



**Regulation on packaging and packaging waste,
EC Proposal
COM(2022) 677 ([Link](#))
Position Paper**

**Austrian Federal Economic Chamber (WKO)
EU Transparency Register No 10405322962-08**

September 2023

WKO Position Paper on the EC Proposal for a Regulation on packaging and packaging waste COM (2022) 677 ([Link](#)) v. 30.11.2022

Packaging fulfils protective purpose: WKO basically supports the intention of the EU Commission to contribute to a continuous development of the circular economy by this proposal. However, the new regulation should ensure that the proposed measures meet the primary objective of preventing negative impacts of packaging on the environment, while at the same time ensuring the functioning of the internal market for packaging and packaged goods. Furthermore, jeopardising existing recycling performance and functioning structures should be avoided. The application of a "one-size-fits-all" approach is in many cases not effective and can have a negative impact on the internal market. Also, packaging which is not reused should be considered by its environmental performance - especially in the customer sector this contributes to hygiene, health and waste protection.

Lack of feasibility in several articles of the proposal: The EU Commission - in order to prevent waste - places great emphasis on recyclability, use of recycled materials, packaging prevention and re-use. This was to be expected in the light of the European Green Deal, but numerous articles dealing with these topics are half-baked, cannot be implemented in the form tabled, or it is not clear how some of the requirements are to be understood in practice or what effects or added value they should or will have.

Recycling and re-use complementary: The options of recycling and re-use should be seen as complementary and mutually reinforcing and not mutually exclusive. Decisions on whether to choose recyclable or reusable packaging should be based on independent scientific evidence that considers environmental as well as health and economic factors.

Ordinary legislative procedure - need for amendments to the proposal: It is difficult to give precise feedback on the proposed regulation referring to many articles, as many questions are open, and the detailed implementation is being left to delegated acts. Content with such a serious impact on the environment, health and the economy should be subject to the ordinary legislative procedure. Massive amendments to the regulation are needed to make it liveable and implementable, so that it can be supported by the affected economy. In the form presented, it is to be rejected in large parts.

Free movement of goods and labelling: The harmonisation sought through the transition from a directive to a regulation is necessary and must not be jeopardised by giving the Member States the possibility to go beyond the requirements. A well-functioning internal market is characterised by a level playing field in all Member States, and efforts towards harmonisation are to be welcomed. However, the possibilities provided for in article 4 (4) and (5) of the present proposal to prescribe additional national labelling jeopardise these harmonisation efforts.

Recyclability and design for recycling not in delegated acts: In principle, it is to be welcomed that in the future all packaging should be recyclable and that uniform criteria should apply. However, there are many questions and ambiguities in the design of the requirements. The authorisation of the EU Commission to issue delegated acts in article 6 (4) (acts concerning "design for recycling" and acts concerning the rules for steering the financial contributions of producers within the framework of extended producer responsibility) must be seen very critically. Such regulations have a great impact which should not be determined by the EU Commission by means of delegated acts but should

already be included in the proposal. This is the only way to ensure that the legal situation does not change on short notice and that the full involvement of the Member States and the European Parliament is ensured.

Deadlines cannot be met and are not consistent: It is to be feared that the clarifying legal acts will be published too late and thus an effective and legally compliant implementation cannot be guaranteed by the companies. Given the considerable number of delegated acts foreseen in the proposal, a transitional period of at least 5 years between the adoption of the delegated decision and the implementation of the design for recycling must be required for predictability and planning by industry and all economic operators. At the same time, the Commission must be asked to present precise deadlines for the respective delegated act.

Close coordination with industry needed: Furthermore, the involvement of the affected businesses must be ensured, as this is the only way to ensure practicable guidelines that can then also be implemented sensibly and cost-efficiently by the affected industries.

Minimum recycled content in plastic packaging: Ambitious minimum recycled contents are to be welcomed in principle. However, new quotas must not jeopardise already existing, functioning cycles. The recycled content should be product group-specific and oriented to the actual potential for individual product groups. Due to the fluctuating availability of recycled materials and the resulting need for flexibility in the procurement of this materials for packaging manufacturers, the minimum recycled content should not be obligatory "per unit of packaging" but be allocated to the respective companies by means of a mass balance.

Special case of food & recycled content: In the case of food, adjustments are necessary to make the minimum recycled content for plastic packaging achievable by 2040. Especially in the quotas for contact-sensitive packaging, it must be made possible to safely use other recycling raw materials in addition to PET from deposit bottles. Currently, only PET as a recycled material may come into direct contact with food. Only by adapting the regulations on food-contact material based on the existing clean-loop recycling possibilities the ambitious recycled content targets can be achieved at all.

Contradiction to product law: The draft leads to an artificial separation of product and packaging, which seems understandable from a legal point of view, but will in practice lead to confusion and lack of understanding. Requirements for food packaging, packaging for medical devices or medicinal products etc. are also regulated in the respective provisions of the products. There is a risk of contradictory regulations.

Recycled materials currently unsuitable for babies and small kids: It must be pointed out in this context that food for babies and small kids as well as food for special medical purposes require special food contact materials that go beyond "food quality". Current technology does not yet allow for a sufficient supply of recycled plastics that would ensure compliance with current regulations and be suitable for use in babies and small kids food and food packaging.

Recycling of coffee capsules must be possible: The material bans imposed on coffee capsules are to be rejected. According to article 8 of the proposal, only compostable coffee capsules are to be permitted in future. Contrary to the principle of recycling of packaging, coffee capsules would thus be excluded from recycling. This counteracts all objectives of

the draft, cannot be justified by facts and destroys established collection, treatment and recycling paths as well as the circular economy services of the industry. The ban on aluminium and plastic coffee capsules is imposed without fact-based necessity and scientific justification. Thus, the draft would arbitrarily and contrary to its own basic circular economy intention deny coffee capsules in particular the recycling option otherwise provided for all other recyclable packaging. It would thus disregard the efforts of both the Member States and the economic actors to set up collection, treatment and recycling initiatives for aluminium and plastic coffee capsules throughout Europe in the sense of the circular economy.

Packaging minimisation and the path to uniform packaging: Packaging manufacturers have long been working on ways to keep packaging volumes as low as possible for purely intrinsic motivation. A comprehensive regime is to be established to reduce packaging volumes to a minimum. It should have to be proven that the packaging meets certain performance criteria, and this should be supported by technical documents and studies. Furthermore, it is claimed that barriers to the further reduction of packaging volume must also be identified. Apart from a massive effort due to red tape, such a regulation would not lead to any reduction in resource consumption. It is completely unquestionable that unnecessary packaging and "cheating packaging" should be avoided.

Customer acceptance is an important criterion: Packaging minimisation must not counteract safe transport, the protection of equipment or safety aspects. It is unclear how "minimum necessary" is to be understood and defined. Who is to decide in future what is technically necessary, e.g. in terms of filling quantities, without taking consumer needs into account? Until now, consumer acceptance was also a criterion, but this has now been deleted. The draft thus largely excludes customer needs, marketing strategies, distinguishing features between packaged products and consideration of regional differences. The proposal paves the way for "one-size-fits-all" packaging with the same design and shape. Any possibility of individual design of a package is restricted or prevented - possibly even beyond the differences in packaging material. Especially in the case of high-priced and high-value products, such as cosmetics or spirits, the packaging is a product component and is also expected by customers in this form. The deletion of customer acceptance as a functional criterion gives rise to fears of a move towards "one-size-fits-all" packaging with the same design and shape, and this is to be firmly rejected

Unclear responsibilities: The current draft provides, among others, definitions for manufacturer, producer and supplier, but the demarcation between the individual economic actors is not comprehensible or not clear and must be clarified, as different obligations are linked to these different roles.

Supply chain approach over-ambitious: It is excessive that various requirements and responsibilities affect every actor in the supply chain, since the packaging of the product, for example, is not a matter that affects everyone to the same extent. Moreover, not everyone concerned has the necessary know-how and possibilities to comply with the provisions of this regulation without further ado.

Reject the ban on the use of certain packaging formats: Packaging prevention measures, including market restrictions, should - if necessary at all - be reasonable and practicable and support the overall objectives of the EU Green Deal and the circular economy. The use and design of packaging is closely linked to economic and population growth, consumer lifestyles

(such as the steady increase in single households) and globalisation trends. The impact assessment fails to evaluate packaging design in this context. All packaging is created with the aim of protecting, preserving and transporting a product. The loss or damage of the product, compared to the savings from reducing the packaging itself, results in a higher environmental impact in terms of resource consumption and emissions generated. In the case of food packaging, this leads to additional food waste. Ensuring hygiene and food safety are two essential functions of food packaging that are facilitated by single-use packaging. Restrictions on use should have been substantiated by the Commission with a comprehensive life cycle analysis (LCA) from the point of view of the affected economic community, to ensure that the restriction does not promote contrary effects. If the present use, bans were implemented, the negative effects would dominate, which is why the use bans should be decisively rejected.

Re-use and re-fill: We support the ecological optimisation and recycling of packaging. However, the use of re-usable packaging should not be an end in itself and should not be at the expense of efficient single-use systems. A general ecological advantage of reusable systems cannot be assumed based on the available scientific findings. Depending on the packaging segment, market structure and transport distance, efficient single-use systems have a comparable or even better ecological profile. The respective ecological advantage should always be proven based on EU-wide uniform scientific criteria. The defined reusable quotas should be critically evaluated. On the one hand, they are almost unrealisable in practice, on the other hand, the environmental added value is partly not given or adverse environmental effects are to be expected and partly they contradict each other.

The requirements for re-use and re-filling should be completely deleted in their present form, as they cannot be implemented, and it is not clear how some of the requirements are to be understood in practice or what added value they are supposed to have. Some of the requirements would even lead to more packaging being needed.

Special case of transport packaging: The standardisation of transport packaging would be welcome in principle, but it is not clear from the proposal where this makes economic sense. Standardisation with pallets and box pool systems is already a reality today; re-usable systems only make sense for transport aids in regional cycles or supra-regional pool systems. Imports from third countries are not to be seen as regional cycles but are associated with significantly longer transport routes. Under these circumstances, re-usable packaging is associated with negative environmental effects. The various regulations on transport packaging are unclear, especially on inter-European and international deliveries of products, even for deliveries within a Member State.



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