

The Hague, 20 October 2022

FINAT had the opportunity to review an undated draft of the revised Packaging and Packaging Waste Regulation that appeared in the media.

**Disclaimer:** *This assessment is based on an undated draft version that was leaked to the media, which is currently ongoing active discussion within the departments of the European Commission. The content of the final version could change significantly. It is anticipated that the Commission will present their proposal on 30 November.*

## Some key points

- The PPWD will be changed from a Directive to a Regulation based on internal market legal base, ensuring uniformed implementation in all Member States
- A negative list of packaging characteristics including several aspects crucial to self-adhesive labels (including release liner) is introduced
- Negative aspects to be taken into account for defining DfR guidelines include several crucial aspects for self-adhesive labels
- Compostable packaging to become mandatory for labels on fruit and vegetables
- 29 product categories based on material are defined; each packaging unit to be assessed with a performance class from A to E
- Packaging with performance class E to become banned in 2030
- EPR fees modulated by the performance class
- Packaging units will need to be assessed for conformity to sustainability requirements
- Harmonized labelling for sorting/recycling, DRS, reuse and recycled content
- Digital watermarking to become standardized

## Definitions

- Definition of “packaging”, including separate definitions for ‘sales packaging’, ‘grouped packaging’, ‘transport packaging’
- Definition of ‘e-commerce packaging’. The ‘e-commerce packaging’ is now also considered ‘transport packaging’.
- Definitions of “making available on the market” and “placing on the market”.
- Definitions of “manufacturer”, “producer”, “importer”, “supplier of packaging”, “authorized representative”, “authorized representative for EPR”, “final distributor”
  - **Manufacturer:** manufactures packaging under its own name or trademark, or has packaging designed or manufactured, and uses that packaging for the containment, protection, handling, delivery and presentation of goods under its own name or trademark, without it having been placed on the market previously
  - **Producer:** any manufacturer, importer or distributor [...] makes available packaging for the first time within a territory of a Member States on a professional basis under its own name or trademark
  - **Supplier of packaging:** supplies packaging or packaging material to a manufacturer who uses this packaging for the containment, protection, handling, delivery and presentation of goods under its own name or trademark
- Definitions of “re-use”, “reusable packaging”, “single use packaging”, “rotation”, “trip”, “systems for reuse”, “refill”, “reconditioning” and others.
- Definitions of “composite packaging”
- Definition of “recyclable packaging”, “design for recycling”, “secondary raw materials”
- Definition of “plastic” (following SUPD)
- Definitions of “empty space” and “empty space ratio”
- Definition of “packaging category”

- 29 product categories defined in Annex II Part A
- Definition of “unit of packaging”
  - Whole packaging unit including integrated or separate components (definition in Annex II)
- Definition of “innovative packaging”

## Negative lists

- A “Negative list of packaging characteristics” (Annex II Part D) whose presence in a packaging unit would result in the latter being considered **not recyclable starting in 2030, if** the Commission fails to adopt DfR criteria for the corresponding packaging categories before 2027. Several entries are relevant for self-adhesive labels:
  - Paper
    - Silicone coatings
    - Insoluble adhesives + hot-melt adhesives with softening point < 68°
    - Two-sided plastic barrier/coating/laminates
  - Plastics
    - Plastic packaging with sleeves covering >50% of the surface
    - Plastic packaging with additives changing the material density >1g/cm<sup>3</sup>
    - PVC/PVDC packaging (and labels/sleeves/films)
    - Use of inks that do not contain substances of concern (*sic*) and inks that bleed
    - PET packaging with non-water soluble / water releasable adhesives at <65°C
    - Polyolefin packaging with non-water soluble/water releasable adhesives at <40°C
  - Glass
    - Full surface sleeves and permanently attached/ labels with ultra-adhesive glues
  - Metals
    - PVC labels
- A second list of negative aspects (Annex II Part B, Table 2) details several aspects to be taken into account for setting DfR criteria:
  - Additives
    - in plastics, additives can change density which is used for sorting
  - Labels/sleeves:
    - Sleeves (full or partial) with unmatched sleeve material or heavily printed leading to incorrect sorting.
  - Adhesives:
    - designed in such a way that they can be easily separated in the recycling process or by the end user (OR do not affect the efficiency of the sorting and recycling processes).
    - Metal thickness > 5 µm causing issues with sorting.
    - Adhesives should be water washable to ensure separation from the main packaging and that no adhesive residue would remain.
  - Colours:
    - Heavily dyed materials in paper or plastics can cause problems with regard to sorting and can downgrade the quality of secondary raw materials. Carbon black-based dyes having issues with IR-based sorting.
  - Material composition:
    - Use of mono-materials or material combinations that permit easy separation and ensure high yield of secondary raw materials is preferable.



## Substances of Concern

- Minimize SoC in packaging or components, including emissions and waste management, secondary raw materials, ashes or final disposal.
- Definition of SoC to follow ESPR (under discussion).
- Pb+Cd+Hg+Cr(VI) in packaging or packaging components  $\leq 100$  mg/kg

## Recyclable packaging

- A packaging unit is considered "recyclable packaging" if:
  - From 1/1/2030: complies with DfR criteria for the packaging category to which the packaging unit belongs [Annex II Part A]
  - From 1/1/2035: in addition, **recycled at scale** according to delegated act for the packaging category
    - Annex II Part C defines recycled at scale (Not referred to in the text!)
- Recycling classes: Defined for each packaging category (Annex II Part B)
  - Grade A:  $\geq 95\%$  weight recyclable; closed-loop recycling possible
  - Grade B:  $\geq 90\%$  weight recyclable; high quality generated secondary raw materials
  - Grade C:  $\geq 80\%$  weight recyclable; lower quality generated secondary raw materials
  - Grade D:  $\geq 70\%$  weight recyclable; flawed design or large material losses during recycling
  - Grade E:  $< 70\%$  weight recyclable; design issues result in not recyclable packaging
- EPR fees modulated by performance grade
- DfR delegated acts for individual packaging categories need to be in place by 1/1/2027; otherwise, any packaging unit with features listed in Annex II Part D is considered not recyclable
- A packaging unit is considered "not recyclable" if
  - From 1/1/2030:
    - includes features in Annex II Part D, **unless if allowed** in the specific DfR for the packaging category
    - Is assessed as performance grade E
  - From 1/1/2035:
    - Same as above, plus not being recycled at scale
- Innovative packaging allowed for 5 years without complying with recyclability
- Pharmaceutical packaging exempted

## Compostable packaging

- Compostable packaging: undergo decomposition to CO<sub>2</sub>, biomass and water; do not hinder separate collection and composting process or activity
- 2 years after Regulation enter into force need to be industrially compostable:
  - **sticky labels** attached to fruit and vegetables
  - Tea bags, coffee filter pods, VLWPCB
- No other applications of compostable plastic allowed
- Update of relevant CEN standard before 31/05/2026

## Free movement

- Prevent MS from individually placing sustainability or labelling requirements on packaging. Only exceptions: labelling for DRS and re-use systems

## Recycling targets

- The recycling targets remain unchanged from the Directive 2018/852 on packaging and packaging waste





- By end 2025:
  - 65% weight of all packaging waste
  - 50% of plastic
  - 25% of wood
  - 70% or ferrous metals
  - 50% of aluminium
  - 70% of glass
  - 75% of paper and cardboard
- By end 2030:
  - 70% weight of all packaging waste
  - 55% of plastic
  - 30% of wood
  - 80% or ferrous metals
  - 60% of aluminium
  - 75% of glass
  - 85% of paper and cardboard

## Recycled content in plastic packaging

- From 1/1/2030: minimum recycled content from post-consumer waste per unit of plastic packaging
  - 25% contact sensitive packaging [medical devices, diagnostic devices, FCM, feed, feed additives, medicated feed, veterinary medicinal products, human medicinal products, dangerous goods]
  - 50% single-use beverage bottles
  - 45% other
- From 1/1/2040:
  - 50% contact sensitive
  - 65% single-use beverage bottles
  - 65% other
- Method of calculation of RC to be established by a Delegated Act
- Commission can adopt a delegated act on minimum RC in other packaging materials

## Packaging minimisation

Packaging must be minimised (by weight, volume and layers) by January 2030, this will apply to:

- Sales packaging overall and specific targets for:
  - Bulk products that settle after being packed or multiple items that need to be separated within the packaging for other reasons than marketing/sales- maximum empty space ratio of 25%.
  - Cosmetics, electronics and toys – maximum empty space ratio of 15%.
  - Grouped packaging, in relation to size/weight/volume of the grouped products and their packaging.
  - Transport/e-commerce packaging in relation to size/weight/volume of products transported
- Excessive packaging: **maximum empty space ratio of 40%** applies to **grouped packaging, transport packaging and e-commerce packaging** used for goods supplied to final distributor or end user. (Art. 22)
- “Superfluous packaging not fulfilling a function” (e.g. boxes for toothpaste tube or cosmetics) will be banned from being placed in the market.
- Compliance with minimization criteria [Annex IV] to be justified in a technical document



## Harmonized labels for sorting and recycling instructions, reuse and recycled content

- The Commission will publish an implementing act 18 months after enter into force of the Regulation indicating labels for materials, reuse and recycled content
- Label containing information to allow consumer sorting
  - Exempt transport packaging but not e-commerce
  - 2 years after Implementing Act
- DRS packaging will get a harmonized label 2 years after Implementing Act
- 4 years after implementing Act
  - Reusable packaging get a label + QR code to enable tracking and distinction from SU packaging
- Recycled content: to be indicated in a harmonized way
- Labels for material and recycled content to be "placed, printed or engraved visibly, clearly legibly and indelibly on the packaging" or in the grouped packaging
- Digital marking technologies conditions to be established 2 years after enter into force via an implementing act

## Packaging Forum

- Group of Experts Involved in preparing delegated and implementing acts, including waste treatment industry, manufacturers, **packaging suppliers**, distributors, retailers, importers, SMEs, environmental protection groups and consumer organisations

## Reuse targets

- Transport packaging for large household appliances: 90% by 2030
- Take-away hot and cold beverages: 30% by 2030, 95% by 2040 (reuse/refill)
- Take-away prepared food: 20% by 2030, 75% by 2040 (reuse/refill)
- Sales packaging for alcoholic beverages other than wine and spirits: 20% by 2030, 75% by 2040
- Sales packaging for non-alcoholic beverages: 20% by 2030, 75% by 2040
- Transport packaging for goods: 50% by 2030, 90% by 2040
- Transport packaging for e-commerce (non-food): 20% by 2030, 80% by 2040
- Grouped packaging: 10% by 2030, 50% by 2040
- Transport packaging between sites of the same economic operator shall be reusable
- Exemptions are provided for economic operators that place less than 1000kg/y of packaging on the market, have less than 5 employees or have a sales area of less than 100m<sup>2</sup> (including storage and dispatch).

## Prevention of packaging waste

- Targets are set for Member States to reduce packaging waste per capita, using 2018 as a baseline
  - by 5% by 2030
  - 10% by 2030
  - 15% by 2040

## Register of producers

- Member States shall establish a register to monitor compliance of producers of packaging
- Suppliers of packaging to provide information to brand owners to demonstrate conformity of their packaging.

- Market surveillance authorities can request information on packaging suppliers or manufacturers for 10 years after date of supply

## **Deposit return system**

By 2028, deposit and return system (DRS) should be set up for:

- Single use beverage bottles, up to 3L
- Single use metal beverage containers, up to 3L
- Packaging for wine and spirits, and milk/milk products listed in Regulation 1308/2013 are exempt.
- Member States might be exempt if the collection rate of that packaging is above 90%
- Minimum criteria for the DRS are specified in Annex XI