

PACKAGING AND PACKAGING WASTE

Proposal COM(2022) 677 of 30 November 2022 for a **Regulation on packaging and packaging waste**, amending Regulation (EU) 2019/1020 and Directive (EU) 2019/904, and repealing Directive 94/62/EC

Communication COM(2022) 682 of 30 November 2022 for an **EU policy framework on biobased, biodegradable and compostable plastics**

cepPolicyBrief No. 3/2023

SHORT VERSION [\[Go to Long Version in German\]](#)

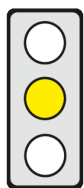
Context | Objective | Interested Parties

Context: The Commission is critical of the fact that the current Packaging Directive [94/62/EC] has failed to achieve its objectives. It maintains that the various national requirements for packaging are failing to achieve both the desired level of environmental protection and a smooth functioning of the EU internal market. The “essential requirements” for packaging are poorly designed and therefore difficult for the Member States to implement.

Aim: An EU-wide circular economy for packaging will be created; criteria for the use of bio-based, biodegradable and compostable plastics will be established and uniform EU measures for packaging and packaging waste will ensure the proper functioning of the EU internal market.

Affected parties: The entire economy, especially manufacturers and distributors of packaging.

Brief Assessment



Pro

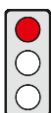
- ▶ Uniform EU definitions for the “recyclability” of packaging will facilitate the creation of an EU-wide circular economy as companies will not have to meet separate requirements for packaging in each Member State.
- ▶ A uniform EU label for packaging will facilitate distribution in the EU internal market as separate labelling obligations will not have to be met for each Member State.

Contra

- ▶ To create a circular economy, barriers to a functioning market for plastic recyclates must be completely dismantled. Mandatory quotas for the minimum percentage of plastic recyclates could result in a mismatch between supply and demand.
- ▶ The obligation for companies to appoint a representative responsible for “extended producer responsibility” (EPR) for each Member State in which they make packaging available for the first time, may place an excessive burden on small and medium-sized enterprises (SMEs).

Reducing the volume of packaging [Long Version A.4.1 and D.1.1]

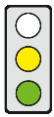
Commission proposal: “Unnecessary” packaging will be banned. The weight and volume of packaging must be reduced to a minimum and its remaining weight and volume must be justified in a “technical documentation”. E-commerce packaging may contain a maximum of 40% empty space.



cep-Assessment: A ban on “unnecessary” packaging as well as the resulting documentation obligations will create an inordinate amount of red tape. In addition, the shape of a package also contributes to its safe use but may not allow for it to be transported efficiently. Thus, the maximum limit of 40% empty space in e-commerce should be dropped.

Recycling [Long Version A.4.3 and D.1.3]

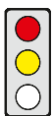
Commission proposal: The Commission will establish criteria, by way of delegated acts, for the recyclability of all packaging as well as recyclability “performance grades” – from A (very good recyclability) to E (poor recyclability). From 2030, Class E packaging will be deemed non-recyclable.



cep-Assessment: Uniform EU definitions for the recyclability of packaging will facilitate the creation of an EU-wide circular economy for packaging as companies will not have to meet separate requirements in each Member State. However, the problem of conflicting goals should be borne in mind – e.g. several sustainability goals could come into conflict with each other, such as where better recyclability of plastic packaging leads to higher consumption of materials.

Plastic recyclates [Long Version A.4.4 and D.1.4]

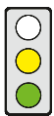
Commission proposal: From 2030 and 2040, certain plastic packaging must contain a certain minimum percentage of recycled plastics. Depending on the area of application – e.g. food – or type of plastic – e.g. polyethylene terephthalate (PET) – the minimum percentage will vary between 10% and 30% from 2030 and between 30% and 65% from 2040. However, if it turns out that there are not enough plastic recyclates for certain types of packaging, the Commission can lower the minimum percentage to be met, by means of delegated acts.



cep-Assessment: Establishing a circular economy will require the barriers to a functioning market for plastic recyclates to be completely dismantled. Mandatory quotas for the minimum percentage of plastic recyclate could result in a mismatch between supply and demand. The subsequent variability of individual targets will create planning uncertainty and may stifle the necessary willingness to invest on the part of packaging manufacturers and the operators of sorting and recycling facilities.

Labelling of packaging [Long Version A.5 and D.1.5]

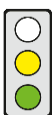
Commission proposal: Packaging will be labelled with information regarding its material composition and possibilities for re-use. The Commission will devise uniform EU labels for this purpose.



cep-Assessment: A uniform EU label will promote the creation of a circular economy and also facilitate the distribution of products and packaging in the EU internal market because separate labelling obligations will no longer have to be met for each Member State.

Extended producer responsibility I [Long Version A.6 and D.1.6]

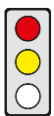
Commission proposal: Packaging manufacturers will bear extended producer responsibility (EPR) for packaging which they place on the market for the first time in a Member State. From 2030 onwards, EPR fees for packaging manufacturers will be calculated on the basis of performance grades indicating recyclability and the proportion of plastic recyclates used in the packaging (“eco-modulation”).



cep-Assessment: A sufficiently high level of eco-modulation may make the rules on recyclability obsolete, as well as those stipulating a minimum content of plastic recyclate. Companies can then decide decentrally and on a case-by-case basis when, for example, the use of recycled plastics makes sense and when the use of primary raw materials is essential.

Extended producer responsibility II [Long Version A.6 and D.1.6]

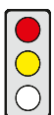
Commission proposal: A packaging manufacturer must appoint an EPR officer for each Member State in which it is not established and in which it places packaging on the market for the first time.



cep-Assessment: For SMEs, the obligation to appoint an EPR representative is a disproportionate cost burden that may discourage them from EU-wide operations. This contradicts the goal of reducing barriers to a functioning EU internal market.

Power to adopt delegated acts [Long Version A.4.1, A.4.2 and D.2.3]

Commission proposal: The Commission may use delegated acts to ban other types of packaging and set mandatory quotas for other products regarding reusable packaging.



cep-Assessment: Which types of packaging will be banned altogether and which products will be subject to binding quotas for reusable packaging are evidently “essential” regulatory issues that should be decided by the EU legislator itself and not be delegated to the Commission.