

Single Market Barriers and Circular Economy

1. A functioning Single Market to preserve the free movement of packaged goods and deliver the Circular Economy

Packaging contributes to the Circular Economy

Packaging is an integral and essential part of the product supply chain, from the production to the consumption stage. The packaging supply chain plays a central role in contributing to a resource efficient and circular economy by optimising resource use, minimising product and food waste and protecting products all along the value chains.

One Circular Economy

The packaging industry is fully committed to the circular economy goals. The Single Market is the engine of the EU economy. The economies of scale and operational costs savings generated by the Single Market are driving both economies of scale and operational costs savings. Industry is fully committed and engage to deliver sustainable solutions but for this we need one EU circular economy, not 27 mini-circular economies.

A functioning Single Market is key

Packaging legislation matters to all economic sectors. Virtually all goods circulating on the EU market are packaged at some point, hence packaging legislation impacts all sector of the European economy.

Preserving the integrity of the Single Market is key to ensure that packaging materials and packaged goods can move freely across the EU and avoid negative impacts on companies, consumers and the environment.

The Packaging and Packaging Waste Directive (PPWD) was introduced in 1994 to provide for a harmonised regulatory framework to advance packaging sustainability and protect the integrity of the Single Market.

Products are made for one EU market

There is a misconception that products are made for national markets. This is not the case. Very many manufacturers market products for the European territory. Introducing national mandatory requirements on packaging, such as those on packaging labelling, requires modifications and even duplication of production lines to comply with different requirements for different European markets.

Market fragmentation is increasing

Member States are increasingly introducing unilateral and divergent requirements on packaging and packaged goods. In some cases, these measures go undetected as member states failed to comply with their obligation to notify technical regulations as foreseen by EU law. In other cases, a weak enforcement of the TRIS procedure has led to the adoption of national measures despite the infringement of Single Market rules.

The situation at present risk going back to before the entry into force of the PPWD in 1994, when national packaging restrictions held sway and precluded the Single Market in packaged goods.

Stronger enforcement to halt market fragmentation

The lack of a robust response from the Commission in response to national packaging legislation infringing the EU Single Market principles and Article 18 of the PPWD would risk to embolden other Member States to do likewise in the name of advancing the Circular Economy. The current proliferation in such initiatives is a concerning signal and it confirms that the magnitude of this problem will continue to escalate in the absence of strong action to prevent and sanction infringements.

2. Single Market barriers on packaging and packaged products impact competitiveness and the Circular Economy: the example of national packaging labelling legislation

Divergent labelling requirements create new market barriers

- The quasi-totality of what we as citizens consume is packaged. National measures on packaging impact the free circulation of everything we consume. Disparate national packaging requirements necessitate national solutions resulting in an increasingly fragmentation of the European internal market.
- Packaging labels can play an important role to help close the loop in a circular economy. However, the ease of changing packaging labels is misrepresented or misunderstood. Changing packaging labels is a complex operation, bearing both economic and environmental impacts.

Divergent labelling requirements are bad for the Circular Economy

- The proliferation of national measures presents industry with a choice between attempting to incorporate all labelling requirements at the same time and to accordingly adapt a single European packaging execution or to undertake separate national packaging executions. Both may have adverse effects in terms of resources use (such as the need for increased packaging size to accommodate all national labels) or loss of efficiency (through separate productions for different countries so as to meet national requirements).
- Disparate national packaging requirements necessitate national solutions, which bring losses in economies of scale resulting in an increasingly fragmentation of the European internal market. This also increases the chances of a mismatch of supply/logistics and failures in stock management. Reducing flexibility in supply logistics will result in more waste or empty shelves if there is a mis-match in actual supply.
- If a regulatory scientist needs to verify new artworks or other regulatory requirements this is a distraction from other work that adds value. The same applies to all other manpower and resources necessary to adapt to national initiatives. This uses (finite) resources (\$/people/time) that could be better applied to innovation linked to the Circular economy. Equally, the losses in economies of scale due to the introduction of new market barriers undermines investments in circular economy solutions.

Divergent labelling requirements harm competitiveness

- Disparate national packaging requirements impede the use of a single packaging execution and therefore require the redesign of all packaging across the entire internal market destined for an individual country (e.g. France in relation to the Green Dot and Triman Decree or Italy in relation to the Italian packaging labelling decree) or the production of separate variants for that market.
- The indicative costs per artwork change would amount to approximately € 1000-2000, which include evaluation by a regulatory specialist to ensure veracity of all other mandatory labelling requirements. When a few thousands Stock Keeping Unit (SKUs) are put on the market, this can represent a potential one-off costs of a few million euro for a single company, even before any ongoing operational costs for separate production of packaging executions for the national market.

- This would have the adverse consequence of diverting investments away from other activities to advance sustainability, such as R&D on eco-design and digital traceability of product information for more efficient recycling.
- Redesigning all packaging destined to an individual national market will also entail costs for manufacturing new print cylinders, managing double packaging raw materials stocks and double data sets. Ultimately, doubling the changeover complexity in the manufacturing operations will have repercussions on operational efficiency.
- Irreversible de facto effects can already occur for industry even before a notified national provisions comes into force. Retailers will naturally want to ensure that products on shelf are compliant with national labelling provisions. This translates as pressure back up the value chain through the insistence that this is achieved even before the deadline through an abundance of precaution vis-à-vis regulatory requirements. Manufacturers can then be confronted with such requests even before ongoing dialogue between the Commission and the Member States (under TRIS) has been completed. Hence, there is a need for an urgent response on the part of the Commission.

Examples of impacts in relation to the French Green Dot and Triman Decrees

- In addition to the Single Market disruption, the implementation of divergent labelling requirements, will also have negative environmental impacts linked to the challenging timeline of their application, If not enough time is provided for companies and retailers to adapt to the new requirements and redesign packaging, the industry would have to make use of stickers, both to cover what is considered an inappropriate pictogram and to add new pictograms and sorting instructions to comply with the new requirements.
- As an example, in the case of the lighting industry, about 200.000 million lighting products are placed every year on the French market. Re-stickering all of them would mean one or more stickers to be placed on each of these packages. This would result in the use of billions of stickers and of course an additional and avoidable environmental impact, due to the additional materials and substances that would have to be used to cover and add information on the product. It is also worth noting that, the new EU labelling regulation for light sources, EU Reg. 2019/2015, provides 18 months additional time for retailers to re-label products and adapt to the new label.
- The same applies to retailers. The sector is actively involved in supporting the circular economy and better design of products to increase their lifespan and their recyclability. The application of the Triman Decree will have a cost impact in terms of addition of warehouse space, purchase of materials, printing of logo stickers, and staff costs. This would account for at least €46 millions per retail group.