



PACKAGING

Working towards a Circular Economy



EUROPEN

The European Organization for Packaging and the Environment



A well functioning EU Internal Market is a precondition for a competitive, resource-efficient and growth-oriented Circular Economy

How to move away from linear production and consumption to a circular economy? To an economic model where there is virtually no waste but more secondary raw materials that can be re-injected in a European Circular Economy. The much-debated Circular Economy Package (CEP) will be launched by the European Commission (EC) by the end of 2015 impacting many business models and sectors. Virginia Janssens, Managing Director of EUROPEN – the European Organization for Packaging and the Environment, examines related policy and market challenges and opportunities for the packaging supply chain in Europe from the perspective of the EU Internal Market.

The Internal Market provides for the economy of scale needed for growth and investment in Europe

Any EU policy and regulatory discussion, including the current EU Circular Economy Package, should be enshrined by the Internal Market principle. Since its launch in 1992, the Internal Market has made a significant contribution to the well-being of Europeans and economic growth¹. It has also contributed to enhance environmental protection. A harmonized EU regulatory framework for EU products enhances resource efficiency by optimising production lines, fostering economies of scales, streamlining information and communication to EU citizens and delivering

integrated innovations and synergies across value chains and borders. All have resulted in more sustainable production and consumption by EU businesses, citizens and consumers.

For our specific value chain, the proper functioning of the EU Internal Market ensures the free movement of packaging and packaged goods across Europe without any trade barriers, burdensome divergent national rules or national protectionist measures. In a Circular Economy, packaging optimises resource use, minimises (food) waste, contributes to product innovation and extends the value in a product and the economy. In order for packaging to be able to continue these enabling functionalities, safeguarding the EU's Internal Market will be instrumental to achieve the EU's growth and jobs creation objectives. Indeed, companies that produce, sell, import or export packaged goods to/in more than one Member State rely on the security of investment, efficiency and scale offered by the EU Internal Market.

The EU Internal Market protects against unjustified national restrictions to trade

The legal foundation and adoption of the PPWD in 1994 confirmed the importance of the Internal Market principle for packaging and packaging waste. Having the Internal Market as a legal basis ensures harmonised EU rules Across the 28 Member States. It safeguards the free circulation of all packaging and packaged goods throughout the EU. To this end, EU Member States are for instance required to pre-notify to the European Commission's their policy intentions before revising national packaging and packaging waste legislation. Such a mechanism has proven very useful and necessary to prevent disproportionate or unjustified national restrictions to trade over the two decades, as reported by the European Commission².

Since the adoption of the PPWD in 1994, over 15 reported national laws related to packaging have threatened to undermine the Internal Market. Commission and Member State scrutiny of national measures that may create barriers to trade continues to be essential to preserving the Internal Market. Therefore, the packaging supply chain would welcome a more in-depth analysis of national measures that create barriers to the Single Market. This alertness and due diligence will become increasingly important during the implementation phase of key EU legislative frameworks such as the Circular Economy package.

Full implementation and enforcement of EU laws required for a well-functioning Internal Market for packaged goods in the Circular Economy

Non-implementation leads to market distortions and an absence of a level playing field leading to unfair competition among companies and EU Member States. Another key challenge to the Single Market is the inconsistent implementation and enforcement of the PPWD. Better regulation must go hand-in-hand with better implementation. 22% of Single Market infringement cases involve environmental laws³, and nearly one third of these infringement cases relate to waste laws⁴. Ensuring the full implementation and enforcement of EU rules by Member States is crucial to achieve the objectives of the new Single Market Strategy and Better Regulation agenda. Non-implementation leads to market distortions and an absence of a level playing field leading to unfair competition among companies and EU Member States. Therefore, systematic scrutiny of national measures that could create trade barriers and ensuring full implementation and enforcement of EU laws will help strengthen the Single Market and will boost the global competitiveness of European companies.

Extended Producer Responsibility in an EU Internal Market and Circular Economy

A key instrument that links the Circular Economy, the Internal Market and packaging waste policy is Extended Producer Responsibility (EPR) for used packaging. This end-of-life tool is applied in 25 EU Member States and has been instrumental to enable the separate collection and sorting of used packaging to reach EU and national packaging recycling and recovery targets. EPR is the interface between the supply and demand of sufficient quantity and quality of secondary raw materials which are re-injected as products or materials into the economy. This important role and potential is acknowledged by the European Commission and European Parliament who have called for a strengthened EU legal framework for EPR for used packaging by introducing EU binding minimum performance requirements to ensure more transparency, cost effectiveness and enforcement in the Member States implementing EPR⁵.

While respecting the sovereignty and specificities of national states, these future EPR conditions should further facilitate harmonised rules across Europe in the area of packaging and packaging waste management to the extent possible. At all times the free circulation of packaged goods within the internal market should be protected and divergent or even conflicting national rules for packaging and packaging waste should be avoided where possible. The Council of the EU also stressed the importance of harmonization⁶: “In the absence of such common rules [at EU level], EU businesses are faced with 28 “mini markets” due to 28 different national rules they have to comply with – which is impossible and/or extremely costly. We need EU rules imposing, inter alia, a prohibition of national

law that create barriers.” This harmonization and Internal Market safeguard will become very important in the formulation of an EU framework for EPR as well as in its national implementation.

Complement one-size-fits-all policy measures by sectoral policy solutions where needed

The EU’s better regulation agenda and Internal Market Strategy for goods and services expected by the end of 2015 are welcome policies, which should be integrated into the Circular Economy package. These EU initiatives illustrate the key priorities of an EU that wishes to “focus on the big things and be small on the small things”. This also means though that one-size fits-all regulatory solutions across concerned EU waste laws covering different products, sectors and waste streams will also need to be complemented by tailored sector-specific measures addressing different policy and market needs. This is for instance true for the specific PPWD which needs to cater for our specific packaging value chain and all packaging materials with related material specific recycling and recovery targets. Our industry and waste stream needs different EU policy measures than industries in the smartphone, tyres or battery sectors/waste streams. This tailored approach will ensure the needed life-cycle approach in EU policy-making which enables net environmental improvements across value chains of packaged products, covering all packaging materials and types in a justified and sustainable manner.

The upcoming Circular Economy Package offers a great opportunity to address remaining EU regulatory and market barriers as well as implementation and enforcement issues. Along with a fully functioning EU Internal Market for packaging and packaged

goods, our industry is committed to further transition to a resource efficient and competitive Circular Economy. To this end, EUROOPEN will further support the EU institutions to achieve an enhanced, clear, predictable and proportionate EU legal framework that protects the environment and delivers competitiveness, more jobs and growth in Europe.



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About EUROOPEN

EUROOPEN – the European Organization for Packaging and the Environment – is an EU industry association in Brussels presenting the opinion of the packaging supply chain in Europe, without favouring any specific material or system. EUROOPEN members are comprised of multinational corporate companies spanning the packaging value chain (raw material producers, converters and brand owners) plus national packaging organizations all committed to continuously improving the environmental performances of packaged products, in collaboration with their suppliers and customers.

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EUROOPEN's policy recommendations for a competitive, resource-efficient and growth-oriented Circular Economy can be consulted here: <http://bit.ly/1LE6QBA>.

1. The EC estimates that between 1992 and 2008, the Internal Market added 2.13% to the EU-27's GDP and created 2.77 million new jobs. See European Commission, 20 years of the European Single Market – Together for new growth – Main achievements, 2012.
EC: "The notification procedure has allowed to solve many internal market issues before they became a real problem".

For further details, please see COM (2006) 767 final.

2. Commission Staff Working Document, Monitoring application of Union law in EU policy areas – 2014 Annual Report.
3. European Commission (2015) Internal Market scoreboard. Accessed 22 October 2015, available at: http://ec.europa.eu/internal_market/scoreboard/performance_by_governance_tool/infringements/index_en.htm.
4. European Commission (2015) Statistics on environmental infringements. Updated 17 September, available at: <http://ec.europa.eu/environment/legal/law/statistics.htm>
5. See the withdrawn European Commission legislative proposal COM(2014) 397 final and the European Parliament's resolution on 'Resource Efficiency: moving towards a Circular Economy' prepared by MEP Sirpa Pietikäinen.
6. Council of the European Union - Presidency note "A Better Regulation Agenda for Less Regulatory Burden and more Internal Market", 14 September 2015.



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