

# Packaging & Packaging Waste Regulation

POSITION PAPER

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## CONTEXT

Increasing recycling and reuse rates are central parts of achieving the EU's circularity objectives. The proposed review of the Packaging & Packaging Waste Directive will aim to bring packaging legislation in line with the objectives set out in EU strategies such as the EU Green Deal and the Circular Economy Action Plan.

Among several high-level targets, the Commission is aiming to have all packaging reusable or recyclable (in an economically viable way) by 2030. The measures contained within the proposal touch upon various industries and sectors which have an impact on the level of packaging waste generated. Collectively, they will aim to reduce packaging waste by 15% by 2040, compared to 2018 levels.



## GENERAL COMMENTS

In principle the Malta Business Bureau supports efforts to reduce waste levels and increase recycling rates. Waste represents not only a loss of resources, but also leads to environmental degradation, processing and transportation costs, and spatial challenges, especially given Malta's extremely limited land available for such activities. It is consequently in the interest of all actors, including businesses, to introduce measures which minimise waste where possible.

Aside from the environmental benefits, increasing emphasis on recycling may open the door for new market opportunities which businesses could meet. This is especially relevant for those involved in waste management, including the collection, sorting, or processing of recyclable and recycled materials. Likewise, packaging manufacturers will need to meet the increasing demand for reusable packaging and material, introducing another avenue to grow their business. Promoting more sustainable forms of packaging will also enable businesses to meet the increasing demand for greener products and practices, while also signalling their commitment towards waste reduction and sustainability more generally.

It is positive to note that the current Packaging & Packaging Waste Directive will be repealed and instead replaced by the proposed Regulation. This approach will contribute towards the further harmonisation of national measures concerning product packaging, which will have a direct positive impact on the proper functioning of the EU single market through increased legal certainty, lower adaptation costs, and a level playing field for businesses seeking to market their products in other member states.

Nonetheless, some measures included within the Commission proposal raise concerns over their practicality and may be excessive when compared to what they are trying to achieve. A major challenge shall be the anticipated cost of compliance for businesses. This will include both costs related to changing operational practices (e.g. from single use packaging to refillable options), and reporting obligations. ). Certain information needed relating to, for instance, permissible packaging and practices, needs to be made available at the earliest possible to provide guidance and allow businesses sufficient time to transition away from current practices.

While an exact quantification will depend on the business in question and its starting point, the Commission's own impact assessment concedes that gains will primarily be borne by consumers and the environment, while businesses will be faced by additional costs due to reuse and recycling schemes. The impact assessment adds that the latter costs will only be partially offset by decreasing expenditure on labour and raw material.

SMEs in particular will experience challenges in complying with the requirements of the proposed regulation, due to their limited resources and competition from larger businesses which may be in a better position to introduce operational changes and absorb additional costs.

## **REUSE AND RECYCLING – ARTICLES 25 & 26**

The proposal is placing strict obligations on both packaging reuse and recycling, without a clear delineation as to which option would be most suitable for a particular product. In certain cases, the reuse figures (Art. 26) are considered excessive and difficult to reach in practice. For instance, the proposal is emphasising that all packaging should be fully recyclable by 2030, including beverage containers. Meanwhile, beverages are also facing the most ambitious reuse targets. It is unclear why beverage containers will need to achieve both objectives simultaneously, since reuse and recycling should be considering as alternative waste management tools.

On their part, export-oriented manufacturing companies specialising in intermediary inputs may face serious challenges due to the emphasis on reuse. It should be clarified whether reuse schemes will force the channelling back of packaging material to the manufacturer. We can potentially see a situation where the impact to companies on the fringes of the EU and detached from the mainland, would be greater. Channelling back packaging material for reuse may induce disproportionately higher freight cost effects for enterprises which are not close enough to their clients, and this is usually the case for manufacturing enterprises in Malta. One of Malta's weaknesses with respect to other locations in Europe relates to the impact of freight. Such an approach will only exacerbate the issue if not addressed correctly, and negatively impact the proper functioning of the EU single market.

The high packaging reuse targets risk downplaying the important role of recycling, and side-lines significant efforts placed by packaging manufacturers and retailers to increase the recyclability of their packaging, as well as the funds already invested to this end.

Limits on the reuse of packaging should be placed particularly in cases of perishable or potentially hazardous products which might complicate the use of reusable packaging without compromising product safety, quality, or functionality. Furthermore, the costs involved in employing reusable packaging instead of recyclable options should be assessed. Reusable packaging might be cost-prohibitive in certain instances where products have a low-margin or low-value (e.g. fast food or coffee), as it may not be economically viable for businesses to invest in both alternatives to single-use, as well as recyclable packaging.

A one-size-fits-all approach is not favourable in this regard, especially when considering different locations and customer behaviours. For instance, an establishment based in a touristic location will find it more challenging to have customers favour reuse takeaway packaging.

Consequently, the rationale behind when it is better to focus on reusable packaging and when recycling is more favourable should be explained from an environmental and economic perspective.

Aside from practical concerns, reusable packaging also introduces significant health and hygiene challenges, especially in the HORECA sector. If an establishment allows customers to bring in their own reusable packaging, this packaging may not meet the same health standards as the establishment's own options. This could pose a risk to the safety of the products being served, as it is difficult for establishments to ensure customers are abiding by hygiene standards as mentioned in Art. 25. This includes, for instance, if the customer-owned packaging is not properly cleaned or maintained. Businesses should be able to refuse a container provided by a customer if it deems it to be not hygienic or suitable for the food or beverage sold, as specified by the same article. Clearer guidelines and legal safeguards for businesses need to be provided in this regard.

HORECA establishments would also benefit from further clarity on what constitutes a sales area for the purposes of the exemption from Art. 26. Since storage and dispatch areas are included, it is uncertain whether kitchen space, garbage rooms, outdoor areas, and so on, are also included.

## **SUPPLY OF RECYCLED MATERIAL – ARTICLE 7**

The success of this proposal will partly depend on packaging manufacturers' ability to secure a sufficient supply of high-quality recycled materials to meet their production requirements (Art. 7), which is still in lower availability and comes at a higher cost than raw materials. For instance, current statistics show that the vast majority of PET bottles are downcycled (68%), and the resulting recycled material is then used in non-food/beverage applications such as textiles. This in turn negatively affects beverage manufacturers and bottlers' ability to meet stringent recycled content targets. Measures should account for this reality and ensure a reliable supply of quality recycled packaging material available to manufacturers in all industries.

In this respect, the current provision in Art. 7 which empowers the Commission to apply derogations for certain packaging materials where there are difficulties due to the lack of availability or excessive prices of recycled plastics is crucial and should be maintained.

## **RESTRICTIONS ON THE USE OF CERTAIN PACKAGING FORMATS – ARTICLE 22 & ANNEX V**

Some businesses are already investing in reusable alternatives to replace certain single-use packaging regularly utilised, such as miniature toiletry bottles. Nonetheless, many businesses are still adapting. The ban of some single-use packaging should be subject to a sufficient transition period to ensure businesses are allowed room to adjust to the new requirements and adaptation costs are minimised. These costs could be further eased by appropriate support measures, and financial and regulatory incentives, especially for SMEs.

As it stands, a transition period is only provided for Annex V point 3. Transition periods for packaging covered by points 4 and 5 should also be guaranteed to prevent a situation whereby businesses have existing stock which must be discarded, at no environmental benefit. Article 22 therefore does not provide sufficient certainty for businesses to plan their investments according to established timeframes.

Finally, establishments operating areas such as pools, swimming zones, lidos and more, also must consider separate guidance governing aspects such as health and safety. This includes, for instances, avoiding the use of reusable materials such as glass and ceramics which may introduce a safety hazard if broken or chipped. This consequently introduces an inconsistency between this proposal and health & safety. To alleviate such concerns, it should still be permissible to use single-use (but recyclable) containers in pools, swimming zone, lidos, and similar areas.

## **PACKAGING SIZE & VOLUME – ARTICLES 9 & 21**

The proposal envisages a reduction in empty space in packaging by 40% (Art. 9 and 21). This figure is considered an arbitrary target as it does not take into consideration the packaging needed for different types of products, as well as safety and functionality requirements.

## **ROLE OF GOVERNMENTS & CONSUMERS**

One of the requirements for packaging to be considered recyclable according to Art. 6 is that it is effectively and efficiently collected separately from other waste. While packaging manufacturers will face obligations to ensure the recyclability of their product, separation and collection must remain the obligations of national governments, and by extension, the households. Current waste collection and separation measures should be strengthened to ensure that production changes by manufacturers are translated into real environmental benefits.

On packaging reuse, success will very much depend on consumer participation. If consumers are not willing or able to reuse packaging, businesses may struggle to meet the reuse targets, even if the packaging itself is technically reusable.

This could be due to factors such as consumer convenience, cost, or simply a lack of awareness or understanding of the benefits of reuse. In this respect, consumer behaviour needs to be addressed as one of the key root causes of waste. The proposal would thus benefit from a dedicated chapter and/or provisions on the role of consumers.

**The full text of the Commission Proposals may be found [here](#).**

**For questions or more detailed information please contact Head of Brussels Operations & EU Affairs Manager Daniel Debono and Manager - EU Policy (Sustainability) Gabriel Cassar on [infobrussels@mbb.org.mt](mailto:infobrussels@mbb.org.mt)**

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