

19th October 2022

**Overview on PPWR provisions from leaked drafted + general considerations**

Dear member,

A leaked version of the draft proposal for the Packaging and Packaging Waste Regulation circulated recently. Please find below a summary of the main points organized per topic and a few considerations to take into account:

**GENERAL OBSERVATIONS:**

* The proposal is an extremely ambitious legal text composed of 124 pages where the Commission decided to go beyond the simple establishment of targets and set new and stronger reuse and recycling systems. The Regulation sets very ambitious targets on MS or economic operators.
* At the time of co-decision, if the proposal will be presented as it is currently written, it is likely to find the Parliament support, but a strong opposition from MS as most of the measures require setting up of new systems in terms of logistics, monitoring, reporting and procedures.
* The Commission goes strong on reuse, basically banning all single use for transporting goods within a MS territory stating that “economic operators delivering goods to another economic operator within the same MS should use only reusable transport packaging”.
* The Commission sets in an Annex a lists of packaging formats that economic operators won’t be able to place in the market. There is no specified timeline, so it should be at the time of implementation of the Regulation.
* Also, the Commission aims at creating a monitoring and reporting system to track packaging and packaging waste.
* The Commission clearly differentiate between reuse and refill, setting targets to be achieved by reuse **OR** refill.
* On recycling, the EC goes beyond what set in the SUP Directive, increasing targets for certain materials, and putting new targets for all main types of materials.

Below, detailed analysis of each provision:

* **Recyclability (Article 6)**
  + Sets the conditions for “**recyclable packaging**” and sets the requirement be met in **a two-stepped approach**
    - As of 1/1/2030, packaging will have to comply with the design for recycling criteria and
    - As of 1/1/2035 the requirements will be further adjusted for packaging to be effectively collected, sorted and recycled **to be considered as ‘recycled at scale’**.
  + The criteria for the **design of recycling** and the methodology **to assess if packaging is recycled at scale** will be established in delegated acts to be adopted by the Commission.
  + Packaging is collected, sorted and recycled ‘at scale’ when packaging waste can be collected, sorted and recycled in Member States representing **equal or more than 75% of the EU population**
  + In case the Commission has not adopted such delegated act **by 1 January 2027**, by 1 January 2028 packaging listed in the **Annex II Part D (negative list of types of packaging), will be considered as not recyclable** **(therefore not to be placed in the market – Article 14)**
  + **Eco-modulation**: financial contributions to be paid by producers to comply with their extended producer responsibility obligations shall be modulated based on the recyclability performance grades under the design for recycling criteria
  + **The Annex** provides essential elements on how to assess recyclability of a unit of packaging
* **Recycling targets (article 63)**
  + Targets are set at MS level, these being:
    - 65% by weight of all packaging will be recycled by 2025. Of which, specific targets are:
      * 50% of plastic;
      * 25 % of wood;
      * 70 % of ferrous metals;
      * 50 % of aluminium;
      * 70 % of glass;
      * 75 % of paper and cardboard;
    - By 2030, 70% of all packaging waste will be recycled, of which specific targets are:
      * 55 % of plastic;
      * 30 % of wood;
      * 80 % of ferrous metals;
      * 60 % of aluminium;
      * 75 % of glass;
      * 85 % of paper and cardboard.
  + For the calculation of the targets, MS may decide to for a given year by taking into account reusable but no more than 5%.
* **Recycled content targets (article 7):**
  + Targets should be set on economic operators rather than MS
  + *It* requires that, as of 1 January 2030, plastic packaging shall contain certain minimum amount of recycled content recovered **from post-consumer plastic waste**, per unit of plastic packaging.
  + These amounts shall increase by 1 January 2040.
  + The Commission will adopt an implementing **act to establish the methodology for the calculation of the percentage of recycled content by 31/12/2026**. This provision also empowers the Commission to adopt delegated acts to amend the minimum percentage of recycled content recovered from post-consumer plastic waste.
  + From 1/1/30, **minimum percentage of recycled content** are:
    - 25% for contact sensitive plastic packaging (50% by 2040)
    - 50% for single use plastic beverages bottles (65% by 2040)
    - 45% for other packaging (65% by 2040)
* **Compostable packaging (Article 8 + Annex III)**
  + In order to be considered compostable packaging shall be capable of undergoing physical, chemical, thermal or biological decomposition such that most of the finished compost ultimately decomposes into carbon dioxide, biomass and water,
  + By 2 years from the entry into force, tea bags, filter coffee pods disposed together with the used coffee products, sticky labels attached to fruit and vegetables and very lightweight plastic carrier bags shall be compostable in industrially controlled conditions in bio-waste treatment facilities
  + In addition, within 2 years from the entry into force, other packaging beside the above-mentioned ones shall not be manufactured from compostable plastic polymers
  + The Annex lists the conditions of use
* **Packaging minimization (Article 9 + Annex IV on performance criteria for packaging minimisation)**
  + It requires that, the weight, volume and layers of each unit of packaging packaging shall be minimised with due account taken of the packaging’s safety and functionality by January 2030.
  + Thresholds for sales packaging in certain sectors, grouped packaging and transport packaging are laid down *Article 9.2(a)*
  + The compliance include assessment under the performance criteria set out in Annex IV. Compared to the current standard, the list of performance criteria no longer includes marketing and consumer acceptance.
  + Packaging designed to deceive consumers is forbidden
* **Restriction of use of packaging (Article 23 + Annex VI)**
  + Economic operators shall not place on the market packaging listed in Annex VI (**unclear by when)**
* **Reusable packaging (Article 24-28 + Annex VII)**
  + Responsibility to attain the targets lays on economic operators
    - Targets are divided by type of packaging, including hot and cold beverages, take-away, alcoholic beverages (excluding wine and spirits), soft drinks, transport packaging, grouped packaging to be achieved between 2030 and 2040.
  + Set of general indication for calculation of reuse targets and gives a deadline to 2028 for the Commission to adopt an implementing act for detailed indication for the targets calculation.
  + When an economic operators puts on the market a reusable packaging, it must also make it part of a system for re-use compliant with the minimum conditions as set out in Annex VII of this Regulation.
  + Set obligations for economic operators who place reusable packaging on the market
* **Labelling of packaging and harmonized sorting instructions (Article 11)**
  + Requires that packaging is marked with a label containing information on its material composition in order to facilitate consumer sorting. The same labels shall be placed on waste receptacles for the consumer to easily identify the appropriate disposal route.
  + Harmonized label shall be designed also to inform, at the choice of the manufacturer, about the recycled content in plastic packaging. Reusable packaging shall bear a QR code giving access to the relevant information facilitating its re-use.
  + By 18 months from the entry into force of the regulation, the Commission shall – by implementing act - establish harmonised labelling requirements and formats for packaging and waste receptacles. By 24 months from the entry into force, for identifying the material composition of packaging means of digital marking technologies.
* **Waste reduction targets (article 55)**
  + Targets are set at MS level and each MS should reduce by (2018 baseline)
    - 5% by 2030
    - 10% by 2035
    - 15% by 2040
* **EPR Schemes (Article 58)**
  + MS should define the parameters for EPR schemes
  + Responsibility of packaging management for all its end-of-life cycle should be managed collectedly by means of producers responsibility organisations taking up the responsibility on their behalf
  + Sets rules of producers for the producers responsibility organization, saying that MS can adopt measures to make the entrustment of an organization mandatory.
  + No specific conditions are defined for the organization as whether it should be non-profit, private etc.
* **Deposit and return Schemes (DRS) (Article 61)**
  + By January 2028, MS shall ensure that all DRS meet minimum requirements listed in Annex XI
  + Sets minimum requirements to be established by MS to ensure that DRS are set up for single use plastic bottles (max. 3 liters) and single use metal beverage containers (max. 3 liters)
  + Obligations do not apply for wine ad spirit drinks + milk and milk products
  + MS may be exempted from the obligation if collection rate is above 90% for the above formats

Please do not hesitate to reach out shall you have any question.

Kind regards,

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