



Position paper

European Commission Proposal for a Regulation on Packaging and Packaging Waste

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Summary

ECOS key suggestions

Packaging restrictions:	Allow local, regional and national administrations to adopt packaging restrictions going beyond the ones adopted by the EU regulation.
Packaging minimisation:	Restrict deviation from minimal packaging requirement on the grounds of marketing and consumer convenience.
Reusable packaging:	Define number of trips reusable packaging is meant to last for.
Reuse systems:	Define minimum return rate of reusable packaging.
Reuse target in HoReCa:	Refer to refill as "bring your own" and make it a right for consumers without any derogations for small companies.
Reuse target in retail:	Refill station requirements should only apply to refilling by customers in retail markets and refilling should not count towards achieving reuse targets.

Prevention of Packaging Waste

Much of the increase in packaging waste results from the omnipresence of packaging. Packaging is an integral part of business models with reduced labour intensity for the purpose of service delivery (e.g. low-service restaurants, online shopping, etc.). However, cutting costs by means of increased use of raw materials is going against the political ambition to build a sustainable circular economy.

Restrictions on the use of certain packaging

To counter the omnipresence of packaging in certain business-to-consumer markets, we welcome the proposed restrictions of specific unnecessary packaging formats. Food and drinks consumed on the premises of food service operators should indeed not be served in single-use packaging. Retailers should concentrate on optimizing storage rather than on plastic packaging to keep fruits and vegetables fresh. The proposal introduces a list of single-use packaging formats that should be banned. In addition to this, periodic reviews should be set to assess packaging trends and identify additional unnecessary packaging formats, such as single-use packaging and cutlery in take-away settings or single-serve units for coffee and tea.

National, regional or municipal administrations should have the possibility to restrict additional packaging formats as part of their waste prevention plans, particularly where such restrictions do not create significant barriers to the single market. A city-wide ban of single-use cups for take-away consumption, for instance, can hardly be seen as a barrier to the free flow of goods and services.

The proposal includes a possibility of exempting bars, cafés and restaurants employing fewer than 10 staff from single-use packaging restrictions. To prevent competitive disadvantages for small businesses using long-lasting tableware (e.g. many family-owned restaurants), Member States should be required to introduce economic instruments (waste fees, taxes, etc.) to prevent any economic incentives for adopting wasteful practices.

Packaging waste prevention targets

In 1994, the 12 countries making up the EU back then, adopted the first EU Directive on Packaging and Packaging Waste, making the reduction of packaging waste a common priority. Around that time, packaging waste generation was 133-185 tons per capita¹. More than 20 years later, the same countries generated 157-227 tons per capita². A reduction of the generation of packaging waste per capita has not been achieved by any country.

We therefore welcome the proposals to introduce national packaging waste reduction targets for packaging but the suggested reduction targets (-5% by 2030, -10% by 2035, -15% by 2040, baseline 2018) should be more ambitious to undo the increase of the past 20 years.

Packaging minimisation

The EU introduced rather vague requirements to minimize volumes and weight of packaging in 1994. Since then, packaging has generally become more lightweight. Still, there is often room for further minimisation of resource use without compromising on functionality. Packaging manufacturers are still allowed to refer to marketing or consumer acceptance to justify packaging with double walls or false bottoms, for instance.

We therefore welcome the European Commission's proposal to reinforce the requirement to minimize volumes and weight of packaging. Packaging that uses more raw materials than necessary for non-essential reasons such as marketing, product presentation or consumer acceptance should not be placed on the market. Attracting a customer's attention to a product should not be an essential requirement of packaging.

Moreover, we do not support exemptions for products subject to geographical indications of origin. Such products, such as foods, wines and spirits, are often manufactured in high volumes and traded and transported across the globe. Allowing such products to use packaging for marketing purposes is inconsequential and significantly reduces the impact stricter packaging minimisation rules may have.

Hazardous substances

As outlined in the Chemical Strategy for Sustainability, a sustainable circular economy must move toward toxic-free material cycles, ensuring that substances of concern are minimized or fully eliminated in products, including packaging. With the aim of "reducing the adverse impacts of packaging on the environment and human health, on the basis of a high level of environmental protection," we believe that this legislation should be stronger as regards to the presence of

1 Source: Eurostat. Year: 1997 (Excluding Greece).

2 Source: Eurostat. Year : 2018.

substances of concern in packaging – and this in a class approach (e.g. all bisphenols, PFAS as a class, etc.)

In addition, we suggest including criteria to ensure non-toxicity and minimisation of substances of concern, including a criterion of inertness. EU 10/2011 on plastic food contact materials sets an overall migration limit of 60 ppm, but this is not sufficient, and we would recommend a lower limit, like 1 ppm or 100 ppb.

Refill and “bring your own” packaging

Certain economic operators introduced operating procedures to deliver products and services without or with a reduced need for single-use packaging. Some restaurants and cafés encourage customers, sometimes with price incentives, to bring their own containers for take-away foods and drinks. Other examples are retailers with refill stations, allowing customers to fill or refill bottles or food containers on their own.

We welcome the European Commission's suggestion to promote such practices. However, the approach requires clarification and strengthening to ensure that they can deliver their full potential for waste prevention.

On the one hand, all customers of economic operators preparing take-away beverages and food for immediate consumption should have a right to refuse packaging and bring their own containers. For HoReCa, this concept should refer to “bring your own” and the requirements to introduce refill stations, including weighing devices, are irrelevant in this situation. Take-away beverages and food prepared on the spot for immediate consumption (e.g. coffee) are typically sold by the unit and not by weight.

On the other hand, the promotion of bulk sales by retailers with refill stations only applies to beverages and is therefore too restrictive. Refill stations exist for other products such as dry foods and household products. We think the promotion of bulk sales should be extended to such additional products.

Reuse of Packaging

Overall, reusable packaging in the EU is decreasing. Market shares of refillable beverage bottles, for instance, well above 50% not more than 20 years ago, dropped in all Member States. While refillable beverage bottles still take a significant share of the bottled beverage market in a few Member States (e.g. 30-40% in Germany, Belgium and the Netherlands), in others they have almost entirely been replaced by single-use bottles.

Targets for specific economic operators

We believe there are clear environmental benefits of well-designed packaging reuse systems and therefore support the suggested obligations for economic operators to make available a certain percentage of their products in reusable packaging.

Reusable packaging definition

Reusable packaging must be durable, so that using them delivers environmental benefits. The requirement that reusable packaging should last for “as many trips as possible” is vague. It creates a loophole that could lead to simple rebranding of single-use packaging as reusable packaging in order to benefit from reduced EPR fees or avoid taxes on single-use plastic items.

The minimum number of rotations that reusable packaging is expected to last under normal operating conditions should be defined for certain packaging categories in the regulation. The European Commission will have to request a revision of the European standard for reusable packaging (EN 13429:2004) to ensure the standard is aligned with the regulation. The updated standard should include durability testing requirements mirroring real-life use as closely as possible.

Systems for reuse

Packaging that is designed to be reused must be used in a system that enables its reuse. The Commission differentiates between closed loop systems and open loop systems and introduces certain requirements these have to fulfil.

We welcome this approach as the design of the reuse system greatly impacts the environmental benefits of reusing packaging. However, there is some level of unclarity regarding system requirements. For instance, the definition does not oblige open loop systems to be managed by a system operator but introduces requirements that could hardly be met without it. The annex should be critically reassessed to provide more clarity.

The harmonized standard on packaging reuse (EN 13429:2004) should be revised to introduce operating procedures that guarantee conformity with the requirements listed in the annex, in particular with a view to enable operating procedures maximizing the environmental benefit, as well as monitoring procedures and reporting on factors influencing the environmental benefits (e.g. return rate, number of trips, distance travelled).

Procedures for the return of reusable packaging following use should be as user friendly as possible. Member States should promote collective points of packaging return for different reuse systems. To avoid barriers to the single market, systems for reuse in the EU should cooperate to the extent that citizens can be allowed to return reusable packaging in another EU Member State.

To promote cooperation, data carriers on reusable packaging should be sufficiently standardized to allow for the data exchanges between different reuse systems (incl. compatibility of automated return systems, etc.).

Recycling requirements for all packaging

The objective of the review of the Packaging and Packaging Waste Directive set in 2020 Circular Economy Action Plan (CEAP) was to request that by 2030 all packaging placed on the single market is reusable or recyclable in an economically efficient way.

Circular packaging design

The proposal of the European Commission makes some steps in the right direction. By 2030 packaging will have to comply with design for recycling criteria that will be defined for each of the different packaging categories listed in Annex II. We believe the Regulation should also include a negative list of qualitative criteria that make packaging unrecyclable, including the presence of and ability to detect substances of concern. Such criteria should be enforceable by national market surveillance authorities.

Recyclability of packaging will be assessed as a share of the total packaging weight that is recycled. Packaging with a share lower than 70% will not be allowed to be placed on the market. We believe that the regulation should include a regular review clause to assess when the minimum share of 70% should be increased to meet the CEAP political goal.

EPR fee modulation

The Regulation proposes to link the performance grades to dedicated fees enabling the compliance with extended producer responsibilities. The amount of fees to be paid would be negatively correlated to the share of the total packaging weight that is recycled.

We believe that the performance grades should include a differentiation between recycling of materials into other products (e.g. downcycling towards textile applications) and high-quality recycling of materials back into the same products (e.g. bottle-to-bottle recycling). The latter should be promoted within the system of differentiated EPR fees to implement stronger design incentives for high-quality recycling.

Recycling infrastructure

While reducing the complexity of packaging is important to assess recyclability, it is equally important to build the infrastructure to ensure recycling of the different packaging categories at scale and in practice. It is important to assess if, throughout the European Union, citizens have a possibility to discard packaging separately in the vicinity of their homes and whether there are sufficient recycling capacities within the EU to recycle specific packaging categories. The assessment of the 'recycled at scale' criterion for different packaging categories should be made by 2030.

With regards to the five-year derogation of recyclability for so-called innovative materials, we do not believe there is enough specificity in the definition of "innovative materials" or what the Commission would consider a "demonstrable environmental benefit" to supersede the recyclability requirement. We do not support this derogation as it could create an important loophole and miss the point of the dynamics that should exist as part of a circular economy.

Conformity assessment, technical specifications and standards

The European Commission proposes presumption of conformity with sustainability-related requirements (i.e., substances of concern, recyclability, recycled plastic content, packaging minimisation, requirements for compostable and reusable packaging) as well as with labelling obligations by use of harmonized European standards.

The level of environmental ambition secured by such standards should be the result of a democratic process and therefore be fixed in the regulation or its delegated acts. This includes certain technical specifications and criteria that directly impact the environmental ambition, such as weight limits of certain packaging applications, durability of reusable packaging (number of trips for specific packaging applications), or the minimum duration of disintegration test of industrially compostable packaging.

As a result of the PPWR adoption and the roll out of its delegated acts, certain standards will have to be revised to align with the proposed Regulation³. The European Commission will need to prepare a request to revise these standards or adopt new ones.

For reusable packaging, the current standard EN13429:2004 (Reuse) would need to be revised to align with the proposed requirements of systems for re-use specified in Annex VI. The standard should focus on elaborating clear operating procedures to meet the requirements and with a view to maximize the environmental benefit of reuse systems. It should also include monitoring procedures and reporting requirements regarding factors influencing the sustainability of the reuse system (e.g. return rate, number of trips, distance travelled).

³ EN 13428:2004 (Reduction), EN 13429:2004 (Reuse), EN 13430:2004 (Recycling), EN 13432:2000 (Compostability).