



May 2023

Packaging and Packaging Waste Regulation

KEY MESSAGES

- 1 BusinessEurope supports the ambition to establish a functioning internal market for packaging and secondary raw materials and a more circular economy, while addressing the adverse impacts of packaging waste on the environment.
- 2 European businesses have made extensive efforts to adapt their business models and develop new circular materials and product flows, including major investments in the recyclability of products. Businesses are now urging policymakers to ensure that the regulatory landscape creates favourable market conditions for a circular economy, where environmental benefits and increased competitiveness goes hand in hand.
- 3 The choice of legal instrument, i.e., a Regulation, with an internal market legal basis is welcome since it will contribute to increased harmonisation of e.g. labelling and packaging design requirements across Member States. As such, it has the potential to enhance the competitiveness of European companies, considering the high costs of complying with divergent requirements, and contribute to the development of a circular economy. While requirements for companies should be harmonised, provisions in the Regulation should not undermine efficient waste management systems already in place.
- 4 In nine specific areas, the proposal needs further work to better contribute to a circular economy:
 - Reuse and recycling are complementary solutions to achieve circularity and should be treated as such in the Regulation.
 - To achieve 'recyclability at scale', the Member States need to support with investment in infrastructure for collection, sorting and recycling of packaging waste. Existing EU funding should be made available to support the development of innovative solutions to achieve the ambitious aims of the PPWR.
 - To ensure optimal environmental and economic outcomes, Member States should be prevented from introducing divergent or additional national requirements that risks fragmenting the internal market.
 - Design for recycling criteria should be developed in close cooperation with relevant stakeholders, including from the packaging value chain, be technology neutral, backed by scientific evidence, and designed to foster innovation.



- For the targets for recycled content in plastic packaging to be reachable, they should be set as an average of the overall portfolio of plastic packaging of the economic operator placed on the EU market, instead of per packaging unit. Increased collection rates and separate collection is key to ensure access to sufficient quality recycled content.
- A more thorough impact assessment is needed to ensure that reuse targets and packaging bans are only put in place where it makes sense from a safety, hygiene, environmental and climate perspective based on a Life Cycle Assessment.
- Packaging waste minimisation requirements should guarantee packaging functionality, recognise the different packaging needs of various products and avoid conflicts with the reuse objective as well as disruption of transportation chains.
- Further work is needed to ensure the definitions are clear and differentiates between commercial/industrial and consumer packaging.
- Companies should be granted sufficient time to adapt to the new requirements.



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BusinessEurope welcomes efforts to establish a functioning market for packaging and secondary raw materials and a more circular economy, while addressing the adverse impacts of packaging waste on the environment and recognising the essential role that packaging plays in Europe's economy. We moreover support the change from a Directive to a Regulation and maintaining an internal market legal basis for increased harmonisation in the EU's internal market.

However, some measures in the PPWR proposal raise concerns regarding their technical feasibility and practicality and lack a thorough impact assessment backed by science and input from relevant industry stakeholders to justify the proportionality of those obligations. Further work is needed to clarify certain definitions. For the PPWR to be efficient, the obligations on companies (including in Articles 34 and 39) should be assessed against the need to ensure a low administrative burden. A well-designed Regulation is key to support the transition to a circular economy. On this basis, the following points should be considered by policymakers.

1. HARMONISATION OF PACKAGING AND LABELLING REQUIREMENTS

Today, European companies are confronted with divergent national packaging, labelling and information requirements as well as bans on packaging materials. These market barriers lead to additional operational costs and administrative burden for companies. Moreover, they prevent the development of a circular economy by undercutting economies of scale and investments in innovation because of the increasing market fragmentation. BusinessEurope therefore welcomes the choice of legal instrument, i.e., a Regulation, with an internal market legal basis, as it will provide greater harmonisation in the EU's internal market.

Considering the need for harmonisation, we are concerned that several provisions in the proposal allow Member States to maintain or introduce additional national sustainability and information requirements, such as Articles 4(4), 4(5) and 45(2)(c). Provisions that risk causing market fragmentation should be removed.

2. RECYCLABLE PACKAGING AND DESIGN FOR RECYCLING CRITERIA

The proposal introduces a definition of recyclable packaging, referring to criteria for 'Design for Recycling' (DfR) (Article 6), that will be developed by the Commission for each packaging type via delegated acts according to the proposal. Considering their complexity and importance for the definition of recyclable packaging, it is crucial that DfR criteria are science-based, regularly reviewed and developed in close cooperation with industry experts and other relevant stakeholders. Moreover, the DfR criteria must be designed in a way that allows the use of new technologies, fosters innovation and takes into account the functionalities and performance of packaging.

Instead of empowering the European Commission to develop the DfR criteria, the European Standardisation Organisations should be given the mandate to develop the



criteria. This would guarantee the sufficient expertise and ensure a transparent standardisation process.

Companies must be granted sufficient transition time to adapt to the DfR criteria considering the time and resources required to redesign packaging. The DfR criteria should therefore be published well ahead of 2030 when companies need to be compliant with the criteria, and a deadline for establishing the criteria should be set out in the PPWR, giving companies a minimum of 48 months to comply with new requirements. The absence of such transition time will cause uncertainty and unpredictability which will hamper investments and stifle innovation.

To properly promote recyclability, the design of recyclable packaging should be complemented by a system capable of activating investment in infrastructure and new recycling technologies, thus enabling Member States to reach their recycling rate targets. The Regulation should therefore include measures to build adequate sorting, collection and recycling infrastructure for packaging waste all across Europe to enable its recycling in practice and at scale. The development of innovative packaging solutions and product designs shall be incentivised by existing EU funds.

3. PACKAGING AND PACKAGING WASTE MINIMISATION

The proposal includes measures to reduce packaging and packaging waste, including obligations to reduce its weight and volume and banning unnecessary packaging (Article 9) as well as minimising the empty space ratio in packaging to 40 % (Article 21).

While it is important to take measures to minimise the excessive packaging, we see the difficulties in finding a suitable uniform empty space ratio that works for all packaging and products, considering the varying packaging needs for different products and the need to safeguard the primary functions of packaging, including brand differentiation and product identification. There are also concerns that a uniform empty space ratio risk disrupting well-functioning transportation chains and collide with the reuse objective, as it will limit the possibility to use the same packaging for different products thus adding further complexity to the supply chain and the logistics process. Any such form of measure should only be undertaken with extreme caution.

Furthermore, Article 38 allows Member States to introduce national measures to reduce the generation of packaging waste and the environmental impact of packaging. BusinessEurope is concerned that this provision risks creating further market fragmentation which will hinder the circular economy transition.

4. REUSE TARGETS AND BANS ON CERTAIN SINGLE-USE PACKAGING TYPES

The proposal includes a ban on several single-use packaging types (Article 22). It also introduces reuse and refill targets for beverages, take-away food and transport packaging (Article 26). BusinessEurope notes that reusable packaging can be an efficient and sustainable solution to keep products in a short supply chain and an important waste prevention measure, but it is not always suitable nor the optimal solution for all product categories. It also requires a major change in business models. Reuse should be therefore implemented with due consideration for product and consumer safety, in an economically viable and environmentally sustainable way, with tangible



advantages over disposable recyclable packaging backed by scientific assessments. Furthermore, single-use packaging bans as well as reuse and refill targets should only be put in place where technical solutions are available, on the condition that scientific evidence and a Life-Cycle Analysis demonstrates its environmental benefits. BusinessEurope is highly concerned that the introduced measures are lacking sufficient impact assessment and scientific evidence, particularly on the overall environmental impact and on hygiene and food safety, and do not consider the effectiveness of recycling systems already in place in Member States.

Mandatory reuse systems can under certain circumstances lead to more rather than less adverse environmental impacts, as it for example triggers the use of more energy intensive or fossil-based materials and increased water consumption for cleaning. Reusable packaging is also heavier, leading to increased transport emissions. An illustrative example of how single-use packaging in certain circumstances leads to environmental benefits, is how the use of disposable packaging for fruit and vegetables reduces food waste.

Reuse and recycling are complementary solutions to achieve circularity and should be treated as such in the Regulation. The reuse and refill targets otherwise risk undermining the important role of recycling, and side-line the efforts and investments made by businesses to increase recyclability of packaging. Moreover, the proposal must properly address the need of reuse infrastructure and the challenges and costs to establish such, not least for SMEs, and take the consumer perspective into account. It is also vital that businesses are granted sufficient transition time, including when it comes to bans on certain single-use packaging.

Reuse systems should moreover not be put in place at the expense of safety, food safety and hygiene aspects. Reusable packaging introduces challenges in this respect, for example where containers that customers bring might not meet the same hygiene standards as the companies' own options. Moreover, well-functioning recycling cycles exist for transport packaging while there are currently no reusable alternatives for some types, such as shrink and stretch film. Transport as well as industrial/commercial packaging also fulfils an important safety function that should not be underestimated.

5. MINIMUM RECYCLED CONTENT AND ACCESS TO RECYCLED PLASTIC

Setting targets for recycled content in packaging provides predictability for companies and encourages innovative new solutions as well as investments in recycling infrastructure. The success of Article 7 regarding recycled content in plastic packaging however depends on the manufacturers' access to a supply of sufficient quality recycled materials, which is currently in lower availability than the raw material. The challenges are particularly significant for food contact-sensitive materials. Coherence should be ensured between the requirements in Article 7 and other legislation, e.g. on recycled plastic content in contact with food.

For the targets to be feasible, they should be set as an average of the overall portfolio of plastic packaging of the economic operator placed on the EU market, instead of per packaging unit. This approach would allow manufacturers to integrate more recycled content in products with great potential and less in products where technical or safety constraints makes it unfeasible. In turn, it would allow more flexibility while providing the same or greater environmental benefits.



Considering the currently limited access to recycled plastic, packaging applications with minimal content of plastics should not be targeted. The recycled content targets for plastics should target plastic packaging that are consisting of plastics as the predominant material. To clarify the relevant scope of measures, definitions of packages are needed, such as plastic packaging with plastics as predominant materials.

More packaging need to be recycled at scale. Separate waste collection and a high collection rate must be achieved to recycle more and better. The PPWR must include strong incentives to invest in infrastructure not only for recycling but also for collection and sorting of packaging waste, to align the entire chain with the ambitious targets of the PPWR. It must also approve and stimulate new methods of recycling, without endangering existing infrastructure with a low environmental footprint. The responsibility to set up recycling infrastructure should not fall solely on industry. It must also be ensured that SMEs are not unfairly disadvantaged in comparison with the larger market players when it comes to access to recycled material.

6. DEPOSIT AND RETURN SYSTEMS

According to Article 44, a deposit and return system should be set up for certain single use packaging. A deposit and return system, including innovative digital systems, is one of several important tools to increase collection and recycling rates. However, mandating a deposit and return system risk disrupting well-functioning Extended Producer Responsibility (EPR) systems capable of achieving high recycling rates. Such EPR systems have been developed for more than 25 years based on policy directions set at EU level and with major efforts and investments by the industry. Therefore, the PPWR should neither promote nor force the adoption of one single EPR model based on deposit and return. Efficient systems should be preserved, without burdening companies with divergent national requirements on e.g. labelling and packaging design.

7. DEFINITIONS AND SCOPE

For legal certainty and to make PPWR more implementable, further work is needed to ensure existing definitions are clear and does not lead to unintended consequences, including for plastic packaging (see section 5), transport as well as sales packaging. A distinction between industrial/commercial packaging (B2B) and packaging for consumers (B2C) should be made in the definitions. Treating industrial/commercial packaging the same way as consumer packaging would lead to problems and does not take into their incomparability. For example, industrial packaging normally arises in direct connection with value-added activities and does not require the same infrastructural coverage as consumer packaging foreseen under the 'recyclable at scale' obligation (Articles 6(2)(e) and 6(6)).

Moreover, packaging for products already on stock when the Regulation comes into force should be excluded from the scope, to avoid premature, and thus environmentally harmful, destruction of such packaging.

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