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UPDATED Position on the proposed EU Packaging & Packaging Waste Regulation

The Circular Economy for Flexible Packaging (CEFLEX) initiative is a collaboration of around 200 European companies, associations and organisations representing the entire value chain of consumer flexible packaging. Together, we work to make all consumer flexible packaging in Europe circular.

Consumer flexible packaging plays a vital role in resource-efficient food distribution and consumption. About **half of primary food packaging on the EU market is flexibles** (in product units). However, this accounts for only **one sixth (17%) of all packaging material used** for food (by weight)[1]. This efficient use of material has environmental and economic advantages[2], preserves food quality and safety, and prevents food waste that would result in higher overall GHG emissions than the packaging. This is why **significant volumes of flexible packaging will need to remain and be recycled in a circular economy.**

- **CEFLEX strongly supports the PPWR's internal market legal base and the proposal to replace the existing Packaging & Packaging Waste Directive with a Regulation.**
- **Packaging should be designed for recycling back into packaging and allowed on the market when recycled into packaging or other quality products. 'Secondary raw material' should mean recycled packaging for use in other packaging and products.**
- **Recyclability scores should reflect the extent to which a design is compatible with recycling. They should not be expressed 'in weight'. Descriptions of performance grades should ensure that all packaging types have the possibility to achieve a grade A.**
- **Recycled content targets should be set as an average of the plastic packaging placed on the market by a producer of packaged goods. They must be accompanied by enabling conditions and a clear, time limited safety net clause.**

Internal Market

CEFLEX strongly supports the PPWR's internal market legal base and the proposal to replace the existing Packaging & Packaging Waste Directive with a Regulation.

The EU's internal market is vital to a circular economy. It offers a path to quickly gaining economies of scale on packaging design and well-functioning secondary raw material markets. Companies that place packaged goods on the market benefit from using the same designs for all packaging in the EU and this translates into a consistent and stable feedstock for recyclers.

Recyclability: closed loop and recyclability performance grades

Packaging should be designed for recycling back into packaging and allowed on the market when recycled into packaging or other quality products. 'Secondary raw material' should mean recycled packaging for use in other packaging and products.

- Packaging-to-packaging recycling at scale should not be a condition of market access because:

[1] Flexible Packaging Europe assessment based on Euromonitor data for EU-28 in 2019.
[2] For more information, visit the Flexible Packaging Europe's website.

    - it is not enforceable--there is no mechanism to guarantee that all recyclates from packaging will end up in new packaging;
    - it could have a negative net environmental impact--different packaging materials are selected for properties that are needed to protect particular products. However, these properties may make these materials unsuitable for closed loop recycling. In the case of some polymers and paper, achieving the necessary quality would require the addition of virgin material and/or use of extra water and energy for washing and sorting prior to mechanical recycling;
    - it would restrict the market for recyclers and reduce the amount of recyclates available to meet future recycled content targets for products, such as those expected to be set during implementation of the Eco-Design for Sustainable Products Regulation.
- Article 6 establishes the meaning of 'recyclable' and 'recyclability'. A separate definition of 'recyclability' should not be needed in Article 3. If such a definition is considered necessary, it should be explicit that it means packaging is designed for recycling into packaging. Actual recycling of packaging back into packaging should be encouraged only where it makes sense.
- A definition of 'high quality recycling' should refer to the recycling process itself. If used to define the outcome of recycling, it should be promoted where it makes sense but not a mandatory minimum.

Recyclability scores should reflect the extent to which a design is compatible with recycling. Parts of a design that have limited compatibility with recyclability should be factored in or 'weighted', but the score cannot be expressed 'in weight'. Descriptions of performance grades should ensure that all packaging types have the possibility to achieve a grade A.

- Design for recycling includes qualitative criteria that do not have any link with weight. Thus, a recyclability score cannot be converted easily into a % by weight. For example, assessment of the shade of a colour used in packaging could be that it is 'light' or 'dark'; an adhesive could be 'washable' or 'not washable'. A methodology could be developed to convert these results into a score, but it would not be weight-based.
- Descriptions of performance grades should reflect the degree to which a packaging design is compatible with recycling. Grade A designs would be fully compatible and would benefit from a lower EPR fee while grade D designs would have features with limited compatibility that incur additional costs and require a higher EPR fee.

Recycled content for plastic packaging

Recycled content targets should be set as an average of the plastic packaging placed on the market by a producer of packaged goods. They must be accompanied by enabling conditions and a clear, time limited safety net clause.

- Although it is challenging for flexible packaging, CEFLEX supports the adoption of 2030 and 2040 recycled content targets for non-PET contact sensitive and non-contact sensitive plastic packaging. They will help to accelerate the transformation of flexible packaging to circularity.
- Incorporating recycled content in flexible plastic packaging will require transformation of collection, sorting and recycling infrastructure and business practices. We are calling for a pragmatic, step-by-step approach that allows the industry to transition while resulting in the same amount of recycled content coming onto the market.
- We estimate that a 10% non-PET contact sensitive target would require 1 million tonnes of annual pyrolysis capacity for flexible plastic packaging only. A 35% non-contact sensitive target would require flexible plastic packaging mechanical recycling capacity to increase from 2.7 million tonnes per annum in 2020 to around 5 million tonnes per annum. Both targets would require 80% of flexible

packaging placed on the market to be separately collected, an 80% yield from sorting plants plus an additional 10% from sorting of mixed waste.

- Because the targets are being set as a minimum condition of market access, the following enabling conditions and safeguards are essential.
  1. The target must be set on an annual basis, not per quarter. Quarterly targets are likely to cause compliant packaging to be temporarily non-compliant due to periodic drops in availability of recycled content, especially during the transition to circularity.
  2. A credit-based, fuel-exempt recycled content calculation methodology must be in place by end 2023.
  3. There must be a time limited safety net clause applicable to both the 2030 and 2040 targets. CEFLEX supports the Commission's proposal in Article 7.10 to adjust the targets if there is evidence of insufficient availability or excessive prices of recycled content. To increase legal certainty and predictability, we would ask for this clause to be triggered at the latest 3 years before the recycled content requirements are to be met and within 6 months of evidence being provided.
  4. Article 42.3 of the Commission's proposal should include measures that require producer responsibility organisations to earmark EPR fees for the collection, sorting and recycling of the particular packaging type on which they are paid. Cross-subsidisation between materials and packaging types should not be permitted.
  5. Member States must ensure that systems are set up to separately collect all packaging waste. Limited derogations are appropriate that would allow different light-weight packaging formats and materials to continue to be collected together.
  6. Member States should be obliged to introduce measures to disincentivize incineration, energy recovery and landfilling of packaging waste from 2035.
  7. While separate collection should be the preferred channel for capturing flexible packaging for recycling, sorting used plastic and metal flexible packaging from mixed household waste should be allowed to capture amounts incorrectly separated by citizens.

Further measures to accelerate the transformation to circularity

- Uses of packaging materials in applications that are already recyclable and recycled should continue to be permitted, **without restriction**.
- Article 6 should specify that **design-for-recycling criteria** should be adopted by 2026 and be based on publicly available evidence and testing, a harmonised list of non-prescriptive parameters set in Annex II and take into account existing evidence-based DfR guidelines supported by a consensus of the packaging value chain. Packaging components and constituents that are not compatible with recycling should be specified in DfR criteria per packaging category.
- Article 6 should require **EPR fee modulation** to reward good design for recycling and avoid creating conflicting incentives, like inclusion of recycled content which may lower compatibility with recycling. Recycled content is best supported through the proposed targets.

Find out more about our activities at www.ceflex.eu; EU transparency register no. 728869645236-86