



# POSITION PAPER

Brussels, 24 April 2023

## Orgalim recommendations on the proposal for a new Regulation on Packaging and Packaging Waste

### Executive summary

#### What we support:

- Requirements harmonised at EU level
- The proportionality principle and a thorough impact assessment
- Ensuring effective enforcement and market surveillance

#### What concerns us:

- Requirements for recycled content must be realistic
- Sufficient transition time and exemptions where relevant are needed
- The administrative burden should be minimised
- Reuse requirements require a thorough impact assessment

Orgalim represents Europe's technology industries, providing innovative technology solutions which are underpinning the twin green and digital transitions and can unlock a greener, healthier and more prosperous future for the European Union and its citizens.

**Our industries support the objectives of the proposed new Packaging and Packaging Waste Regulation (PPWR) to contribute to the transition to a circular economy and to the efficient functioning of the internal market by harmonising national measures on packaging and packaging waste. We see the operation of the internal market as absolutely central for the circular economy to function and to deliver sustainability gains at scale. We welcome a Regulation instead of a Directive because the Regulation will ensure that the obligations will be implemented at the same time, and in the same way, in all EU Member States. We fully support EU-wide harmonised, and thus uniform, requirements on packaging and packaging waste so that the new EU Packaging Regulation can replace the current "patchwork" of different national provisions in the various EU Member States. Our most important message is that the European Commission must ensure that no further individual national measures on packaging and packaging waste are implemented in the EU Member States.**

Functionality of packaging, product security and stability are key for our industries. The packaging serves to protect and transport the product and to inform the end-users about the product and its disposal. The PPWR should provide an opportunity to ensure that packaging delivers on these functions in the most environmentally friendly way. This means further consideration of where the highest beneficial impact could be achieved (e.g. at packaging or product level).

**These are our main recommendations to policymakers to make the proposed new Regulation on packaging and packaging waste successful with requirements that are workable and proportionate for our industries:**

- **Requirements should be proportionate and contribute to the circular economy.** There must be proven environmental benefits that exceed the costs to industry. The burden put on companies must be proportionate and with realistic timelines. Additional requirements should be kept as minimal as possible and must be manageable and affordable for all economic operators – in particular for SMEs.
- **Requirements should not have a significant negative impact on the industry's competitiveness,** meaning that the regulatory regime must recognise the uniqueness of the challenges faced by individual industry sectors at the different stages of the packaging life cycle.
- **Requirements** (for example information requirements) **should be technology-neutral** and not hinder the development of new innovations, business models and products.
- **Requirements must be based on scientific assessment methods** through recognised European or ISO/IEC/ITU international standards **and must be reliable and verifiable.** In other words, EU lawmakers should prioritise harmonised standards before technical specifications, as this allows each given stakeholder sector to propose tailor-made solutions to address the established requirements.
- To achieve the requirements on targets, **coordination will be needed between the various economic operators** and serious attention should be given to compliance with competition law.
- To facilitate compliance, including with competition law, it is important that companies can rely on **public support**, especially in relation to reuse targets.

You will find below more detailed descriptions of our recommendations for policymakers.

## What we support

### Requirements harmonised at EU level

For the circular economy to develop further, **scale is imperative.** Harmonisation of packaging and labelling requirements, and implementation through harmonised standards, are the most cost-effective ways to achieve scaling up. On the contrary, national measures - even with the best of intentions - are detrimental to the internal market and to the development of a scaled up circular economy.

- We recommend **securing the functioning of the internal market by harmonising all requirements at EU level** (including administrative, procedural and material requirements). The proposed Regulation must clearly restrict Member States from imposing national requirements beyond the scope of the harmonised requirements or similar practices considered as “gold plating” which erode the harmonisation objective and undermine the scaling up of circular solutions across the EU. Furthermore, Member States should not have the possibility to set up national labels for their Extended Producer Responsibility (EPR) systems, since this permission contradicts the objective of harmonisation.

- We recommend the use of an **EU harmonised declaration template** to avoid different requirements from the Producers Responsibility Organisations (PROs) or national registers in the EU Member States and to diminish the administrative burden. Member States should not require additional information beyond the information in the template. In other words, the information to be provided in the template must be exactly the same in all EU Member States.
- We recommend **focusing harmonised EU labelling on materials**, for example using pictograms. We recognise that Member States currently have different waste collection and handling infrastructures. However, the waste materials will be the same and we suggest considering the addition of further sorting instructions via a type of digital marking technology (such as a QR code on the packaging) as is already the case in Italy.
- We recommend that the **EU harmonised labelling requirements also allow for the possibility of digital labelling on a voluntary basis as an alternative**. Additionally, the possibility of using well-known, existing systems such as the alphanumeric code instead of new labels should be reviewed.

## The proportionality principle and a thorough impact assessment

**Requirements regarding recycling, recycled content and reuse, are welcome** as they can drive the scaling up of circular solutions. However, it is worth recalling the Commission's vision for packaging: *"All packaging, including plastics, on the EU market is reusable or recyclable in an economically viable, cost-effective manner by 2030"*.

The **waste hierarchy** represents policy principles that guide the work of policymakers on the circular economy, and for decision-making purposes they should always be placed in context and be subject to analysis tools such as **Life Cycle Assessment (LCA)**. If, as a result of this analysis, there are no net environmental benefits, but rather negative evidence, then applying the waste hierarchy rigidly is detrimental to both the environment and the economy. In this context, a general ban on certain packaging formats without a prior analysis and impact assessment would not make sense.

We welcome the Commission's realistic approach to potentially reassessing the defined minimum percentages due to the limited availability or excessive prices of specific recycled plastics (Articles 7-9 and 7-10). Reviewing the packaging minimum requirements may allow more ambitious requirements in other product legislation (e.g. the Ecodesign for Sustainable Products Regulation (ESPR)) which would further benefit the environment.

- We recommend **adopting the approach of the Ecodesign legislation** by setting measurable and enforceable requirements based on the proportionality principle and a thorough and specific impact assessment.

## Effective enforcement and market surveillance

**Ensuring effective enforcement and market surveillance will be of the utmost importance for the success of the application of the new proposed Packaging and Packaging Waste Regulation** and will be even more necessary in the future to ensure a level playing field.

- We recommend **prioritising enforcement** in the implementation phase of this proposed new Regulation, possibly by combining enforcement resources on the Packaging and Packaging Waste Regulation with enforcement resources on the Ecodesign for Sustainable Products Regulation.

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<sup>1</sup>Communication from the European Commission - A European Strategy for Plastics in a Circular Economy, 16 January 2018

## What concerns us

### Requirements for recycled content must be realistic

Requirements for recycled content have the potential to develop a functioning market for secondary materials, which we support. However, **recycled content targets should reflect the availability, quality and cost of recycled materials**. Such targets should be realistic and forward-looking, taking into consideration the various challenges faced by different sectors and materials.

One challenge for our industries is the **quality of the recycled content**, as many industries will compete for the same amounts of recycled content. Another challenge will be the **documentation of the presence of recycled content** with clearcut definitions as a minimum demand.

- We recommend that to achieve access to sufficient recycled plastic it must be ensured that the corresponding infrastructure in the form of **suitable sorting and recycling facilities** is available throughout Europe.
- We recommend adopting EU rules that support Member States and industry in setting up **adequate collection and recycling infrastructures** throughout Europe to enable the recyclability of packaging already designed for recycling.
- We recommend engagement in **standardisation** activities to ensure the quality of secondary plastic materials.
- We recommend to increase the amount of recycled plastic available on the market by **considering chemically recycled plastics** in addition to mechanically recycled plastics. In addition, we recommend expanding the scope of recycled content to both pre- and post-consumer plastic waste. The demand for recycled plastic is expected to rise (due to factors such as regulatory requirements, e.g. PPWR and ESPR). To further incentivise companies to choose recycled plastic we should further boost its supply. If plastic is classed as "waste" by definition, it does not matter where it comes from.
- We recommend that the **recycled content target should not be calculated on the individual packaging unit**. Measuring the target as an average of all plastic packaging placed on the market by an economic operator is the only way to allow recycled content for this type of packaging. It will also give manufacturers the flexibility to allocate recycled content according to available supply and offer them a realistic chance of achieving the target.

### Sufficient transition time and exemptions where relevant

The recycling and reuse requirements in the proposed new Regulation are new and challenging to industry. To achieve a satisfactory implementation of the objectives of the Regulation, a sufficient transition time is necessary. Currently, there is no deadline between the publication of delegated acts and their implementation, nor between the publication of the Regulation and the publication of the delegated acts.

- We recommend **introducing an implementation period** between the publication of the delegated acts establishing the recyclability criteria or, failing that, the Regulation should provide for the Commission to adopt these acts within a certain period after its publication as well as for the ability of packaging to be recycled on a large scale from 2035 onwards.
- We recommend providing companies with **sufficient transition time** to fully reuse transport packaging, including when transporting products between a company's sites or between sites of linked companies or its national customers. The current proposal (Articles 26-12 and 26-13) would require this specific transport

packaging to be reusable as from the entry into force of the Regulation (i.e. 20 days after its publication in the EU's Official Journal) which is unrealistic.

- We recommend **developing exemptions where relevant for packaging solutions** based on an impact assessment and a product-by-product approach. There is no one-size-fits-all packaging solution for all types of products which have different dimensions and requirements. The special shapes of some of our products make it almost impossible to comply with these specifications. For example, for small household products the issue is that packaging is in principle not standard. It is designed to the exact shape of the equipment to minimise empty space while ensuring product protection.

## The administrative burden should be minimised

We are concerned about the explicit and implicit **administrative burden** in the proposed new Regulation and we encourage the Commission to minimise this burden as much as possible. In particular, it is not acceptable that industry will be required to set up reuse systems in the European Union without political support.

**We question the added value of a Declaration of Conformity for packaging.** The Commission's draft Regulation foresees that irrelevant information will be made publicly available (e.g. why a company decided on the use of a certain material). Such information will not support consumers in making more environmentally friendly purchase decisions but will require companies to dedicate resources to administrative tasks without any clear environmental value. A storage time of ten years for the technical documentation of packaging material and the creation of a declaration of conformity itself is not appropriate.

- We recommend to **avoid double regulation** by ensuring that administrative and other regulatory measures introduced do not overlap with already existing requirements on packaging, packaging material and packaging waste set out in other sector-specific legislation or legislative measures.

## Reuse requirements require a thorough impact assessment

Reuse requirements are something completely new for transport packaging and will significantly impact our industries. Therefore, we stress the need to **base the specific requirements on a thorough scientific analysis**. This seems to be lacking in the existing impact assessment, leaving our industries with doubts about the validity of the stated targets.

- We recommend **conducting a thorough impact assessment** to make sure that the most workable, proportionate and cost-effective requirements are set. As stated earlier, there must also be proven environmental benefits that exceed the costs to industry.
- We recommend that **reuse requirements should be calculated on plant or corporate level rather than product level** to give flexibility to companies while still delivering on the targets. Another way to reduce waste could be by counting waste prevention measures towards reuse targets. This suggestion is also in line with the waste hierarchy approach, according to which reduction and elimination should take precedence over reuse and recycling.
- We recommend **introducing Life Cycle Assessment** when assessing reuse targets to ensure the effectiveness of the reuse systems and the economic viability for producers as well as to evaluate the impact of the reuse system compared to the installation already in place for sorting and recycling.
- We recommend that collection and recycling targets should be established taking into account the **positive impact of increasing waste prevention measures and reuse targets**.

Orgalim represents Europe's technology industries, comprised of 770,000 innovative companies spanning the mechanical engineering, electrical engineering, electronics, ICT and metal technology branches. Together they represent the EU's largest manufacturing sector, generating annual turnover of over €2,497 billion, manufacturing one-third of all European exports and providing 10.97 million direct jobs. Orgalim is registered under the European Union Transparency Register – ID number: 20210641335-88.



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