

Packaging Supply Chain Guiding Principles on Options to reinforce the Essential Requirements for packaging

October 2019

The revision of the Packaging and Packaging Waste Directive (PPWD) in 2018 requires the European Commission to examine the feasibility of reinforcing the Essential Requirements (ER) for packaging with a view to “improving design for reuse and promoting high quality recycling, as well as strengthening their enforcement”¹.

The 43 undersigned organisations² wish to share the following guiding principles and recommendations, for consideration as part of the ongoing study and related future policy considerations. These principles aim at ensuring that the potentially revised ER contribute to promote reuse and high-quality recycling throughout the EU, while preserving packaging’s functionalities and innovation, within the framework of harmonised EU legislation.

Guiding principles and recommendations for reinforcing the ER for packaging

Summary of recommendations:

- **The ER 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.
- **This legal minimum should be revised** to ensure that all packaging to be placed on the market³ is designed for reuse or recycling by 2030.
- **Member States’ monitoring of compliance with the ER should be strengthened and harmonised**, in line with updated EU harmonised CEN standards which should then provide a presumption of compliance.

1. The *raison d’être* of the ER for packaging to move freely across Europe should be at the core of the review

The ER are a *de minimis* legal design requirement for packaging to enter the EU market and to circulate freely throughout, without compromising the essential functions of the packaging.

The co-signatories acknowledge that the context since the ER were first adopted in 1994 has changed, in particular following the revision of the EU Waste Framework Directive (WFD) and PPWD in 2018, within the context of the Circular Economy Package (CEP). It is therefore appropriate to raise the *de minimis* bar accordingly, whilst retaining the ER’s original *raison d’être*. The undersigned organisations call for this original *raison d’être* (i.e. minimum design requirements to safeguard the free movement of packaged goods in Europe) to be maintained as part of the review of the ER, consistent with the legal basis of the PPWD.

In our view, any proposal to revise the ER should also remain consistent with the legal mandate provided in the PPWD Article 9, i.e. ‘to promote design for reuse and high-quality recycling’. Objectives such as ‘cost-effective recycling’ and ‘quantified use of recycled content’, are not

¹ Article 9 new paragraph 5 of the Packaging and Packaging Waste Directive 2018/852 amending Directive 94/62/EC

² This statement does not preclude the undersigned organisations from issuing individual positions that are more focused on their specific sectors.

³In line with the Market Surveillance regulation 2019/1020, which refers to the Packaging and Packaging Waste Directive, ‘placing on the market’ means ‘the first making available of a product on the Union market’, hereby applying to the manufacturer or importer. The legal minimum applies to all packaging placed on the market, including imported packaged products from third countries.

mandated by the PPWD and cannot be achieved equally by or are not meaningful for all packaging materials or products. Such objectives should be dealt with through other policy instruments (for instance, prescribed recycled content requirements for specific products as laid down in the Single Use Plastics Directive⁴) subject to comprehensive impact assessments or through voluntary public and/or private initiatives.

The revised ER must continue to apply in a non-discriminatory and material-neutral fashion to all packaging materials and types placed on the EU market. Their generic nature shall remain being completed by the EU harmonised (CEN) standards⁵ which set out related technical details. The co-signatories recognise that these standards require an update for consistency with the revised ER and would be ready to contribute to it. An update would also be relevant in view of aligning them with the existing ISO standards, where applicable.

2. Changes to the ER should raise the bar for packaging design, while preserving packaging's functionalities, innovation and the EU Internal Market

The undersigned organisations are ready to commit to ensuring that, by 2030⁶, all packaging placed on the market should be designed for reuse or recycling by mechanical, organic and/or chemical means. This would be consistent with the changes in the PPWD, that now preclude energy recovery targets⁷.

Meeting this ambitious objective will require the full commitment of and a major effort from all parts of the packaging value chain, packaging recovery/EPR schemes, recyclers and public actors (at EU, national and local levels). It will in particular require investments in innovative packaging design, as well as in collection, sorting and recycling technologies and related infrastructures. This needs to be operated at scale with EU-wide capacities, in order to meet the CEP objectives. Against this objective, the undersigned organisations also support that the revised ER:

- Take full consideration of packaging's multiple functions⁸. Packaging is specifically designed to protect a specific product and the resources invested within it, as well as to preserve, transport, store and serve a specific product. Packaging design contributes to prevent product (including food) waste and make it safe and easy-to-use for consumers. The design of packaging consists of finding the right compromise between packaging's ability to fulfil all these functions and environmental considerations.
- Include a generic and technology-neutral definition of 'recyclable' for the European Union.
- Retain existing provisions in the PPWD⁹ and WFD¹⁰ which clarify that a recycling operation would not have to be located in the same country in which the used packaging is collected. This helps to ensure the uniform application of the definition of 'recyclable' across the EU

⁴ Article 6 paragraph 5 of the Single Use Plastics Directive 2019/904.

⁵ EN 13427:2004, *Packaging – Requirements for the use of European Standards in the field of packaging and packaging waste*; EN 13428:2004, *Packaging – Requirements specific to manufacturing and composition – Prevention by source reduction*; EN 13429:2004, *Packaging – Reuse*; EN 13430:2004, *Packaging – Requirements for packaging recoverable by material recycling*; EN 13431:2004, *Packaging – Requirements for packaging recoverable in the form of energy recovery, including specification of minimum inferior calorific value*; EN 13432:2000, *Packaging - Requirements for packaging recoverable through composting and biodegradation – Test scheme and evaluation criteria for the final acceptance of packaging*.

⁶ This deadline does not preclude sector or company specific voluntary initiatives to be set earlier.

⁷ Also considering legal landfill restrictions laid down in Article 10 paragraph 4 of the Waste Framework Directive 2018/851 amending Directive 2008/98/EC

⁸ E.g. protection from air, humidity, light, external pressures during distribution, bacteria etc.

⁹ Article 6a paragraph 7 of the Packaging and Packaging Waste Directive 2018/852 amending Directive 94/62/EC

¹⁰ Article 11a paragraph 7 of the Waste Framework Directive 2018/851 amending Directive 2008/98/EC

and crucially does not depend on the current infrastructure status in a given Member State. It also allows economies of scale to be achieved in recycling across Europe.

- Are coherent with other existing EU policies and requirements that impact packaging design, such as consumer protection, product safety and hygiene. The revised ER should also remain consistent with the waste hierarchy, as laid down in the WFD and PPWD.
- Are aimed towards reduced overall environmental impact of packaging and packaged products.

The co-signatories caution against overly prescriptive requirements which would hinder the innovations needed in packaging design and sorting/recycling technologies to accelerate reuse and recycling. Too prescriptive requirements are also likely to increase administrative burdens and make it more difficult for companies to implement and for authorities to enforce. They would also risk introducing unfair competitive distortions and hinder the free movement of packaging and packaged goods. Consequently, 'goals' rather than 'means' should be defined.

With a view to preventing adverse impact on packaging's functionalities, innovations and free circulation in Europe, the co-signatories call for a thorough impact assessment of the proposed changes to accompany a potential legislative proposal, covering, among others impact on:

- Packaging's functionalities, omni-distribution channels and convenience purpose
- Innovation in packaging design, collection, sorting and/or recycling
- The EU Internal Market for packaging and packaged goods
- The overall environment impact of the packaged product
- Costs for companies (investments needed, compliance etc.)
- Applicability to and compliance with international trade (imports/ exports)
- Administrative burden for public authorities and economic operators

3. Monitoring of compliance with the ER should be strengthened and harmonised

The co-signatories welcome the opportunity to examine ways of strengthening the enforcement of the ER, once the revised ER are agreed on. Enforcement is a competence for the public authorities (at local, regional or national level, depending on Member States). So far, 3 Member States have publicly enforced the ER by prosecuting for non-compliance: the Czech Republic, Denmark and the United Kingdom. The ER are not broadly enforced, but they are enforceable where competent authorities chose to react and have the necessary resources available to them to do so.

A first step towards this objective would be to strengthen and harmonise Member States' monitoring of compliance with the ER, including for packaged products imported from third-countries. The undersigned organisations are ready to examine new credible and workable ways in which Member States would be able to monitor the compliance of packaging placed on the market. Currently what is considered non-compliant in one Member State might be compliant in another. Hence there is a need for harmonisation across Europe.

Accordingly, we strongly support that conformity to EU harmonised standards would continue to provide a presumption of compliance with the ER for packaging. This will facilitate compliance by industry as well as monitoring and enforcement by Member States, in a consistent fashion across Europe and in line with the objective of the review of the ER.

The co-signatories call on the European Commission and its contractor to strive for the right balance. On the one hand, requirements should be strengthened to facilitate the implementation and enforcement of the ER at national level. On the other hand, a flexible and

technology-neutral approach is needed, in order to accommodate the many packaging solutions and materials and allow for ongoing and upcoming innovation in packaging design and end-of-life management.

The 43 undersigned organisations are as follows (in alphabetical order):



ACE - The Alliance for Beverage Cartons and the Environment



AGVU - Arbeitsgemeinschaft Verpackung und Umwelt e.V., Germany



AIM - European Brands Association



A.I.S.E. - The International Association for Soaps, Detergents and Maintenance Products



APEAL - The Association of European Producers of Steel for Packaging



ARAM - Association for Packaging and the Environment, Romania



BNAEOPC - National Association Essential Oils, Perfumery and Cosmetics, Bulgaria



BSDA- Bulgarian Soft Drink Association, Bulgaria



CEPI - Confederation of European Paper Industries



Cicloplast - Spanish association of plastic transformers and raw materials producer for promoting plastics packaging recycling, Spain



CICPEN - Industrial Coalition on Packaging and the Environment, Czech Republic



CITEO- Packaging Recovery Association, France



CITPA – International Confederation of Paper and Board Converters in Europe



EFBW - European Federation of Bottled Waters



EKO-PAK- Packaging Industry Union of Employers, Poland



ELIPSO - Les entreprises de l'emballage plastique et souple, France



Emballasjeforeningen - The Norwegian Packaging Association, Norway



EPRO - European Association of Plastics Recycling & Recovery Organisations



EuPC - European Plastics Converters



EuroCommerce



European Aluminium



European Bioplastics



EUROPEN - The European Organization for Packaging and the Environment



EXPRA - Extended Producer Responsibility Alliance



FEA - European Aerosol Federation



FEFCO - European Corrugated Packaging Association



FEVE - The European Container Glass Federation



Flexible Packaging Europe



FoodDrinkEurope - The organisation of Europe's food & drink industry



IK Industrievereinigung Kunststoffverpackungen e.V., Germany



Industrieverband Körperpflege- und Waschmittel e. V., Germany



INTERGRAF - European Federation for Print and Digital Communication



INCPEN - The Industry Council For Research On Packaging And The Environment, UK



Metal Packaging Europe



Miljöpack - The Trade & Industry Group, Sweden



NCV- Nederlandse Cosmetica Vereniging, Netherlands



Pack2Go Europe - Europe's Convenience Food Packaging Association



Pakkaus - Packaging Association, Finland



REPAK - Packaging Recovery Organisation, Ireland



SEPEN - Association for Packaging and Environmental Protection, Serbia



Serving Europe - Branded Food and Beverage Service Chains Association



SZZV-Slovak Brand Association, Slovakia



Sociedade Ponto Verde, S.A. - Packaging Recovery Organisation, Portugal