

Review of the Packaging and Packaging Waste Directive

EUROPEN's feedback on the Inception Impact Assessment

July 2020

Objective

EUROPEN supports the general objective for the revision of the Packaging and Packaging Waste Directive (PPWD), which is a well-functioning Internal Market through fully harmonised rules on packaging while tackling the environmental impact of packaging and packaging waste.

The review must be carried out in line with the policy objectives of the European Green Deal and the new Circular Economy Action Plan, which set the basis for an innovation-driven policy agenda to pursue sustainable growth and encourage both ambitious and economically viable solutions to scale-up circularity and contribute to climate neutrality.

1. **The PPWD review must ensure the integrity of the Internal Market by establishing harmonised EU requirements and legislation for packaging, in line with the legal basis of the Directive (art. 114 of TFEU).**
 - As rightly pointed out by the Commission's analysis, *"It is necessary to strive for full harmonisation of rules on packaging and packaged goods. Uncoordinated national measures to address sustainability aspects of packaging result in obstacles to the free movement of goods and hinder the development of markets for secondary raw materials"*.
 - The review of the PPWD must address existing barriers, with focus on delays and incoherence in national implementation of existing legislation as well as insufficient enforcement of EU provisions at national level.
 - Waste collection and sorting infrastructures need to support the effective implementation of the PPWD to ensure that all packaging waste has access to separate collection. Improved sorting and recycling technologies can improve both the quality and quantity of recycled material that can be put on the market, thus contributing to waste prevention, increased recycling and a well-functioning market for secondary raw materials. The reform of the EPR systems should ensure accountability for all actors to ensure efficiency and transparency in the use of EPR fees.

2. **Packaging functionality should be protected and recognised to ensure that packaging intended use is fulfilled.**
 - Packaging exists to fulfil a number of key functions, including: protecting products' integrity and consumers' health and safety, increasing products' shelf-life, contributing to waste reduction, facilitating transport, efficient handling and distribution, promoting the packaged product and providing information and convenience to consumers (e.g. in relation to health or dietary requirements).
 - Policy options should strive for an enabling policy framework that allows industry to innovate, while equally considering climate protection, packaging optimisation and recycling objectives. Measures to increase recyclability cannot jeopardize product safety and integrity and must avoid product waste.
 - Both "underpackaging" and "overpackaging" needs to be clearly defined. Preserving packaging functionalities must be the core principle to define these two concepts to ensure that packaging intended use is not undermined. In considering further measures to reduce packaging waste generation, the risk of underpackaging leading to product and food waste, and the associated impacts on emissions and resource efficiency, must be duly assessed from an environmental, climate and economic standpoint.

3. **The review must ensure coherence of policy objectives to avoid the risk of undermining the sustainability goals and to support investments in innovation.**
 - A coherent EU policy framework for packaging and packaging waste is essential to provide the packaging supply chain with a clear direction and the necessary legal certainty and economic predictability to continue investing in sustainable and circular economy solutions.
 - Striking the right balance between policy goals (e.g. waste prevention, waste reduction, recycling, food waste prevention, emissions reduction...) is key to ensure coherence with the overall aim of tackling

environmental and climate impacts, thus avoiding the risk of undermining the overarching sustainability goals.

- Pursuing the EU Green Deal's objectives requires embracing a life-cycle approach to circularity, where climate and environmental performance is assessed throughout the entire life-cycle of packaging and product and where the role and the functionality of packaging are properly taken into account. The best recycling and disposal options should also be evaluated with a life-cycle approach of products and systems.

Problem definition

With regards to packaging waste, the real issue that needs to be tackled is the generation of packaging waste that goes to final disposal or that is littered into the environment, not what is collected for recycling or reuse. In contrast to packaging that is reused or recycled and brought back to the market in the form of secondary raw materials, packaging waste going to final disposal represents a loss of resources.

With regards to recycling, focusing only on packaging design will not solve the structural issues currently hindering effective competition between recycled and virgin materials, notably inadequate sorting, collection and recycling infrastructures as well as lack of enforcement and uneven implementation of existing EU legislation.

- 1. Before looking at specific policy measures to further reduce packaging waste it is essential to start with an accurate baseline.**
 - The figure mentioned in the Inception Impact Assessment of 173 kg of packaging placed on the market yearly per inhabitant includes packaging that is reused, recycled and recovered. It does not reflect the amount of used packaging that is sent to final disposal (i.e. incinerated or landfilled). Only the packaging waste sent to final disposal does not create further value from a circular economy standpoint and should, therefore, be used as baseline for considering further waste prevention measures.
 - A sole focus on packaging consumption reduction or on specific packaging formats (single use versus multiple use, single portion or multiple) undermines the underlying principles of packaging contributing to the Green Deal ambitions on climate, circular economy and resilient food supply chains (i.e. food waste avoidance).
- 2. The lack of implementation of already existing legislation and inadequate recycling infrastructures are major obstacles to the achievement of waste recycling objectives.**
 - Effective implementation of existing legislation and investments in infrastructure and innovation are key preconditions to the development of strong markets for secondary raw materials. Policy options cannot be focused solely on packaging design.
 - While packaging design can contribute to increased packaging recyclability, this depends first and foremost on the existing waste management and recycling infrastructures. Minimum requirements on harmonised end-of-life infrastructure are needed to boost recyclability.
- 3. A narrow focus on end-of-life undermines the overall climate and environmental performance of packaging.**
 - Product waste (including food) prevention is the most efficient way to improve resource efficiency and to reduce the environmental impact of packaging, as recognized by the EU waste hierarchy.
 - Packaging's contribution to resource efficiency and product waste prevention should not be overlooked when looking at measures to further improve its overall environmental impacts.
 - Used packaging which is properly disposed, collected and recycled will become a resource and save carbon emissions.

Policy options

EUROPEN fully supports strengthening the Essential Requirements to strive for better enforcement of the existing provisions across the EU, while continuing to enable the uptake of innovative solutions across the packaging value

chain. This effort should be driven by the goal of continuously improving the environmental performance of packaging and packaged products, while preserving their functionality. Each packaging application must continue to be designed with the product and its use in mind, so as to optimise its environmental performance and resource efficiency contribution from conception to end-of-life.

- 1. The Essential Requirements should continue to constitute the legal minimum requirement that all packaging must meet in order to be allowed to enter and freely circulate throughout the EU market.**
 - The overarching principles underpinning the Essential Requirements (ER) need to be relevant for any type of packaging. Packaging materials shall be treated equally, in a non-discriminative way.
 - The requirement of all packaging to be reusable or recyclable by 2030 is fully supported by EUROPEN. For this purpose, Member States and the EU should refrain from restricting packaging that is already, or that will be recyclable, by that date.
 - The necessary return/separate collection, sorting and recycling infrastructure need to be in place in each EU Member State by 2030.
 - To address the lack of enforcement of the ER, which is currently left at the discretion of national authorities, the application of the CEN standards should become mandatory to prove compliance.
 - Targets on specific materials or packaging formats do not address the key issue, which is to reduce residual non-recyclable waste. Without due consideration to the packaged products, such targets would also risk increasing product damage and hence its waste.

- 2. Packaging eco-design must remain industry-led, framed by enabling EU legislation.**
 - Overly prescriptive requirements, including restrictions of specific packaging materials or formats, risk hindering much needed innovation and investments in eco-design and fail to deliver the right compromise between packaging functionalities and recyclability. They also risk to run counter to the goal of preventing product and resources waste.
 - Any new requirements need to be consistent with existing health and food regulations and should not jeopardise existing best practices linked to health and dietary considerations.
 - Producers need to remain free to choose the most appropriate packaging formats and materials for their products and its distribution systems (i.e. single use or reuse, single portion or multiple).
 - Policy objectives have to be achieved in a cost-effective way to avoid diverting resources away from industrial innovation processes.
 - Packaging functionality is particularly important for sensitive applications such as packaging in contact with food and beverages. The safety of food products and consumers is the first priority for the packaging supply chain and it is also what drives the search of the best sustainable solutions, e.g. for the further uptake of recycled content. The initiative by the Commission to establish rules for the safe recycling of used packaging into food contact materials is an important step to support this effort.

- 3. The uptake of recycled content should be driven by favouring a voluntary approach.**
 - Prior to considering the possible introduction of mandatory requirements for recycled content in packaging, essential framework conditions need to be in place:
 - (1) continuity of the EU Internal Market,
 - (2) full transposition and application of the 'Net Cost' principle for packaging Extended Producer Responsibility schemes across all Member States,
 - (3) functioning EU approval process for use of recycled plastic in Food Contact Materials
 - (4) availability of Secondary Raw Materials at competitive prices and of appropriate quality (as established by 'end-of-waste' criteria) ensuring consumer and product safety.
 - Voluntary initiatives for the uptake of recycled content currently underway, such as the Circular Plastic Alliance launched by the European Commission in 2018, must be allowed to deliver on their results before considering the imposition of mandatory requirements.
 - The development of effective EU end-of-waste criteria is a prerequisite for a genuine Internal Market for secondary raw materials. Common criteria are a necessary condition for businesses operating in different Member States.
 - To boost the uptake of recycled content it is essential to establish a well-functioning EU market for high-quality secondary raw materials at a competitive price. This should be taken into account in the context of

the upcoming review of the Waste Shipment Directive. National measures discriminating against secondary raw materials sourced from other Member States should not be permitted.

4. Consumer safety and overall positive environmental impacts must guide the further uptake of reusable packaging solutions.

- Reusable packaging has proven its value under specific conditions, based on accurate and holistic sustainability assessments, when proven safe for consumers and with respect for the functioning of the Internal Market.
- This assessment needs to be based on a case-by-case approach, depending on the packaging functionalities and product types as well as taking into account purchasing models (online vs physical retail) and specific local contexts (e.g. urban vs rural areas).
- Any mandated measure on reuse and refill would need a thorough impact assessment to determine where reuse makes sense from a socioeconomic, environmental and consumer safety perspective and how to deal with a systemic change of business models and supply chains.

Assessment of expected impacts

1. Economic impacts

- Besides the administrative costs of the proposed measures for industry, mentioned in the Inception Impact Assessment, adequate consideration should be given also to the financial costs.
- The rising costs for the packaging industry from existing policies cannot be considered in isolation. These include financial impacts from the revision of the PPWD, potential EU and national plastics taxes/levies, Extended Producer Responsibility (EPR) fees set to increase considerably under the new EU waste legal requirements to boost packaging recycling (EPR fee eco-modulation) and costs linked to the implementation of the Single Use Plastic Directive (SUP), including litter clean-up costs.
- Regulatory imposed modifications of business models from overly prescriptive requirements must be carefully impact assessed to determine the financial implications across the entire packaging value chain.

2. Social impacts

- The social costs (economic implications for consumers) of the measures and requirements foreseen should be also subjected to a thorough impact assessment, inclusive of the potential negative impacts on low-income groups to guarantee a “Just Transition” towards further circularity.
- The impact assessment must duly substantiate the expected positive impacts in terms of jobs creation anticipated in the Inception Impact Assessment: number of jobs created, type of jobs and expected income. The risk of job losses resulting from a radical modification of business models and its impacts on the value chain must also be part of the impact assessment.

3. Environmental impacts

- There is a need for a holistic assessment of environmental impacts of the proposed measures.
- The Commission’s analysis rightly points out the importance of assessing the impact of the proposed measures on food waste generation. This assessment should also be extended to all aspects of resource efficiency and product waste prevention.
- The impact assessment should embrace a life-cycle approach to circularity, where climate and environmental performance is assessed throughout the entire life-cycle of packaging and packaged products, including all functionalities aspects and the benefits coming from efficient logistic, transport and reduced product waste.