

Dear Sir or Madam,

On behalf of the European Waste-to-Advanced Biofuels association, we welcome the opportunity to contribute to your consultation on the Irish biofuels obligation scheme. We set out below our response regarding in particular question 12 of the consultation.

## **Question 12**

### **(a) What approach do you think should be adopted in relation to the 1.7% limit on biofuels produced from UCO and animal fats?**

We consider that the 1.7% limit, often referred to as a “soft cap”, or “flexible cap” should be removed completely as without this removal it will not be possible to reach the overall targets.

Taking 2018 fuel sale statistics as a base reference, total gasoline and diesel sales amounted to 4.433 billion litres (1.041 billion litres of gasoline and 3.392 billion litres of diesel -source: NORA.ie statistics).

An 11% inclusion rate for 2020 will require a total of 487 million litres of biofuels. Initially assuming that E5 remains the predominant gasoline blend then a total of 52 million litres of ethanol will be required, equivalent to 1% energy basis. On this basis 49 million litres of crop-based biodiesel will be permitted representing an additional 1% energy basis leaving the remaining biofuel requirement at 383 million litres, or 192 million litres of double counted wasted based biodiesel which is equivalent to 4% energy content, well above the 1.7% cap.

In the event that E10 becomes the established gasoline blend then a total of 104 million litres of ethanol would be required, equivalent to 2% energy basis. On this basis the remaining biofuel requirement at 432 million litres, or 216 million litres would have to consist of double counted wasted based biodiesel which is equivalent to 4.4% energy content again well above the 1.7% cap.

In any event if the targets are to be reached and the NCAP targets identified by Ireland will exceed those under the recast Renewable Energy Directive, then it is imperative that the 1.7% cap be either removed or increased sufficiently to ensure that Ireland maximises its use of the highest GHG saving biofuels to decarbonise the transport industry.

### **(b) Do you consider it appropriate to seek the European Commission’s approval for a higher limit and, if so, what evidence would you suggest be used to support such a request?**

**The following evidence should be used to support a request to increase the “ soft cap” to the EU Commission.**

1. **Availability:** One of the justifications relates to the Commissions reference to availability of feedstocks. There is no accepted definition of availability and no clarity of definition within the commission. It is therefore open to interpretation. A question arises as to global or local availability.

Local availability: this does not stand up to scrutiny as there is nothing within the recast Renewable Energy Directive that defines it as only the locally available feedstocks and in the event that this was an interpretation where there was a shortfall it would only lead to sourcing food and feed crop based biofuels. A request for local availability understood as sourced exclusively from an EU Member State would go against the free movement of goods, one of the four EU Single Market fundamental freedoms.

Global availability: The feedstocks included in Part B Annex IX are traded globally. Currently there is sufficient availability of feedstocks on a global scale and more is becoming available as collection methods improve worldwide. Greater incorporation of waste biodiesel is actually driving the development of professional and household collection globally, thus taking UCO, a noxious carcinogenic waste, out of the food and feed chains in third countries.

Regarding Ireland in particular, in 2018 162 million litres of biodiesel comprised of feedstocks from Part B Annex IX was consumed and therefore this automatically proves that it is available. This consumption represents 4% energy content and demonstrates Governments policy to support the most sustainable biofuels.

2. **1.7% Cap:** Maintaining the cap in place will automatically reduce the volumes of waste based biofuels consumed in Ireland and with little availability of advanced biofuels, obligated parties will be forced to source the next cheapest biofuel, namely food and feed based crop biofuels, particularly PME (Palm Oil methyl ester), which is not sustainable. Alternatively, obligated parties would have to source non waste and non-crop biofuels such as PFAD/Category 3 and HVO, which in itself is too expensive for the consumer. Overall it would be nonsense to try to promote these “other” biofuels over well-established waste-based biofuels.
3. **Fraud:** One of the concerns within the Commission was in relation to fraud and that is one of the reasons that the “soft cap” was introduced. Originally it was considered that the cap would remain in place until such time as the Commission had established an EU wide database, which would mitigate the presence of fraudulent activity. Within the recast Renewable Energy Directive an EU wide database will be in place in the second half of 2021

which will directly address any potential of fraud either from scheme hopping or exaggerating volumes of sustainable biofuels.

In addition, within the EU waste-based biodiesel industry, represented by the EWABA organisation measures are already being put in place to mitigate fraud, namely:

- a. The EWABA Standard of Transparency – The majority of EU waste biodiesel producers have identified a series of improvements to certification schemes applicable to key elements of the biodiesel production chain: point of origin/collection point, production/storage facility/, trading entity. While EU waste biodiesel producers have pledged to abide by these improved certification via auditable requirements, existing certification schemes have already started to adapt their systems and terms of use to incorporate the EWABA modifications. The most widespread certification scheme for waste biodiesel in the EU, ISCC, has adopted several of the EWABA recommendation and is working on further improvements. Other certification schemes such as RSB, Redcert and 2BSBS are preparing updates in this direction. In addition the European Commission is preparing an overhaul of the EU certification schemes to be adopted in 2021.
- b. Pan-Industry work on a single EU database – the biofuels industry at large is currently working on bringing to the market a database way in advance than the EU Commission's initiative due in mid-2021. A series of working groups gathering EU associations like EBB and EWABA and national associations such as MVO and NVDB from the Netherlands and BDV and MVaK from Germany, among others, together with representatives from key corporate players, have been taking place over the second half of 2018. Emanating from this work two pilot tests of possible databases with the participation of large fuel suppliers, biodiesel producers and certification schemes RSB and ISCC are to be concluded before the end of the year.
- c. Development of a UCO testing method – the industry has recently presented a UCO testing method allowing for the differentiation between actual waste cooking oil and virgin vegetable oils in any feedstock blend to the European Commission. Following more than 500 preparatory tests and an equal number of blind testing the method has proven highly successful (with less than 1% failure rate). A patent application has been filed and the industry is currently working to bring a European standard to the market as soon as possible.

These measures together with the EU's own database will address any concerns over fraud.

These tangible initiatives make a soft limitation conceived as an “anti-fraud” measure redundant. The fact that the limitation is flexible itself places a fundamental question on its rationale, as it was in fact the result of horse-trading during the REDII negotiations.

4. UK RTFO: The revised RTFO, which regulates biofuels in the UK to 2032 has no limit on the use of waste-based biofuels and is actively promoting their use as they are the highest contributor to a reduction in greenhouse gas emissions in the transport sector.

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Many thanks for your consideration of our input. Please do not hesitate to get back to us in case you have any questions or comments.

Best regards,

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