

Framework conditions for an effective roll-out of the reviewed EU Packaging and Packaging Waste Directive

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IN BRIEF

This document aims to collect the support mechanisms that should be put in place for the revision of the EU's Packaging and Packaging Waste Directive (PPWD) to succeed on building a circular economy for food and drink packaging in the EU. We understand the intended environmental policies should be combined with an industrial policy to support the intended transition.

KEY MESSAGES

- **A fact-based policy making process based on the green deal objectives is a basic prerequisite**
- **Legal and financial certainty should be ensured as these are essential to provide a direction of travel to all players in the value chain**
- **The end of the circular packaging value chain (sorting and recycling) should be reinforced with harmonised, sufficient infrastructure**
- **Targeted recycling targets and definitions in the PPWD should be reviewed to further circularity of packaging and maintain packaging functionalities**
- **Harmonisation of consumer sorting instructions and Extended Producer Responsibility (EPR) minimum requirements and fee modulation is essential to ensure a single market for circular packaging**

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Introduction

The European Commission is expected to propose a revision of the Packaging and Packaging Waste Directive (PPWD) in 2022. The related Impact Assessment for the revision indicates that the proposal may include policy measures for packaging reuse and recycling, as well as the use of recycled content in packaging.

Such provisions could help build a circular economy for packaging in the EU, especially for the recyclability of packaging and litter avoidance. However, to be successful, they should also be underpinned by support mechanisms whether political, market-related, infrastructure or financial. This paper provides an overview the necessary set of industrial policies as the enablers needed to support the revised packaging legislation to meet the EU circular economy objectives.

Necessary general policy conditions

- ✓ **A robust impact assessment:** The European Commission should substantiate its policy proposal with a full life-cycle assessment and a robust cost/benefit analysis of the products covered, especially in the case of reuse measures. These should be based on detailed studies and reliable data, including the current and future situation of the EU packaging market and the economic impacts of such proposals on competitiveness, growth and innovation.
- ✓ **Ensuring a realistic timeframe:** Policy implementation and requirements timeframe should allow enough lag to apply these policies throughout the packaging value chain in a timely manner, especially in the case of reuse measures.
- ✓ **Aligning to the Green Deal objectives:** Climate neutrality, environmental protection and resource efficiency should be the key objectives of any future packaging legislation, while avoiding too proscriptive or restrictive. This should be reflected through a full environmental assessment of proposed policy measures.
- ✓ **Ensuring that the right infrastructure and technologies are in place:** In pursuance with Article 7 of the PPWD, Member States must develop packaging waste collection, sorting and recycling infrastructure, and advanced sorting and recycling technologies. Such infrastructure - including new enhanced recycling technologies - should be built to fit future circularity objectives. This means national infrastructure must process packaging materials and deliver recycled food contact materials in proportional quantities to those needed to meet recycled content policy measures - existing and future. Such quantities should factor in the use of recycled food contact materials in non-food packaging applications. Such infrastructure would require significant investment and R&D efforts in Member States to meet adequate recycling capacities.
- ✓ **Harmonising waste management infrastructure across the EU:** The development of a common minimum quality requirement and an explicit role of the European Commission to define minimum requirements, as defined in Article 8.5 of the Waste Framework

Directive¹ (WFD), would ensure greater harmonization, performance and efficiency of waste management practices and infrastructure across the EU.

- ✓ **Ensuring predictability for operators:** The European Commission should guarantee legal and financial predictability for market operators and investors on the issue of packaging circularity.
This requires:
 - **The free movement** of packaging materials, packaging, packaged goods, and used packaging in the EU's Single Market. Requirements and measures in the PPWD and any other future EU legislation on packaging should be set at European level to avoid fragmentation of the internal market. Such measures should enhance the European Commission's role to monitor the Single Market and protect its integrity through enforcement of European legislation and adequate national transposition to EU frameworks;
 - **Coherence and alignment** between all elements of the EU legislative framework for packaging, including the Waste Framework Directive, the Single-Use Plastics Directive, the PPWD and the EU taxonomy regulation;
 - **An appropriate transition phase** that can accommodate business changes and ensure that all relevant players in the value chain are involved, including retailers;
 - **Ad-hoc support mechanisms** to allow SMEs to play a role in the transition towards a circular economy.

- ✓ **Updated and more ambitious recycling targets based on packaging material classes:** The development of a new set of more ambitious PPWD recycling targets based on packaging material classes/applications (to be further specified) could help develop infrastructure to manage specific materials (including those which are difficult to recycle) and provide a clear direction for recyclers and manufacturers.

- ✓ **Definitions to be updated:** New and updated definitions in the revision of the PPWD should be clear and unambiguous.
 - **Include the following new definitions:**
 - **Waste:** The definition of packaging waste should be modified to differentiate between packaging that is disposed of and packaging that does not become waste but rather a useful resource through recycling. To achieve a more circular, resource efficient economy, it is important to clearly distinguish measures aimed at reducing unnecessary packaging from measures aimed at reducing the quantities of materials lost to the environment and not recycled, and to clearly define the ultimate common goal of such measures.
 - **Necessary packaging:** This concept should help identify which packaging is necessary to meet its expected functionality (see proposal in Annex I).
 - **Under- or sub-optimal packaging:** This definition should explicitly indicate which packaging qualities do not meet the functionality expected from packaging (see proposal in Annex I).
 - **Circular packaging:** It is necessary to define circular packaging as packaging that is composed of recycled materials at a high level that would be set by law. Packaging in this category should refer to that which contributes to achieving recycling, reuse and/or reduction objectives. This would incentivise closed-loop

¹ [Directive \(EU\) 2018/851 amending Directive 2008/98/EC on waste](#)

material reuse so that increased amounts of materials can be used in the same or similar type of product post-consumer use. Lacking such systems would, by contrast, maintain open-loop systems where only a fraction of material is reused thus producing more waste.

- **High quality recycling and closed loop recycling:** This definition could help redirect recycled packaging materials back to its original application. This is essential to the reintegration of recycled materials into food and drink packaging, as per the Food Contact Materials and Articles (FCMA) Regulation.
- **Review the definition of recycling considering current infrastructure and regulation:** The definition of recycling should consider current limitations to the recyclability of flexible packaging due to the lack of specific recycling infrastructure. This definition should also be consistent with the definitions provided by the Commission FCMA Regulation.
- ✓ **Harmonised sorting instructions:** The PPWD should include a mandate for the European Commission to develop an EU-harmonised system for packaging waste sorting instructions to help consumers play an active role in the circular economy. It should improve packaging sorting and be flexible enough to be implemented by all Member States.
- ✓ **Improvements in Extended Producer Responsibility organisations (EPRs):** EPR schemes need of the sufficient guidance, harmonization and flexibility to properly comply with their function. Should these options not be addressed in the PPWD, they should be covered in the upcoming WFD revision:
 - **Finalisation of the guidance and minimum requirements for EPR:** The Commission should finalise their work on the development of guidance for the good functioning and Eco-modulation of Extended Producer Responsibility (EPR) to ensure harmonised measures across EU.
 - **End-to-end accountability:** Producers will continue to take joint responsibility over collection, sorting, recycling, and end-markets. It is therefore also logical that EPRs have the necessary influence across the value chain to improve the overall system. Currently their influence is limited, with various municipalities as well as public and private sorters and recyclers, leading to wide variety in quality and efficiency. While operating on a not-for-profit basis, EPRs schemes should, where practical, form a panel of suppliers for each service to stimulate effective processes and quality improvements. Governments should ensure oversight of EPR organisations, which need to be accountable for what is recycled, based on thorough and detailed reporting. This information is largely missing in many European EPR schemes today.
 - **Fee modulation:** To stimulate circular design and improved recycling, EPR fees should be specific enough to reflect the real and net cost of processing each material type, without generating excessive administrative burden for companies and the EPR organisation. The so-called 'fee modulation' or 'eco-modulation' principle will bring necessary detail on fees by material and packaging type on the basis of clear definitions.
 - **Waste management transparency and oversight:** Companies forming part of an EPR organisation should have the possibility to supervise the way waste is managed and EPR organisations should provide information on the end-of-life destination in a transparent manner. Governments will of course exercise oversight on EPR reporting to ensure they operate appropriately and comparably.

- ✓ **Development of minimum requirements for DRS:** The Commission should include in their work program the development of guidelines and minimum requirements for an effective functioning of new DRS schemes.

Necessary policy conditions for the use of recycled content

- ✓ **Alignment of the PPWD and the food contact materials and articles regulation:** The PPWD, the FCMA Regulation and the FCMA authorisation process should be aligned, in particular with regards to recycling techniques and safety of materials. This is especially relevant for the definitions of ‘recycling process’, ‘recycled plastic’, ‘recycled plastic materials and articles’ and other definitions in the upcoming revision of the FCMA Regulation². In addition, for recycled materials, measures for food and drink packaging should be based on the FCMA regulation’s standards on the authorisation of recycling processes for food and drink recycled plastic packaging³.

The European Commission should swiftly resolve the current backlog of EFSA authorisations of recycling processes for the production of recycled plastics to be used in contact with food. It should also make sure that the necessary conditions are set to avoid future backlogs.

- ✓ **Clarify the role of enhanced recycling for food contact materials:** The European Commission should set clear legal indications to regulate in a harmonised way across the Single Market the safe use of enhanced recycling techniques (including chemical recycling) to produce food contact materials.
- ✓ **Right of first refusal for access to recycled materials:** We call on the European Commission for fair and necessary access to industry’s recycled plastic material through a mechanism that guarantees “right of first refusal”: producers would be offered the equal amount of recycled material they have originally placed on the market and which was successfully collected. As Food and Drink industry continues to invest in circularity and to put recyclable materials on the market, it needs to have access to its own recycled packaging material. This will help produce new packaging with food-grade recycled materials compliant with EU food safety standards, achieve its recycling and recycled content targets and prevent its materials being downcycled.
- ✓ **Fiscal tools for access to recycled materials:** There is increasing competition for food contact recycled plastics in the recycled materials market. Food and drink producers are obliged for safety reasons and regulatory obligations to use food contact material, contrary to many other sectors who do not have such legal obligations. Supply has not matched demand resulting in a situation whereby recycled plastics are more costly than virgin plastics. The European Commission should therefore provide (or establish) legal economic tools for food and drink (packaging) producers to access food contact recycled plastics at competitive prices to provide certainty for economic operators and further stimulate

² https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12497-Revision-of-EU-rules-on-food-contact-materials_en

³ Article 4(b) of Commission Regulation (EC) No 282/2008 on recycled plastic materials and articles intended to come into contact with foods

circularity. Such tools could represent for example fiscal incentives for the sector or VAT rebates on food contact recycled plastics applicable to the sectors.

- ✓ **Monitoring of available food contact materials and pricing:** Clear monitoring of stocks and prices of recycled food contact materials and prices would be necessary to understand the available quantities of materials and the flow to different supply chains. The food and drink industry is a sensitive sector in terms of material safety and quality and is currently the only packaging user that is subject to policy requirements according to the Single Use Plastics Directive⁴. This is why pricing and stock monitoring would shed light on the competitiveness of different sectors to acquire recycled materials to meet policy requirements. Such a monitoring system could be based on the European Commission for Agriculture markets and prices⁵.
- ✓ **Recycle materials within the EU as a priority:** The European Commission should put in place clear measures to prioritise high-quality recycling of packaging materials within the EU. Such measures should limit the export of recyclable materials to third-countries and forbid their incineration or landfill in the EU. This will ensure that recyclable materials are recycled in the EU and reused, in priority, into new products in the Union.
- ✓ **Introduction of new quality standards:** New quality standards for secondary raw materials should be introduced as a complement to the current standards on the quality recycled materials for use in contact with food. This would allow for a wider and safer use of secondary raw materials in various sectors and will avoid competition with food and drink applications.

Necessary policy conditions for reuse

- ✓ **Broad definition of reuse and scope:** the definition of reuse should be wide enough to cover the whole scope of reusable solutions. Reuse can take various forms, all of which have the objective of reducing the amount of packaging used and relieving the pressure of packaging on the environment. The legal definition and scope of reuse/refill concepts should therefore encompass all these solutions in the PPWD. It could for instance be based on the definition provided by the New Plastics Economy of the Ellen McArthur Foundation⁶. The scope should be broad enough to cover refill at-home and return on-the-go systems (retail/Horeca) while encouraging innovative solutions such as return from home and refill on -the-go systems.
- ✓ **Efficient collection schemes for reuse:** When reuse takes the form of refillable bottles, the European legislation must acknowledge the role of well-designed collection schemes to create a well-performing refillable packaging system which guarantees that the material is returned (when this is required). Depending on the local conditions, this can be achieved by a Deposit Return System (DRS) or through other collection schemes for refillable packaging. Minimum criteria that will guarantee high collection rates for refillable packaging must be laid down.

⁴ Directive (EU) 2019/904 on the reduction of the impact of certain plastic products on the environment

⁵ https://ec.europa.eu/info/food-farming-fisheries/trade/agriculture-markets-and-prices_en

⁶ <https://emf.thirdlight.com/link/rzv910prtxn-tfiulo/@/preview/2>

- ✓ **Transition roadmaps:** Public authorities should develop clear transition roadmaps towards increased reuse and guidance for the food and drink packaging supply chain including prescriptions on how operation costs are shared between producers and distributors.
- ✓ **Support for financing the transition:** Green transition finance mechanisms should support private investments of both producers and distributors in operations helping to address environmental impacts of reuse reverse logistics additional transport and washing, while ensuring high quality and hygiene. The roles of electric trucks, green hydrogen and renewable energy should also be funded by these mechanisms.
- ✓ **Packaging format flexibility:** The future legislative framework for packaging should enable food and drink manufacturers to either join pool systems of packaging or to have unique packaging and innovate to reduce their environmental footprint. Standardised packaging design across products would generate significant costs to adapt existing production lines and would also impact brand value and recognition. It may not even be more sustainable overall.
- ✓ **Measures to incentivise consumers reusable packaging uptake:** If industry is to invest in offering more reusable packaging, the European Commission should set up education and awareness-raising policies in a way that leads to mass behavioural change so that quantities of reusable packaging matches actual consumer demand.

Value chain involvement

- ✓ **Supportive regulatory framework:** EU policy-makers should establish a supportive regulatory framework to ensure the participation of all relevant stakeholders in the policy objectives. This would include the identification of processes across the value chain where investments are needed and the swift development of enhanced recycling techniques, especially for flexible packaging.
- ✓ **Involvement of the packaging value chain:** All relevant actors of the packaging value chain should be engaged and support policy circularity objectives. For example:
 - **Producers** will continue to play a central role in designing packaging for recycling, financially support waste management and recycling through EPR and DRS schemes and further facilitating the recycling, reuse, and reduction of packaging
 - **Retailers** should play a central role in takeback systems (including DRS) and reverse logistics for packaging reuse, which should be defined and facilitated;
 - **Waste management operators and recyclers** should ensure that packaging waste finds its way into recycling plants and recycled materials are made available for the production of new packaging, for example by integrating advanced sorting technologies based on Artificial Intelligence;
 - **Member States** should achieve current recycling rates using the 2018 PPWD recycling calculation method and develop PPWD Article 5 mandated levels of waste management infrastructure

Standardisation and measurements

- ✓ **Design for Recycling (DfR) guidelines:** DfR guidelines should be developed in line with the work already undertaken by the packaging value chain (e.g. Circular Plastics Alliance, CEFLEX, European PET bottles platform – EPBP). Such guidelines should be based on

a definition of recycling that considers available recycling infrastructure and future technologies. Such guidelines should not add additional barriers to innovation. They should be developed, and regularly updated, in collaboration with the whole packaging chain to guarantee food safety and avoid unintended consequences, such as increased food waste.

- ✓ **An EU harmonised method to assess and prove recyclability:** Such a method should be developed to prove, assess, and demonstrate that packaging can be recycled in the EU. The absence of sorting or recycling facilities in one Member State cannot be the reason to declare packaging non-recyclable if the packaging collected can be recycled in another Member State.
- ✓ **Compostability standards:** The European harmonised standard on compostability, EN 13432, should be reviewed to ensure common harmonised definitions and criteria for home and industrial compostability across the EU. The revision should be made in collaboration with compostable packaging materials fillers, packaging users and waste managers. The development of such standard should be followed by a EU-harmonised policy framework on biowaste management.

About us

The EU food and drink manufacturing industry is made up of 290,000 businesses employing 4.5 million people. It generates €222 billion in value added every year and is the largest manufacturing industry in terms of jobs created. As an industry comprised of 99% SMEs our enterprises are intimately linked with their local communities. FoodDrinkEurope is the organisation of the European food and drink manufacturing sector, committed to achieving more sustainable food systems.

Annex I

FoodDrinkEurope proposal for a definition of Necessary packaging and suboptimal packaging

Necessary packaging should be defined as *packaging that is necessary to meet its expected functionality in terms of:*

- Safely conveying products to the consumers throughout supply chains ensuring compliance with food safety legislation and preserving quality/freshness of the product.
- providing key information to consumers, especially on legally required information of products' content, nutritional values and in some cases, country of origin ;or other relevant information on its environmental performance
- Support efficient manufacturing processes, logistics and transport and handling throughout the food chain with the objective to achieve a minimum environmental footprint;
- Provision of a variety of portion-controlled options for single-person households and families to prevent food waste and help households economize

Under- or sub-optimal packaging must be avoided as it creates unintended consequences. Underpackaging is *packaging that is not able to meet its expected functionality.*