FoodDrinkEurope recommendations for the finalisation of the EC proposal for a revised EU legislation on packaging and packaging waste

JULY 2022

IN BRIEF
The European Commission (EC) is finalising the impact assessment for the revision of the Packaging and Packaging Waste Directive (PPWD) with a view to launch a legislative proposal in November this year. This paper provides recommendations for the finalisation of the proposal. It is complementary to FoodDrinkEurope’s position paper on framework conditions for an effective roll-out of the reviewed EU PPWD (February 2022).

1. Setting the right foundation
   • EU-level playing field
     FoodDrinkEurope strongly supports the replacement of the PPWD by a Regulation, with a Single Market legal basis (Art. 114 of the TFEU). Any future targets on packaging circularity (e.g. on packaging use reduction) should also be set at EU level and measures to reach those targets should be clearly spelled out in the legislation.
     The above will prevent Member States from adopting diverging rules at the national level which would create barriers to the EU Single Market. It will provide legal and financial certainty to market operators to help them build a full circular economy.

   • Framework conditions
     FoodDrinkEurope calls for support mechanisms to be established as soon as possible to support the EU’s circular economy objectives and the EU packaging and the future packaging legislation. These mechanisms could be political, market-related, infrastructure or financial. They are clearly explained in FoodDrinkEurope’s position paper of February 2022.

2. Packaging reduction (including reuse)
FoodDrinkEurope supports the EC’s intention to set (an) EU-level packaging reduction target(s). To achieve this(these) target(s), the following conditions should be met:
   • The target(s) should reflect all relevant considerations, such as the carbon footprint throughout the entire lifecycle of products, gradual business adjustments, hygiene and handling guidelines, and calculation methodologies;
   • There must be strong evidence from the impact assessment that demonstrates that the target is realistic, achievable, and environmentally positive (including in relation to GHG emissions);
3. Recyclability

FoodDrinkEurope supports the EC’s proposal for all packaging to be recyclable by design by 2030, including reusable packaging. This objective should be accompanied by a clear definition of “recyclability” and Design-for-Recycling (DfR) standards.

To reach this objective, the following conditions should be met:1

- The EU-wide definition of “recyclable packaging” should be **actionable and future proof** as well as **technology and material neutral**. It should foster the co-evolution of innovative packaging, recycling technologies and waste management infrastructure. It should also support the development of a robust Single Market for secondary raw materials;
- To make sure that recyclable packaging will be effectively recycled, the recyclability definition should include **clear criteria and conditionalities** with regards to collection, sorting and recycling infrastructure and recycling technologies;
- The definition should not include a recyclability threshold per packaging unit. Instead, specific recyclability thresholds should be set in **DfR guidelines** for given materials and/or packaging formats;
- In any case, a **95% recyclability threshold is not realistic** as it would not account for the different product and material specificities. It would generate unintended consequences contradicting the EU climate and circular economy goals (e.g. increase packaging thickness) or lead to the disappearance of segments of packaging that are already effectively recycled today;
- The DfR guidelines should define **which packaging structures and materials are compatible** with the recycling streams and would be granted market access;
- The definition should be **accompanied by a collection rate** per Member State to be included in the EC proposal against recyclability rates;
- The DfR criteria should be defined by a **European Technical Committee** and regularly updated to reflect developments of infrastructure and technologies. There should be no negative list as it would neither be sufficiently comprehensive nor up to date;
- There should be a **one-step DfR conformity assessment** requiring economic operators to undertake a self-assessment to ensure compliance with the DfR guidelines. The scope

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1 For further details on how recyclability should be enforced in practice, please refer to our cross-industry proposal which is available upon request.
of inspections under the new Market Surveillance Regulation (EU) 2019/1020 should be extended to packaging conformity documents to strengthen enforcement.

4. Compostability

The choice of packaging materials should be left with business operators as innovation in packaging materials and infrastructure solutions is crucial for a competitive European industry. The future legislation should provide this freedom and focus on conditions supporting circularity (e.g. development of adequate recycling infrastructures for the different waste streams, clear information to consumers).

5. Deposit Return Schemes

To boost packaging waste collection, FoodDrinkEurope supports the development of well-functioning Deposit Refund Systems (DRS) for non-alcoholic beverages across the EU Member States. This requires undertaking the following actions for new DRS:

• Minimum requirements for the good functioning of DRS and refill systems (e.g. governance structure) should be developed;
• There should be variable levels of deposit depending on the local context;
• Collection points should be regulated including through setting obligations for small and large physical retailers/distributors;
• Minimum return targets should be established for DRS;
• DRS should be set up, run and centrally operated by the obliged industry in a not-for-profit structure.

6. Recycling

• Recycling targets

FoodDrinkEurope calls for the EU recycling targets to be increased, especially for plastic packaging. This will help meet the objectives of the future packaging legislation and the targets on recycled content. Specific recycling targets per application should also be introduced, at least for flexible plastic packaging, alongside collection and recycled content targets. In parallel, actions should be taken to ensure the proper implementation of the rate calculation method of the existing PPWD.

• Recycling technologies

FoodDrinkEurope calls on the EC to clarify the role and regulatory status of recycling technologies to produce food contact secondary raw materials. In addition to mechanical recycling, new recycling technologies such as depolymerisation or feedstock recycling should be covered by the recycling definition and accounted for in the achievement of the EU recycling and recycled content targets. The EC should clarify traceability matters and the mass balance and allocation rules across the EU.
7. Recycled content
   • Recycled content targets

FoodDrinkEurope supports the introduction of an EU recycled-content aspirational target for all packaging by 2040. This overall target could be complemented by more granular targets, which would be specific to certain product categories, e.g. food-contact flexible packaging.

Any recycled-content targets should apply to the main component(s) of products, not to minor components like sleeves, labels, caps, or closures. To avoid misinterpretation, this should be spelled out in the legislation, rather than be included in a follow-up implementing act. This will be in line with the Single-Use Plastics Directive, which definition of single-use plastic bottles exclude labels and sleeves. It would also reflect the existing technical barriers to cap-to-cap or closure-to-closure recycling.

The targets should be reviewed regularly to take into account the evolution of the market for recycled materials, especially in terms of quantity, quality, and safety. It is therefore important to introduce a review or derogation clause for these targets in the future legislation.

   • Access to secondary raw materials

Access to secondary raw materials is key. To meet food safety standards, the food and drink sector must use recycled packaging materials of high quality. However, today’s supply of food-quality recycled materials is limited and there is growing demand from other sectors. Getting access to these materials in sufficient quantity and at reasonable prices is therefore a priority for our sector which has legal obligations and voluntary commitments to increase packaging recycled content.

In this context, FoodDrinkEurope recommends the development of specific quality standards for product categories other than food, such as cosmetics and pharmaceuticals. A “right of first refusal” should also be introduced in the new packaging legislation to give economic operators, including SMEs, the right to get prior access to a given amount of food-quality recycled content. This amount should be based on the amount of recyclable materials which the economic operator has originally put on the market and which it has contributed to collect, sort and recycled (including through Extended Producer Responsibility (EPR) systems and DRS).

This priority access mechanism should be set at the national level, in cooperation with existing Extended Producer Responsibility schemes or DRS, taking into account potential material losses along the recycling value chain. This mechanism should also be accompanied by measures to foster collection and improve EPR schemes across the EU to ensure that collected materials will be redirected to recycling, rather than go to landfill.

8. Harmonised sorting instructions

FoodDrinkEurope supports the development of EU-harmonised packaging sorting instructions for consumers, in line with the following criteria:

   • Harmonised sorting instructions should be clear, concise, easily understandable and actionable for all EU citizens;
   • Information should be displayed both on packaging and collection bins. Off-pack information means should not be specified and allowed;
   • Existing labelling or marking for DRS should continue being allowed, to avoid creating consumer confusion;
• **Reuse labelling should be part** of the harmonised sorting instructions;
• The marking should **not be applied to tertiary packaging**;
• Instructions should **take the form of symbols or pictograms** rather than language instructions or colours;
• The introduction of symbols should be accompanied by **effective education and awareness raising campaigns** throughout the EU Member States;
• The future sorting instructions should **replace the identification system provided in Annex 1** of the existing PPWD;
• In parallel, recycled-content labelling should be **based on existing ISO standards**.