

POSITION ON THE PACKAGING AND PACKAGING WASTE REGULATION PROPOSAL



Packaging and Packaging Waste Regulation

Eurochambres welcomes proposal for a packaging and packaging waste regulation (PPWR) as it offers an opportunity to advance the circular economy, reduce waste, minimize environmental degradation and create new market opportunities. However, we have concerns about some measures in the proposed regulation, such as a "one-size-fits-all" approach, the lack of feasibility and effective harmonization, as well as the over reliance on delegated acts.

1. Executive summary

Eurochambres generally welcomes the European Commission's proposal for a packaging and packaging waste regulation, which aims to advance a circular economy. This regulation offers an important opportunity to reduce waste, minimize environmental degradation, and lower processing and transportation costs. Additionally, it could create new market opportunities for businesses involved in recyclable material processing, waste management, and packaging manufacturing.

As the European chambers network, we welcome the commission's plan to replace current packaging and packaging waste directive will be replaced with a more efficient and effective regulation. This will enhance legal certainty and ensure a level playing field for businesses operating in the European single market. We appreciate that the proposed regulation seeks to achieve this goal by harmonizing national measures concerning product packaging.

However, we do have concerns about some of the measures included in the proposed regulation. We fear that the new rules could have an adverse effect on the competitiveness of European businesses, especially SMEs, since some of the proposed requirements may be unclear, impractical and excessive. Furthermore,

some measures could undermine existing recycling performance and structures. The European commission should prioritize the circular economy plan's central goal of preventing negative environmental impacts while ensuring the proper functioning of the internal market for packaging and packaged goods.

We have significant reservations regarding the excessive reliance on delegated acts in the proposed regulation, as they give rise to numerous uncertainties and ambiguities. At this point it is not possible to comment on the actual impact of the regulation as the content is not clear. Avoiding critical elements of the regulation through delegated acts and including them in the proposal instead would prevent sudden changes to the legal situation and ensure full involvement of member states and the European parliament.

Another critique of the proposal is that it overlooks crucial aspects of the market such as customer needs, marketing strategies, and regional differences. The proposal promotes a "one-size-fits-all" packaging approach that lacks distinct features and limits individual design options. This may even hinder the use of packaging materials that better suit the size and value of certain products.

To prevent waste, the proposal focuses on recyclability, use of recycled materials,

packaging prevention, and re-use. However, some articles lack balance and require clarification on practical implementation. Additionally, recycling

and re-use should be complementary, not exclusive, based on scientific evidence for environmental, health, and economic factors.

2. Why chamber network considers the PPWR proposal relevant

Packaging is a critical aspect of protecting and transporting goods, making it a vital industry in the EU. However, the lack of harmonization in packaging regulations among member states creates obstacles that hinder the internal market's smooth functioning. Therefore, the proposed harmonization of packaging regulations is needed to ensure the internal market's effective operation, which will have a significant positive impact on the business location.

The proposed packaging and packaging waste regulation is highly relevant to all businesses along the value chain. It introduces new obligations that enterprises must comply with to achieve high-level targets set by the EU to increase recycling and reuse rates. However, the anticipated cost of compliance for businesses will be a major challenge, including costs related to changing operational practices and reporting obligations. Therefore, providing certain information relating to permissible packaging and practices at the earliest possible stage is essential to allow businesses sufficient time to transition away from current practices. While the exact cost of compliance will depend on the business in question and its starting point, the Commission's impact assessment concedes that gains will primarily be borne by consumers and the environment, while businesses will face additional costs due to reuse and recycling schemes. The impact assessment adds that the latter costs will only be partially offset by decreasing expenditure on labour and raw material.

3. Eurochambres' main concerns

Besides the positive effects this proposal might have, some measures raise concerns over their clarity, practicality and effectiveness, while others may be excessive when compared to what they are trying to achieve. As chamber network we are especially concerned about the following elements:

- **Lack of feasibility:** To prevent waste, the EU Commission has emphasized the importance of recyclability, using recycled materials, packaging prevention, and re-use, in line with the European Green Deal. However, many of the articles related to these topics are incomplete, making it difficult to implement them as proposed. Additionally, it's unclear how some of the requirements should be interpreted in practice and what their intended impact and added value will be.
- **Excessive use of delegated acts:** As it currently stands, providing precise feedback is challenging since the proposal leaves many questions unanswered, relying on delegated acts for detailed implementation. Given the significant impact of the regulation on the environment, health, and the economy, it is crucial to subject important parts of it to the ordinary legislative procedure. Without substantial amendments, it will be difficult to make the regulation workable and supported by the affected economy.
- **Lack of effective harmonization:** The transition from a directive to a regulation is crucial for achieving harmonization in the free movement of goods and it should not be compromised by granting Member States the ability to exceed the established requirements. An effective internal market is one that upholds a level playing field in all Member States, and progress toward harmonization is commendable. Nevertheless, provisions which allow for the imposition of additional national labelling, pose a threat

to these efforts.

- **Role of governments and consumers:** One of the requirements for packaging to be considered recyclable according to Art. 6 is that it is effectively and efficiently collected separately from other waste. While packaging manufacturers will face obligations to ensure the recyclability of their product, separation and collection must remain the obligations of national governments, and by extension, the households. Current waste collection and separation measures should be strengthened to ensure that production changes by manufacturers are translated into real environmental benefits. On packaging reuse, success will very much depend on consumer participation. If consumers are not willing or able to reuse packaging, businesses may struggle to meet the reuse targets, even if the packaging itself is technically reusable. This could be due to factors such as consumer convenience, cost, or simply a lack of awareness or understanding of the benefits of reuse. In this respect, consumer behaviour needs to be addressed as one of the key root causes of waste. The proposal would thus benefit for a dedicate chapter and/or provisions on the role of consumers.
- **Need for clear deadlines and transitional periods:** Meeting deadlines and ensuring consistency are crucial for effective and legally compliant implementation. However, there are concerns that the necessary legal acts may not be published in a timely manner, jeopardizing the ability of companies to comply with the regulations. With a significant number of delegated acts expected in the proposal, it is essential to establish a sufficient and realistic transitional period between the adoption of the delegated decision and the implementation of the recycling design. This will provide the industry and all economic operators with the necessary predictability and planning time. Additionally, we urge the Commission to provide specific deadlines for the delegated acts to ensure that companies can plan accordingly.
- **Recycling and reuse as exclusive solutions:** Rather than being mutually exclusive, recycling and re-use should be seen as complementary approaches to sustainable packaging. In fact, these two options can reinforce each other in important ways. When deciding whether to use recyclable or reusable packaging, it's crucial to base the decision on independent scientific evidence that takes into account environmental, health, and economic factors.
- **Contradiction with product laws:** The draft creates a division between products and their packaging, which may appear logical from a legal standpoint. However, in practice, this division can result in confusion and a lack of clarity. Regulations for items such as food packaging and medical devices are already outlined in their respective provisions. As a result, there is a risk of conflicting regulations.
- **Lack of consideration of specialized food and medical packaging:** Certain specialized packaging materials, such as those needed for certain types of food, including products for infants, young children, and individuals with medical needs, do not currently have recycled alternatives available. Due to technological limitations, compliance with existing regulations is not possible at this time. Unfortunately, the current proposal does not adequately address this issue, so adjustments are necessary in this regard.
- **Elimination of the consumer acceptance criterion:** While minimizing packaging waste is important, it should never come at the expense of safe transport or equipment protection. Unfortunately, the current proposal lacks clarity in its definition of "minimum necessary." Furthermore, the proposal appears to prioritize uniformity over individuality, disregarding consumer preferences, regional differences, and unique marketing strategies. In particular, premium products like cosmetics and spirits rely on distinctive packaging to distinguish themselves and meet consumer expectations. However, the proposed changes could limit the ability to create custom designs, even beyond just the

choice of packaging material. By removing customer acceptance as a criterion, there is a concern that the industry will move towards a "one-size-fits-all" approach, which is not favourable.

- **Unclear definitions:** The current draft includes several definitions, such as those for "manufacturer," "producer," and "supplier." However, there appears to be a lack of clarity in distinguishing between these economic actors, which is crucial given the varying obligations associated with each role. To ensure proper understanding and adherence to these obligations, it is imperative that the demarcation between these roles is comprehensible and clarified.
- **Over-ambitious supply chain approach:** The proposed regulatory requirements and responsibilities imposed on every actor in the supply chain seem excessive, as certain aspects such as packaging do not affect all parties equally. Additionally, some individuals may lack the necessary expertise and resources to comply with these regulations effortlessly.
- **Life cycle analysis needed:** The use and design of packaging are closely tied to economic and population growth, consumer lifestyles (such as the growing number of single households), and other globalization trends. However, the Commission's impact assessment fails to consider packaging design in this broader context. All packaging is created with the goal of protecting, preserving, and transporting products. If products are lost or damaged due to inadequate packaging, any savings from reducing packaging would be outweighed by the increased environmental impact in terms of resource consumption and emissions generated. Therefore, any restrictions on the use of packaging should be supported by a comprehensive life cycle analysis (LCA) from the perspective of the affected economic community. This analysis would ensure that the restrictions do not have unintended consequences. If bans on certain packaging were implemented without careful consideration, the negative effects would likely outweigh any benefits.
- **Standardizing transport packaging:** In principle, standardizing transport packaging is a good idea, but the proposal lacks clarity on its economic viability. While standardization using pallets and box pool systems is already prevalent, re-usable systems may only be practical for transport aids in regional or supra-regional pool systems. However, when it comes to imports from third countries, re-usable packaging may result in negative environmental impacts due to longer transport routes. The lack of clear regulations on transport packaging for inter-European and international deliveries further exacerbates the issue, making it difficult to navigate even within a member state.
- **Insufficient stakeholder involvement:** Close coordination with the industry is crucial. It is imperative to involve the affected businesses to ensure practicable guidelines that can be implemented sensibly and cost-effectively. This approach will ensure that the guidelines are not only theoretical but also practical and in line with the industry's operations. European chambers must play a role in this regard.

4. Detailed comments on the proposal

Article 3 - Definitions

The current draft provides definitions for "manufacturer," "producer," and "supplier." However, the distinction between these economic actors is unclear and needs to be more precisely defined. Clear definitions are essential because different obligations are attached to each role.

Article 7 - Minimum recycled content in plastic packaging

Minimum usage quotas are welcomed but must not endanger existing functioning cycles.

Quotas should be product-specific and reflect the actual potential of each product category. However, adjustments are needed for food packaging to achieve the minimum recycled content for plastic packaging by 2040. Specific food items for infants, toddlers, and medical purposes require food contact materials that exceed "food-grade" quality. The current technology cannot provide sufficient recycled plastics that meet regulatory compliance and suitability for infant and toddler food and food packaging. If the goal is to increase the use of recycled plastic, requirements should only apply to plastic packaging, not plastic content in all packaging. Such a requirement expands the scope beyond plastic packaging and imposes measures that were not assessed for their impact. An EU-wide plastic recycling infrastructure is essential to implement this in the future, as all packaging sectors using polymers would depend on high-value recycling and quality raw materials to finance infrastructure development. All recycling technologies must be considered, and mass balancing is necessary due to varying recycled material availability. The minimum recycled content should not be mandatory per unit of packaging but attributed to companies through mass balancing. Furthermore, we urge caution against the use of PET material, which was recycled multiple times, in food packaging due to potential risks. While acceptable for non-food items, more research on the effects of recycled content on food safety and consumer health needs to be done. The priority should be consumer health, and comprehensive studies should be conducted before using recycled material in food contact applications.

Article 9 - Packaging minimisation

Article 9 aims to reduce the weight and volume of packaging to the minimum necessary for its functionality while considering the material used. This requirement applies specifically to the intended use of the packaging and does not necessarily require the substitution of packaging materials. The reduction in packaging must not compromise the safety of the product during transport or its protection. However, it is not clear how the term "minimum necessary" will be defined and understood. For instance, who will decide what is technically necessary regarding fill levels, taking into account consumer needs? In theory, it could always be argued that some amount of overpackaging is not required for the core content of the product.

The regulation stipulates that packaging that is not necessary to meet any of the performance criteria listed in Annex IV cannot be placed on the market. The acceptance of the consumer was previously a criterion, but it has now been removed. The draft mostly excludes customer needs, marketing strategies, distinguishing features between packaged products, and addressing regional differences. However, in the case of high-priced and high-quality products like cosmetics or spirits, packaging is an integral part of the product and is expected by customers in a specific form. The removal of customer acceptance as a functional criterion raises concerns about the path to "uniform packaging" with the same design and shape.

It is essential to note that the packaging for luxury products is often of high quality, and it is not disposed of by end consumers but used for storage, and its resale value also depends on the presence of the original packaging.

Article 9, paragraphs 2 and 4, establish an extensive regime to minimize packaging volume. To demonstrate that the packaging meets all the performance criteria in Annex IV, manufacturers must provide technical documents and studies. Furthermore, Article 9, paragraph 4, point b, requires identifying further obstacles to reducing packaging volume.

Packaging manufacturers have been working to keep packaging volume as low as possible out of intrinsic motivation. However, such regulation would not lead to a reduction in resource consumption, apart from massive bureaucratic effort. It is undisputed that unnecessary

packaging and "cheat packaging" should be avoided. Limiting empty space, as stated in Article 21, can achieve this.

Article 11 – Labelling

The proposed labelling requirements in Articles 11 and 12 for separate waste collection are a welcome step towards improving the efficiency of waste management. These regulations will lead to sorted waste and significantly improve recycling.

However, we believe a uniform labelling system for packaging materials across Europe would be even more beneficial, especially for international retailers.

According to the proposal, every package shall be labelled with information about its material composition and correct disposal methods. Additionally, manufacturers and importers should include their name, contact details, and a serial number on the packaging.

Moreover, Under Article 11(2), every package must also have a QR code or other digital medium that provides information about the reusability of packaging, the availability of a reuse system, and collection points. This shall facilitate the traceability of the packaging and associated logistics.

While we appreciate the efforts to improve waste management, we believe that mandatory labelling with QR codes is excessive and does not provide added value for consumers. Instead, it would be more useful to focus on implementing uniform disposal procedures across all Member States to ensure proper waste management practices are in place.

It is essential to note that without proper transitional periods, packaging will have to be destroyed, which is both costly and inefficient. Therefore, a transitional period of at least six months should be provided for companies to adjust to the new labelling regulations.

Articles 13 to 28 (Chapter IV) – obligations of economic operators

As per the current proposal, all economic operators in the supply chain, including manufacturers, importers, and distributors, are obligated to ensure that their packaging complies with the sustainability requirements of Articles 5 to 10 and the labelling regulations of Article 11. Non-compliant packaging is strictly prohibited from being sold in the market. Failure to comply would require the economic operator to either conform to the regulations or withdraw the packaging from the market and initiate a recall.

However, it seems unfair to impose this responsibility on every economic operator since not everyone possesses the same level of expertise, knowledge, or resources to comply with the provisions of this regulation. Therefore, it would be more appropriate to limit this obligation to a single economic operator, preferably the manufacturer of the packaged product. Other economic operators should only be required to obtain relevant documentation such as technical specifications and the EU Declaration of Conformity to present to the competent authority if necessary. They should be able to rely on the content of the documents provided to them and not be obligated to physically verify the conformity of the packaging with the regulation.

Article 21 - Obligation related to excessive packaging

In the future, the proportion of empty space in packaging such as collective, transport, or online retail packaging will be limited to a maximum of 40%. The new regulation will also include filling materials like bubble wrap, wood wool, or polystyrene chips in the category of empty space.

However, there is a concern that the rigid 40% limit may not be practical for fragile products, and an exception may need to be made.

The maximum limit of 40% for empty space can pose challenges for shipping small products, as the packaging may not even be large enough for a shipping label. Moreover, the inflexibility of this limit can lead to the need for multiple packaging sizes to be stocked, causing increased costs and space requirements. This can also reduce the potential for reuse of the packaging if non-standard sizes are used and only shipment and product-specific sizes are available. Therefore, it may be necessary to explore more flexible solutions to reduce empty space and increase sustainability in packaging without compromising practicality or increasing costs.

Article 22 and Annex V - restrictions on use of certain packaging formats

Efforts to reduce packaging waste, such as implementing market restrictions, should only be pursued if they are practical and effective in supporting the overall goals of the EU Green Deal and circular economy. It's important to recognize that the design and use of packaging are closely tied to economic and population growth, consumer behaviour, and globalization. Any impact assessment should take these factors into account to ensure that packaging interventions address the root causes of waste.

If market restrictions are deemed necessary, a clear and exhaustive list of single-use items to be prohibited should be provided in Annex V. Currently, the examples listed in Annex V are insufficient and do not provide clear guidance on what should be prohibited and what should not.

It's also important to note that market restrictions, with the exception of Annex V point 3, should be accompanied by transitional periods to allow for a smooth transition for businesses and consumers. Without transitional periods, the sudden implementation of market restrictions could create unintended consequences that may undermine the effectiveness of the intervention.

When considering packaging waste reduction measures, it's crucial to recognize that packaging serves essential functions such as protecting, preserving, and transporting products. In some cases, reducing packaging may result in higher environmental impact if it leads to product loss or damage. Additionally, single-use packaging can facilitate important functions such as ensuring food safety and hygiene. Therefore, any packaging reduction measures should be carefully considered and balanced against these important functions.

Article 25 and 26 – Re-use and re-cycling targets

We support the ecological optimization and circular use of packaging materials. However, the use of reusable packaging should not be a self-serving goal and should not come at the expense of efficient single-use systems.

Based on existing scientific evidence, a blanket ecological advantage of reusable systems cannot be assumed. Depending on the packaging segment, market structure, and transport distance, efficient single-use systems may have comparable or even better ecological profiles. The ecological advantage of each system should always be demonstrated on the basis of EU-wide scientific criteria.

The proposal is placing strict obligations on both packaging reuse and recycling, without a clear delineation as to which option would be most suitable for a particular product. On the one hand, the reuse figures are practically unachievable, and on the other hand, the environmental benefits are not always clear, and in some cases, negative environmental effects are expected,

which can contradict each other. For instance, the proposal is emphasising that all packaging should be fully recyclable by 2030, including beverage containers. Meanwhile, beverages are also facing the most ambitious reuse targets. It is unclear why beverage containers will need to achieve both objectives simultaneously, since reuse and recycling should be considered as alternative waste management tools.

Mandatory quotas for reusable packaging should only be required in cases of clear ecological benefits, based on uniform scientific criteria, with waste reduction balanced against other environmental impacts, such as additional necessary transport energy. This applies to both reusable quotas for beverage packaging, takeaway food, as well as transport and over-packaging.

Aside from practical concerns, reusable packaging also introduces significant health and hygiene challenges, especially in the HORECA sector. If an establishment allows customers to bring in their own reusable packaging, this packaging may not meet the same health standards as the establishment's own options. This could pose a risk to the safety of the products being served, as it is difficult for establishments to ensure customers are abiding by hygiene standards as mentioned in Art. 25. This includes, for instance, if the customer-owned packaging is not properly cleaned or maintained. Businesses should be able to refuse a container provided by a customer if it deems it to be not hygienic or suitable for the food or beverage sold, as specified by the same article. Clearer guidelines and legal safeguards for businesses need to be provided in this regard.

The standardization of transport packaging (Article 26, paragraphs 1, 7-9, 12, and 13) would generally be welcome, although this is not apparent from the proposal. However, it is already a lived reality with pallet and crate pool systems where economically feasible. Reusable systems make sense for transport aids only in regional cycles or interregional pool systems. Imports from third countries are not to be seen as regional cycles but are associated with significantly longer transport routes. Under these circumstances, reusable packaging is associated with negative environmental effects.

The various regulations on transport packaging under points 7, 8, 9, 10, 12, and 13 are unclear, particularly in relation to intra-European and international product deliveries. The interaction of the individual regulations for transport packaging is also unclear. If the specifications of paragraphs 12 and 13 could be met, the other requirements would become obsolete.

Realistic targets can only be set if the cleaning of reusable packaging is practical, as with chemical or hazardous materials packaging. Additionally, special forms of packaging that are needed should not be overlooked in the goal-setting process. The reuse of wooden pallets is not problematic for standard sizes, but there are special products, such as "plate material," which require pallets in special sizes, which are not or hardly usable for other applications.

We appreciate the exception made for micro-enterprises in points 14 and 15, as it demonstrates the need to consider the burdens imposed on small businesses when establishing integrated reuse systems that require significant resources, such as space, time, and personnel. While such systems may be beneficial in the long run, their introduction can be particularly challenging and costly for small enterprises. However, we believe that the current exemption limit of 1000 kg of packaging material is insufficient and should be revised.

To ensure clarity and flexibility in exceptional circumstances, such as during the Covid-19 pandemic, we recommend that Article 26, paragraph 16, letter c, should explicitly state that the

Commission has the authority to quickly and immediately permit businesses to use disposable packaging when health or hygiene reasons necessitate it.

Article 28 - reporting to the competent authorities

It is essential to emphasize that the guidelines should be straightforward and uncomplicated to comply with, particularly for small and medium-sized enterprises (SMEs).

Articles 30 to 34 - conformity of packaging

The regulations should be designed to be as simple as possible so that SMEs can easily fulfil them. However, complying with all the requirements for packaging, such as those outlined in Articles 5 to 11, including the design for recycling guidelines, as well as the provisions of Annex VII regarding conformity assessment, can prove to be a daunting task for SMEs. This may result in competitive disadvantages for them. Therefore, it is crucial to find ways to streamline the compliance process and ensure that SMEs are not unduly burdened by these requirements.

Article 39 - Register of producers

The proposal requires member states to establish a register to ensure compliance. However, there are some concerning aspects of the proposed design. For example, producers are required to register in each member state where they first place packaging on the market, rather than registering in one member state and having that registration recognized by all other member states. This lack of harmonization creates unnecessary bureaucracy and trade barriers, especially for small companies. Moreover, member states may require additional information or documentation, which contradicts the regulation's harmonization efforts. In addition, there are different thresholds for registration requirements in various EU countries. However, it is precisely SMEs that are overwhelmed by the many new and different requirements due to lack of time and personnel resources. In order to protect small and medium-sized enterprises, the demand to reduce bureaucratic effort is therefore reiterated.

To address these issues, there should be uniform requirements for the manufacturer register across all member states (for example through the establishment of a central registration authority). Additionally, we call for a uniform threshold for registration requirements throughout Europe.

Moreover, the requirement for producers to report annually to the competent authority is reasonable, but the regulation should specify the legal consequences for non-compliance. It is also important to standardize the fees charged by member states for registration. Overall, while a registration requirement is reasonable, the current design of the proposed Article 39 needs to be revised to ensure greater harmonization, clarity, and fairness for all producers.

Article 44 – Deposit and return systems

This article is a significant policy change that effectively accelerates the deadline for achieving a 90% collection rate for plastic beverage packaging from 2029 to 2026 (to be eligible for an exemption). Furthermore, it expands this obligation to metal beverage packaging, which previously had a recycling target of only 50% to 90%. The sudden announcement of this rapid regulation change, as well as the exclusive focus on a single system, can render significant capital investments worthless and pose a severe threat to investment security. It is crucial to avoid such consequences, and policymakers must provide adequate timeframe and implementation plans for this policy shift to ensure a smooth transition.

However, to establish effective deposit and take-back systems, it is important to consider all actors involved, including commercial enterprises and private waste management companies,

as potential take-back points. No actor should be excluded from the outset. However, the practical setup of such systems and the contracting parties for take-back must be left open to Member States.

It is also important to note that any packaging that is sent abroad should not be included in the calculation of the 90% collection rate. This is particularly important for countries with a high percentage of frontier workers. To calculate the collection rate, waste streams should be analysed instead of the placing on the market. It is also crucial to carefully conceive deposit and take-back systems to avoid creating "deposit tourism" between countries.



Eurochambres, the Association of European Chambers of Commerce and Industry represents over 20 million businesses in Europe through 45 members (43 national associations of chambers of commerce and industry and two transnational chamber organisations) and a European network of 1700 regional and local chambers. More than 93% of these businesses are small and medium sized enterprises (SMEs).

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