Packaging Directives introduces mandatory EPR for all packaging from 2025.

Across the EU there is a growing problem of producers selling products on-line either individually or via platforms such as Amazon that do not fulfil their obligations to finance the end-of-life treatment of products they sell (including packaging). The avoidance of obligations is especially visible in on-line sales of small electronic goods or light equipment, and batteries. The revised Waste Framework Directive introduces new general minimum requirements to be met by all EPR schemes. These requirements concern areas such as:

- governance,
- transparency, monitoring and reporting of performance,
- enforcement of obligations, also in distance sales,
- clarify the minimum costs that should be covered by producers,
- introduce an obligation of eco-modulation of fees paid by producers to collective schemes (where the obligation is fulfilled by a third organisation for more than one producer), to reflect if products' characteristics are in line with CE principles (if they are durable, repairable, reusable, recyclable).

The Commission is working on a guidance document to support Member States with implementation of several of these requirements, namely the eco-modulation of fees, enforcement (including in distance sales), and non-discrimination of producers in the EPR schemes.

Annex I

CV of Ms Kara Hurst



Nationality: American

Born:

Current position:

Head of Worldwide Sustainability at Amazon (Sep 2014 – Present)

More recent job positions:

CEO at The Sustainability Consortium (Sep 2012 – Sep 2014)

The Sustainability Consortium is an organization of companies, academics and civil society organizations working on the science of product sustainability. Its members represent over \$2.4 trillion in revenue in the CPG and retail industries.

Various position until Vice president at BSR (2001-2012)

BSR is a global nonprofit organization that works with its network of more than 250 member companies and other partners on sustainability.

Education:

Annex II

Minutes from recent meeting with Amazon – 6 February

Visitors:

James Waterworth (Director Brussels Office), .

will represent Amazon.

[IN TOTAL 4 PERSONS]

ENV Colleagues:

Kestutis Sadauskas,

Overview of Amazon's business:

- It sells on behalf of 3rd parties "Amazon takes a Commission, but producers take responsibility".. "we make the single market for products work";
- Amazon offers "Fulfilled by Amazon" services (taking orders and dispatching etc.);
- Amazon producers own brands "Amazon Basics", e-readers, voice recognition technology etc.
- It also provides web services (eg: cloud hosting)

Sustainability initiatives:

- "Frustration Free Packaging", including trying to get rid of the "overbox" and induce producers to limit primary/secondary packaging to what is needed for transport, not for shelf-sales.
- e-books are dematerialising publishing (and destruction of stocks by publishers was a big issue)
- Product destruction is a cost to Amazon, so they want to limit it, for example "Warehouse Deals" allow damaged & returned products to be marketed;
- Amazon is developing a new services for sellers on line to allow them to donate unsold stock to charity, but they encounter systemic problems.

Systemic tax issues:

- Three main challenges for sellers are (1) fragmentation of markets, (2) additional VAT costs, and (3) VAT administrative burdens/costs; Small sellers cannot deal with 27 tax regimes;
- Sellers pay VAT on donated goods, but not if destroyed; Some MS have zero rate, but still with limited scope and high administration formalities;
- UK VAT relief schemes are simpler and more scaleable;
- (in response to EM on application in FR of ban on food destruction and elimination of VAT on donations) Sectoral approach in FR, but non-food system remains burdensome (eg: requires certificates from charities). Other obstacles (hazardous substances etc) can be dealt with, but it is the tax issue that results in destruction of stock.

Issues on EPR:

- PROs complain that on-line sellers don't pay their way;

- Amazon considers compliance burdens too heavy across 27 markets
- Modulated fees imply many regimes, many languages and comprehensive information on products; Amazon is in direct contact with several national schemes and authorities;
- Therefore a simplified method is needed for distance sellers; (KS noted that attempts to create pan-EU schemes have met with issues of insufficient scale, eg: aluminium cans);
- (Amazon responded, noting GROW guidance, OECD on-going work and study on best practices as input to minimum requirements guidance, which will address on-line sales);
- Amazon added that the title of the study should encompass “enforcement and facilitation” of compliance (COM: or “smart enforcement”);
- (COM also indicated possible digital solutions) Amazon noted increasing use of AI/machine learning for example on product use (Amazon suggested their involvement in development of digital CE roadmap, e.g. in workshop).

KS/COM concluded:

- Inviting Amazon to demonstrate sustainability credentials through EMAS registration;
- Inviting Amazon to submit wide ideas for next policy cycle in a letter