

Brussels
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CEFS POSITION

PACKAGING & PACKAGING WASTE REGULATION

The Packaging and Packaging Waste Regulation should drive recycling and the uptake of recycled and compostable packaging.

CEFS approves of the general objective to reduce fossil carbon demand for plastic production. As modest users of plastics, CEFS members are all in the process of reducing their use of plastics for packaging their products.

That being said, CEFS has a number of concerns with the proposal as it currently stands.

RESTRICTIONS ON CERTAIN PACKAGING FORMATS (ART. 22)

Art. 22 would impose a ban on use of certain packaging formats set out in Annex V.

However, banning the packaging formats listed in points 4 ("Single use packaging for condiments, preserves, sauces, coffee creamer, sugar, and seasoning in HORECA sector") and 5 ("Single use hotel miniature packaging") would have perverse effects, since small packaging provides important, indispensable services for people, health and the environment such as:

1. **Higher level of hygiene:** An arbitrary ban on small packaging would undo the hygiene benefits already achieved. Small packaging is clean, easy-to-use and without harmful side effects. It eliminates the need to scoop, scrape and squeeze dirty bottles and jars to extract food. Single servings effectively protect people in a shared environment (such as in the HORECA sector) from contamination and pollution. Small packaging keeps moisture and oxygen out and prevents the growth of bacteria or other microorganisms.
2. **Less food waste:** Liquid and solid foods last significantly longer in small packaging than in large packaging. Suitable packaging can therefore help to ensure that less food has to be thrown away. The reason: many foods from large packaging only go to waste because they have not been completely consumed, their "best-before date" is passed or the quality has

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deteriorated. Practical small packaging, on the other hand, helps to prevent food from spoiling as quickly or losing its flavour. In addition, small, consumption-sized portions prevent the waste of openly offered food, such as at breakfast buffets in hotels. Here, consumers often leave half-eaten food on plates because they are unable to estimate how much they actually need.

3. **Better protection of resources:** In the event of a ban on portion packs, these amounts of packaging waste would not be eliminated, because alternative products (such as refill units, squeeze bottles, jars, ...) would in turn produce packaging waste. Small packaging helps to conserve other resources such as water and electricity, e.g. by reducing additional cleaning steps, rinsing processes or refrigeration. In addition, the total amount of material used in small packaging is insignificant when compared to the total amount of packaging trash generated in the EU.

In light of the above, small packaging products falling under points No. 4 and 5 of Annex V cannot be said to meet the three technical criteria that must be present to justify a market ban, namely: an overall reduction of packaging waste; prevention of microbiological contamination; and an overall positive environmental impact. The Commission's current proposal also disregards existing industry efforts in waste prevention and recycling.

Points 4 and 5 to Annex V should therefore be deleted.

SHARE OF RECYCLABLE PACKAGING IN CONTACT SENSITIVE PLASTIC PACKAGING (ART 6)

Article 6 states that from 1 January 2030 certain fixed recycling rates should be achieved. However, not all of these objectives are achievable: for certain compound packaging materials that come into contact with food, the current draft contains new requirements that conflict with food legislation requirements.

As the requirements are imposed on the manufacturer of the packaging there is high risk that food producers cannot market certain food anymore or have to switch packaging concepts from e.g. plastic to glass to fulfil all legal requirements. Besides the questionable ecological impact of implementing the changes necessary to meet the extremely tightened 2030 targets, this would result in higher prices for consumers, aggravating existing inflationary pressures.

Article 6 should include justified exceptions and longer phase-out time for certain food contact compound packaging. More time is needed to develop viable and cost-effective solutions to meet the new, more ambitious recycling rates.

MINIMUM RECYCLED CONTENT IN CONTACT SENSITIVE PLASTIC PACKAGING (ARTS. 7[1] AND 7[2])

The minimum recycled content targets in contact sensitive plastic packaging are not workable for the food sector. This is because, according to EU food legislation¹, the use of plastic films with recycled content based on mechanical recycling is not allowed for primary food packaging due to the traceability requirement for secondary raw material. It is important to avoid contradictions in EU law: to maintain legal certainty in the EU, the Commission's proposal on packaging and packaging waste should be coherent with EU food law. Food safety and respect for sanitary conditions must remain a priority.

The proposal should take into account the life-cycle assessment of the solutions regarding greenhouse gas emission reductions and the environmental impact of the products. It should be certain that the future packaging solution benefits from better resource management than the current one.

Further, chemical recycling is not yet commercially available. A study from the German Federal Environmental Agency from July 2020 states "The technical Suitability, as well as the ecological and economic advantage of chemical recycling processes is not yet conclusively documented".² A 2023 JRC report that compares mechanical, physical, chemical recycling and energy recovery concludes that chemical recycling is not environmentally superior to other options.³

To build up an industrial structure for chemical recycling to deliver sufficient contact sensitive material for food packaging will be not possible within the short period until 2030.

Points (a) and (b) in Arts. 7(1) and 7(2) should be deleted.

TRANSPORT PACKAGING (ARTS. 26[7], 26[9], 26[12] AND 26[13])

Arts. 26(7) and 26(9) set targets for the re-usability of transport packaging "within a system for re-use". Art. 26 (7), (9), (12) and (13) call for a system for re-use of packaging.

¹ Regulation (EU) 2022/1616 on recycled plastic materials and articles intended to come into contact with foods.

² Vogel et al. (2020), Hintergrund - Juli 2020 Chemisches Recycling, Umweltbundesamt, ISSN 2363-829X

³ Garcia-Gutierrez et al. (2023), Environmental and economic assessment of plastic waste recycling - A comparison of mechanical, physical, chemical recycling and energy recovery of plastic waste, JRC Technical report, ISSN 1891-9424

These targets will impact all deliveries both within the sugar sector and by operators active in the sugar sector, be those deliveries in bags, big bags, cubitainers, or other formats.

Requirements are even stricter for intra-company transport packaging, which must be 100% re-usable with some limited exceptions. Cleaning of B2B packaging for dry products like sugar to respect food hygiene standards has to be done wet with a high impact on additional water use.

It is also unclear who will develop such systems at national level. In small Member States it is too expensive to create a single system for just a few users. For B2B and intercompany transports, a European-wide common system (like the Euro-Palette system) is needed to reduce long-distance transport of empty packaging. Fragmented national systems will increase production costs as filling systems for the different transport options (national and European wide) have to be installed.

Transition periods should be put in place to give the market sufficient time to adapt. The re-use system to be put in place should be regulated at EU level.

DECLARATION OF CONFORMITY BY MANUFACTURERS (ART. 13.2)

Art. 13 para. 2 sets an obligation for manufacturers to carry out, or have it carried out on their behalf, the relevant conformity assessment procedure with the requirements set out in Art. 5 to 11 in accordance with Art. 33. Manufacturers are also tasked with drawing up the technical documentation referred to in Annex VII. In addition, manufacturers are also bound to draw up an EU declaration of conformity in accordance with Art. 34.

This would mean that for each packaging, a technical documentation and declaration of conformity as defined in Annex VII would be required. These new requirements would impose substantial additional workload and unnecessary bureaucracy on manufacturers.

The obligation for manufacturers to carry out the relevant conformity assessment before placing packaging on the market should not be mandatory.

The definition of "manufacturers" (Art. 3 para. 2) should be identical to these of existing/implemented legislations (e.g. feed/food contact legislation) to avoid confusion.