



European
Snacks
Association

Packaging and Packaging Waste Regulation

POSITION PAPER

APRIL 2023

The European Snacks Association asbl (ESA) is Europe's only trade organisation dedicated to advancing the savoury snacks industry on behalf of member snack manufacturers and suppliers, as well as national trade organisations¹.

Our members support the objectives of **promoting a transition to a circular economy model** and are striving to manufacture products with packaging that **maximise the use of resources and minimise waste**, while constantly ensuring the **optimum safety and quality of the food**. The majority of savoury snacks are packaged using flexible laminated plastic films because they are one of the most resource-efficient options which are currently available.

While manufacturers intend to continue to invest resources to offer more sustainable packaging solutions, we would like to emphasise from the outset that **the ambition to achieve efficient circularity for flexible packaging cannot happen without the development of services and infrastructures to properly collect, sort and recycle**, which are lacking across the European Union (EU).

Current barriers to recycling processes and technologies (such as chemical recycling) are also hampering the development of innovative solutions for packaging.

We believe that the European Commission's proposal for a Packaging and Packaging Waste Regulation, notably by addressing the above shortcomings, could represent a **significant step towards a circular economy for packaging - including flexible plastic packaging** - and hence contributing to the European Union's climate neutrality goal and the Green Deal objectives.

This document provides an overview of the elements of the proposed Regulation which should be modified or further improved to achieve the desired outcomes.

¹ ESA members are involved in the manufacture of potato crisps, corn chips /tortillas, pellet snacks, baked snacks, crackers, pretzels, savoury biscuits, popcorn, pork rinds, meat snacks, fruit snacks, peanuts, other snack nuts and various other savoury snacks in this category.

They are articulated around the following key recommendations:

Key recommendations

- 1 Provide sufficient time for economic operators to re-design their packaging
- 2 Adopt a pragmatic approach when setting design for recycling criteria
- 3 Improve sorting and collection rates
- 4 Harmonise and clarify the definition of 'composite packaging'
- 5 Unlock authorisation of new and innovative recycling technologies such as chemical recycling
- 6 Avoid that recycled content in packaging is calculated per unit of packaging
- 7 Reconsider the restrictions on the use of certain packaging formats
- 8 Clarify that empty space means the pack-fill level for certain products

1 Recyclable packaging (articles 6, 11 and 43)

While we believe the proposal to make recyclability a market requirement for packaging in the EU goes in the right direction, economic operators need time and an environment that foster the necessary changes.

Providing sufficient time and flexibility for economic operators to conduct the changes

The Regulation empowers the European Commission to adopt delegated acts to establish design for recycling criteria and the methodology to assess if packaging is recyclable at scale – but it does not guarantee that these instrumental acts will be ready in time before the 2030 deadline (design for recycling) and 2035 (recyclable at scale).

Redesigning flexible packaging requires time and involves important financial and human

resources. If all packaging needs to be compliant with design for recycling guidelines, sufficient transition time should be granted. Hence economic operators should have clarity well ahead the adoption of the delegated acts.

We believe the Regulation should grant at least 5 years to comply with the design for recycling, from the date of adoption of the delegated acts. The same approach should be taken for the recyclability at scale criteria. During the time the criteria are developed, the Regulation should clarify that current standards apply to help economic operators comply with the legislation.

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Given the importance of these delegated acts, which are crucial for the authorisation of packaging from 2030 onwards, they should therefore be closely timed and economic operators should be involved in the process leading to the adoption of such secondary legislation.

Using existing harmonised standards for design for recycling guidelines

Some savoury snacks manufacturers are already involved in research programmes and consortia at European and international level to develop more sustainable packaging options and work on recyclability (from packaging design, collection and sorting to the development of reprocessing infrastructure).

We recommend that in the case of flexible packaging the design for recycling criteria should be based on already existing harmonised standards such as the ones developed by The Circular Economy for Flexible Packaging (CEFLEX) initiative ².

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Separate collection of all packaging waste is an instrumental prerequisite for achieving recycling targets”

The guidelines have been developed by, and for, the whole value chain, from flexible packaging manufacturers to brand owners and retailers. It contains information and practical advice on designing polyolefin-based flexible packaging to be recyclable, covering the key elements of a flexible packaging structure.

This includes setting limits on specific materials and elements to enable designers to maximise the sortability and recyclability of their flexible packaging.

Boosting separate collection and sorting is an essential condition

The proposal stresses that Member States shall ensure that systems are set up to provide for the return and separate collection of all packaging waste from the end users.

We believe that this obligation for Member States to ensure separate collection of all packaging waste is an instrumental prerequisite for achieving recycling targets and meeting the recyclability requirements, including recycled content targets. This provision should go a step further and mandate collection of all packaging that has been designed following design for recycling criteria. Furthermore landfill and incineration of such packaging should be banned.

The introduction of harmonised labels should also further help with the objective of boosting separate collection and sorting.

² CEFLEX, a collaborative project of a European consortium of companies and associations representing the entire value chain of flexible packaging to enhance the performance of flexible packaging in the circular economy. <https://guidelines.cefex.eu/guidelines/>

Moreover, to further stimulate the recycling of flexible plastic packaging, the contribution paid by manufacturers under Extended Producer Responsibility (EPR) schemes for this material should be clearly earmarked and directed to contribute to increased and improved waste collection and management infrastructure for this specific packaging type.

Harmonising and clarifying the definition of ‘composite packaging’

EU Member States have different definitions for composite packaging material classifications, leading to a fragmented understanding of what composite packaging is across the EU.

This results in packaging, especially packaging that is as high as 85-90% paper-based, being classified as composite and not being officially separately collected for recycling in some countries, while in other countries the same packaging is officially classified as paper and is officially collected and recycled. In both cases, consumers tend to put packaging that is predominantly paper in the paper stream in practice, and it is often sorted and sent to either standard or specialised paper recycling mills.

In line with the EU Single-Use Plastics Directive recital 11, which specifies that paints, inks and adhesives do not make a packaging unit a single-use plastic, these items should be added to the definition of composite packaging for consistency. It should be clarified that these materials count as part of the weight of the main material because in the case of paper-

based packaging adhesives and inks generally pulp with the rest of the fibres.

This is confirmed by 4Evergreen’s guidelines and protocol: [guidelines and protocol - 4evergreen \(4evergreenforum.eu\)](#). On this same basis, fillers, starch, coating, wet-strength and varnishes should also explicitly be counted as part of the main material.

2 Minimum recycled content in plastic packaging (articles 7)

Minimum recycled content quotas for plastic packaging, especially contact-sensitive packaging, pose several challenges and, as it stands, do not offer the necessary security for economic operators.

Working on the necessary enablers

The proposal sets from 1 January 2030 an objective of a minimum of 10% of recycled content recovered from post-consumer plastic waste for contacts sensitive packaging (e.g. in contact with food) made from plastic materials other than PET, hence including flexible plastic packaging in contact with food. The target increases to 50% at the 2040 horizon.

We believe that in the current situation these targets are unrealistic and while we are not opposed to the principle of including recycled

content in our packaging, the right conditions have to be met in order to reach the targets.

These targets can only be achieved with the help of chemical recycling processes, which is at the moment, the only mature technology which, at scale, has the potential to recycle flexible plastic packaging into recycled content, suitable for new food contact applications³. We therefore call for the removal of the current barriers to recycling processes and technologies such as chemical recycling, namely the obligation to have recycled content on each packaging unit, and the uncertainty on the accounting rules for chemical recycling, which needs a different approach than mechanical recycling⁴.

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We welcome that the proposal foresees the possibility to grant derogations from the recycled content targets in case there are not enough “suitable recycling technologies” available. Due to the legitimate worries that economic operators might not be in a situation to effectively include recycled content in their packaging and to give them sufficient visibility, we believe that this possibility should be

further strengthened and changed into a “de facto” obligation for the Commission to adopt derogations in due time.

Simplifying the recycled content calculation method

The calculation method of recycled content, which foresees a calculation per unit of packaging instead of an average per economic operator also poses serious concerns.

The measurement per unit of packaging has indeed significant implications. Industrial, technical, and economic constraints can push companies to integrate more recycled content in some formats rather than in others or in some production lines rather than in others. A target on each packaging unit would considerably reduce this flexibility as well as manufacturing optimization.

There is also no evidence that having a target on each packaging unit leads to a better environmental impact compared to having it calculated on an average per operators. In addition, forcing recycled content on each packaging unit, including the most affordable brands, would lead to a general increase in prices with an impact on the availability of affordable products for consumers.

The “average per operator” approach would still lead to the same increase of recycled content in packaging overall and send strong signals to create a secondary raw material

³ There is a specific requirement for recycling processes used in the production of food contact materials to be reviewed and approved via the European Food Safety Authority (EFSA). At the present time there are no recycling processes that are approved by EFSA for use in flexible plastics food contact materials.

⁴ As pointed out in the recent Joint Research Centre (JRC) study “Towards a better definition and calculation of recycling” <https://publications.jrc.ec.europa.eu/repository/handle/JRC131531>.

market. Simultaneously, it would offer the benefit of giving the necessary flexibility to companies to allocate recycled content based on packaging suitability and on the availability in the market for food-grade recycled content materials - which a target at packaging level would not offer.

3 Packaging minimisation (article 9)

Clarify that empty space refers to pack-fill level for certain products

Savoury snacks producers have a strong incentive to minimise packaging as much as possible because it reduces costs from procuring the materials and from extended producer responsibility fees. Some products will settle during transport and appear less filled at the point of sale, therefore it should be noted that the only way to accurately measure how much product is put into packaging for food products like savoury snacks is by utilising the pack-fill level at the point of filling.

In contrast, an empty space ratio could be misinterpreted as a measure of the volume of product compared to the volume of air in the pack, which is only an indication of how a product is shaped and fills out the pack. For instance, even if both packs are filled to the same level within a bag, a bag of loopy-shaped pretzels, which has an empty space in the loops, will have more total empty space in the bag than a bag of peanuts due to the shape of the food.

The proposal should clarify that for certain products that settle during transportation or that require headspace to protect the product compliance with Article 9.3(a) shall be assessed as the pack-fill level at the packing stage and should take into account industry guidance where relevant.

4 Restrictions on use of certain packaging formats (article 22 and annex V)

While we support the objective of reducing packaging waste, we believe that the outright ban of certain packaging formats as proposed in the Regulation should be further justified.

Adopting a proportionate approach

Annex V lists a number of packaging formats to be banned, including “plastic packaging used at retail level to group goods sold in cans, tins, pots, tubs, and packets designed as convenience packaging to enable or encourage end users to purchase more than one product.” This would include the outer plastic layer that is used for multipacks (a multipack is composed of several single-serve portions sold together).

Beyond the fact that the definition given in the Regulation can lead to different interpretations, we think the provision should clarify that only the use of virgin plastic for the purpose of grouping packaging should be restricted. The use of recycled and recyclable packaging for that purpose should not be

considered as packaging waste and therefore not restrained as it can find its place in a circular economy model.

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Packaging bans should only be justified by objective related to packaging waste reduction. Considerations related to sales and consumption of specific products are out of scope of this Regulation ”

We would like to stress that packaging bans should only be justified by objectives related to packaging and packaging waste reduction and that considerations related to sales and consumption of specific products are out of scope of this Regulation. When it comes to grouped packaging, beside the convenience for final distributors, it is very often used for consumer convenience to help them transport or store their products at home.

Furthermore, we also question the European Commission's power to adopt delegated acts to amend Annex V in order to expand the list of packaging formats in its sole discretion and without consulting stakeholders.

Considering the impacts of such decisions, we believe interested parties should be associated with the process.

Ensuring workable transition periods

Switching to alternatives to single-use plastic grouped packaging requires an appropriate transition period to do customer trials, stability tests, ensuring convenience for retailers, etc. A too short transition period may also lead to shortages in the market for alternative solutions or materials.

A potential ban is a very impactful measure and the Regulation should allow for a longer transition period for economic operators to adapt. The cut-off date of 2030 proposed for phasing out certain packaging format should be extended to packaging formats listed in point 1 of annex V.

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