

Cosmetics Europe Position Paper on the Packaging and Packaging Waste Regulation (PPWR) Proposal

Cosmetics Europe¹, the European trade association for the cosmetics and personal care industry, welcomes the European Commission's proposal for a Packaging and Packaging Waste Regulation (PPWR) and supports its overarching goals.

The cosmetics and personal care industry in Europe is committed to improving the sustainability and circularity of our products' packaging, as illustrated by the Commit for Our Planet initiative². Launched in December 2022, the initiative encourages all cosmetics and personal care companies to take part in a joint industry effort to reduce greenhouse gas emissions, improve packaging solutions and act to preserve nature.

As we innovate to reduce our environmental impact associated with packaging, we also have an opportunity to define what sustainable packaging looks like for the cosmetics industry, taking fully into account the primary responsibility of ensuring that consumer safety remains at the core of any policy initiative.

KEY MESSAGES

- We welcome the proposal for a Regulation with a full internal market legal basis as a way to increase the harmonisation across Member States. However, we remain concerned that many provisions in the text would allow Member States to introduce specific and divergent national requirements that would not guarantee the good functioning of the EU Single Market.
- The packaging of cosmetic products requires high quality secondary materials to ensure the highest standards of consumer safety, required by the EU Cosmetic Products Regulation. As such, it is imperative that the proposed definition of 'contact sensitive packaging', which includes in its scope cosmetic products, remains unchanged.
- Considering the scarce availability of high quality secondary raw materials required for contact sensitive packaging, the recycled content targets cannot be reached solely via mechanical recycling. Hence, advanced/chemical recycling should be clearly and explicitly recognised to give the necessary investment signal to scale up capacity for production in Europe.
- The Design for Recycling (DfR) criteria, to be established under the delegated act, shall consider the requirements for small components with due consideration to state of the art of collection, sorting and recycling processes. Very often small packaging is fully recyclable, but currently available waste sorting systems are not able to capture packaged small items, which are, in practice, not recycled as they get disregarded during the sorting of waste in the recycling facility.
- We support a target calculation for recycled plastic as an average of all plastic packaging placed on the EU market by an economic operator rather than per unit of packaging.
- Packaging performance criteria should ensure that the packaging volume and weight is limited to the minimum adequate amount for a given material and shape and in accordance with the definition of packaging in Article 3(1). Rules on packaging minimisation should not lead to packaging standardisation and should not undermine companies' flexibility in the design of packaging. Realistic transition periods are needed for industry to ensure compliance with the new rules on packaging minimisation.

¹ For more information on Cosmetics Europe, visit [Cosmetics Europe - The Personal Care Association :: Home](https://www.cosmeticseurope.eu).

² For more details on Commit for Our Planet, visit www.commitforourplanet.cosmeticseurope.eu.

- We propose to define a different methodology for “single products” and “grouped packaging” under Article 21. Indeed, in case the consumer orders several products of different sizes (example: a 100ml perfume and a lipstick), this will inevitably create some additional “empty space” which is unavoidable.
- Maximum harmonization of labelling requirements should be the final aim of the PPWR proposal and the use of digital means should be fostered to strike a balance between the increased consumer information labelling requirements and the obligations of packaging minimisation.
- Manufacturers should be given adequate time to comply with new labelling requirements on pack or digitally. In addition, full stock disposal and exhaustion of packaging manufactured or imported before the application of the different obligations should be allowed so as not to cause waste.
- It is important that equal access to the high-quality recyclates is maintained for all sectors under the mandatory recycled content targets. Any sector or product category should not be discriminated or favoured in accessing secondary raw materials.
- Investments into collection, sorting and recycling infrastructure in the EU will be essential to achieve the sustainability requirements (e.g., recycled content targets) set by the Commission. Therefore, measures for the development of such infrastructure as well as a system capable of triggering investments should be introduced to reach the ambitious targets proposed, such as for instance collection targets.
- Many aspects in the proposal remain undefined and will only be developed via delegated acts at a later stage (e.g., the DfR criteria). To provide the industry with legal, planning and investment security, the Commission should start working on these aspects as soon as possible and involve stakeholders in the process; the deadlines for industry’s compliance should be linked to the publication of the delegated and implementing acts, and not to the publication of this Regulation.

SPECIFIC REMARKS AND RECOMMENDATIONS³

1. GENERAL PROVISIONS

- Legal Basis and Harmonisation

Preserve the full internal market legal basis to ensure harmonisation across Member States and remove provisions that foster internal market fragmentation.

→ Harmonised packaging and labelling rules across Member States are essential to the integrity of the Single Market. Over the past years, we have witnessed an increase in disparate national packaging requirements (e.g., unilateral packaging bans, national reuse and recycled content targets and labelling requirements) that have resulted in internal market barriers and negative impacts of the environment (e.g., destruction of stocks or unsold items). These national legislations (e.g., the French Triman labelling requirements) often require many obligations from distributors and create tensions in their relationship with the cosmetics manufacturers.

→ We welcome the choice of a Regulation as legal instrument with a full internal market legal basis (Article 114 TFEU) which should be preserved throughout the Ordinary Legislative Procedure. Nevertheless, we are concerned about some proposed provisions allowing Member States to maintain or introduce specific requirements at national level (e.g., Art. 4 (5) on labelling requirements). We call for these provisions to be deleted to ensure harmonisation across all EU 27 Member States on packaging legislation.

³ See the annexed document for all Cosmetics Europe proposed amendments on the PPWR.

- Definitions (Article 3)

Maintain the inclusion of cosmetics under the proposed definition of “contact sensitive packaging”.

→ We welcome the inclusion of cosmetics under the contact sensitive category and consider it of paramount importance that cosmetic products remain under the proposed definition of “contact sensitive packaging”. Similar to food or healthcare products, cosmetics can be used for in-body usage (e.g., toothpaste) or as leave-on products (e.g., face cream). Therefore, the packaging of cosmetic products requires a high quality of PCR plastic to ensure the highest standards of consumer safety, health & hygiene, as required by the EU Cosmetics Products Regulation, which is furthermore internationally recognised.

Secure recognition of advanced/chemical recycling, within the scope of recycling, as complementary to mechanical recycling.

→ To meet the recycled content targets proposed and considering the scarce availability of high quality secondary raw materials required for contact sensitive packaging, it is essential to recognise advanced/chemical recycling where mechanical recycling cannot deliver the necessary quality of secondary material. This recognition would allow to increase the feedstock available and resolve current supply challenges encountered with the required quality and purity of secondary raw materials for primary packaging for regulatory and performance related reasons. It would also facilitate the recyclability of small packaging formats, which are currently not being recycled across all Member States due to differences in collection and sorting, infrastructure, and technological advancements in mechanical recycling (e.g., Near Infra-Red sorting technology) (more on small packaging in the next section).

→ Chemical Recycling is complementary to mechanical recycling and a prerequisite for achieving the high plastics packaging recycling rate target. The European Investment Bank recently identified a wide investment gap for the EU to be able to deliver on existing recycled content targets. Therefore, the PPWR should send a strong investment signal to bridge this gap. Reaching the envisaged mandatory PCR target and the high-quality recyclates for cosmetics packaging will require the additional quantities of high quality recyclates provided by chemical recycling from waste streams that otherwise would not be mechanically recycled into packaging. In addition, because a variety of sectors will need access to recycled plastic to meet PCR minimum percentages, including chemical recycling in scope allows for more material to be available for businesses.

2. RECYCLABILITY

- Recyclable Packaging (Article 6) - Small packaging

If the packaging is designed for recycling, recyclability should be guaranteed regardless of size.

→ Very often small and/or rolling packaging (like lipsticks, mascaras, lip pencils, eye pencils and other make-up <5 cm in two dimensions) are fully recyclable. Nevertheless, currently available waste sorting systems are not able to capture these small items, which are, in practice, not recycled as they get disregarded during the sorting of waste in the recycling facility. In fact, the sorting methodology in the vast majority of material recovery facilities does not account for packages <5 cm. Due to holes in the conveyor belts on which the packaging is located, the small packaging falls and therefore does not reach the end of the recycling process. This proves that the issue does not lie with the packaging itself and how it is designed but with the facility infrastructure and the lack of a dedicated stream.

→ The DfR criteria, to be established under the delegated act, shall consider the requirements for small components with due consideration to state of the art of collection, sorting and recycling processes. To ensure all recyclability challenges are considered, the DfR guidelines should be substantiated with scientific

facts, developed in close cooperation with stakeholders participating in the packaging value chain, and reviewed on a regular basis.

→ Innovation in the recyclability space is essential to ensure that small packaging formats are, in practice, collected, sorted, and recycled. To this end, we reiterate our support for the uptake of chemical recycling alongside mechanical recycling.

3. RECYCLED CONTENT

- Minimum Recycled Content in Plastic Packaging (Article 7)

Cosmetics Europe supports a target calculation for recycled plastic as an average of all plastic packaging placed on the EU market by an economic operator rather than per unit of packaging.

→ PCR is not available for all types of plastics. And plastics, for which recyclability streams exist and PCR can be created, cannot be used for all applications due to regulatory and performance related reasons. For example, it is not always possible to use polypropylene (PP), polyethylene (PE) and polyethylene terephthalate (PET) for the contact sensitive packaging of cosmetic or personal care products. In addition, some types of plastics for which PCR is not available remain necessary as they cover specific technical functions (e.g., softness of the wiper for mascara application). For these reasons, we believe that targets should be set as an average of all plastic packaging placed on the market by an economic operator rather than per unit of packaging as this is the only way to allow recycled content for this type of contact sensitive packaging.

→ As the final aim of the PPWR proposal is to increase the final quantity of PCR used versus virgin materials, we believe that targets should be set as an average to allow allocation based on available supply and technical feasibility, offering producers a realistic chance to meet the targets and ensure that targets match the available supply. We have to be mindful of available resources⁴ and support a gradual transition which takes into account market availabilities and technological developments.

4. WASTE PREVENTION

- Packaging Minimisation (Article 9)

Packaging performance criteria should ensure that the packaging volume and weight is limited to the minimum adequate amount for a given material and shape and in accordance with the definition of packaging in Article 3(1). Rules on packaging minimisation should not lead to packaging standardisation and should not undermine companies' flexibility in the design of packaging. Realistic transition periods are needed for industry to ensure compliance with the new rules on packaging minimisation.

→ While supporting the overall objective of packaging minimisation measures, we believe that there are several risks associated with the text's wording as it stands, such as the risk of packaging standardisation and

⁴ It should be noted that one of the biggest challenges faced by the plastics industry at the moment is delivering high-quality secondary feedstock in large enough volumes to meet the ever-growing demand. According to Plastics Europe, global plastic production reached 390.7 million metric tons in 2021, of which 352.3 MT is virgin-based (90.2%) and only 32.5 MT (8.3%) from post-consumer recycled plastics. This shows that global production of recycled plastic is far from meeting the demand, posing major concerns across all industries which will have to incorporate the envisaged mandatory PCR targets of sufficient quality and at a competitive price (Recycling Magazine, Keeping pace with high-quality recycled resin. Production of recycled plastic content is far from meeting demand, posing major industry challenges. 20/03/2023 [\(link\)](#))

the limitation of companies' flexibility in the design of packaging as well as decreased global competitiveness for the European cosmetics industry⁵.

→Marketing and consumer acceptance should not be the only criteria determining or justifying an increase in the weight or volume of the packaging. However, the design or presentation of the good is a functionality of the packaging, as recognized in the definition of "packaging" in Article 3 of the proposal⁶. Packaging especially for cosmetics, helps communicate the brands' identity to the consumer and build trust⁷.

→In addition, standardised packaging would increase the risk of counterfeiting (a widespread practice⁸ of major concern, considering the harmful consequences that counterfeit cosmetics pose for consumer health and safety) as it would be facilitated by simple shapes. It would also put at risk the jobs of thousands of European artisans (e.g., glassmakers) rooted in several generations of traditional European savoir-faire.

→Therefore, Article 9 should reflect the proposed definition of packaging, which rightly recognizes that an important function of the packaging is the presentation of the product, which for this purpose can then be differentiated according to its material and design.

→Moreover, manufacturers need adequate transition time to comply with the requirements. In the current proposal, packaging minimisation measures would apply 12 months after the date of entry into force of the Regulation. However, industry needs adequate transition times for developing design alternatives, changing manufacturing lines where needed and phase out the packaging types in scope.

- **Obligation Related to Excessive Packaging (Article 21): Empty Space Ratio For E-Commerce**

Define empty space ratio for grouped products based on the following criteria: 1) the package box is designed to fit the size of the biggest product; 2) all the elements of buffer packaging are recyclable and 3) there should be an explicit consideration for non-standard shaped products, where ratios should be calculated using the external block ("cuboid") dimensions of sales packaging.

→We propose to define a different methodology for "single products" and "grouped packaging" under Article 21. Indeed, in case the consumer orders several products of different sizes (example: a 100ml perfume and a lipstick), this will inevitably create some additional "empty space". Should this not be amended, we fear that there will be an incentive for manufacturers to send combined products individually in order to comply with the requirements of this Regulation.

→Instead of determining a fixed maximum rate empty space ratio (40%), we believe that the empty space ratio for grouped products should be defined based on the following criteria: 1) the package box is designed

⁵ The European cosmetics industry exports more than 24 billion EUR worth of cosmetic products per year to third countries' markets. The importance of product design for companies' global competitiveness is recognised in the Commission's proposal for a [Directive on the legal protection of designs \(recast\) \(link\)](#). The proposal states that "Industrial design rights protect the appearance of a product. Industrial design is what makes a product appealing. Visual appeal is one of the key factors that influence consumers' choice of one product over another. Well-designed products create a significant competitive advantage for producers. To encourage innovation and the creation of new product design in the digital age, there is an increasing need for accessible, future-proofed, effective and consistent legal protection of design rights".

⁶ For reference, please see the definition of packaging in the PPWR proposal ([link](#)) – Art 3 (1): "Packaging means items of any material that are intended to be used for the containment, protection, handling, delivery or presentation of products and that can be differentiated into packaging formats based on their function, material and design".

⁷ Perfumes are particularly representative of that type of product for which primary packaging consists of an integrated and characteristic part of the goods for consumers.

⁸ For reference, in 2019, perfumes and cosmetics were the third most commonly seized IPR-infringing goods at the EU's external border (in terms of the number of seizure procedures). These counterfeit perfumes and cosmetics were valued at approximately EUR 40 million at the time of the seizure. Packaging materials for perfumes became one of the most-seized fake goods at the EU's external border in 2020. (EUIPO & Europol (2022), Intellectual Property Crime Threat Assessment 2022, Publications Office of the European Union, Luxembourg: [link](#)).

to fit the size of the biggest product; 2) all the elements of buffer packaging are recyclable and 3) there should be an explicit consideration for non-standard shaped products, where ratios should be calculated using the external block (“cuboid”) dimensions of sales packaging.

5. LABELLING, MARKING AND INFORMATION REQUIREMENTS

- Labelling of Packaging (Article 11)

Maximum harmonization of labelling requirements should be the final aim of the PPWR proposal.

→We fully support the harmonisation of packaging-related labelling requirements to prevent and avoid market fragmentation and note that harmonised labelling of the material composition must replace national sorting instructions and other country-specific labelling. We believe that the possibility for Member States to introduce further labelling requirements, e.g., for the purpose of identifying packaging included in an Extended Producer Responsibility (EPR) scheme, is contrary to the spirit of harmonisation that underlies this review.

→In fact, the imposition of national-specific labelling requirements risks undermining the principle of free movement of goods and can lead to consumer confusion and counterproductive environmental effects. Such measures can also lead to increased material needs for additional labelling and additional waste produced due to larger than necessary sizes of the packaging. This has been acknowledged by the European Commission itself in its launch of an infringement procedure against France for the introduction of the Triman labelling requirements⁹.

The use of digital means should be fostered to strike a balance between the increased consumer information labelling requirements and the obligations of packaging minimisation.

→We strongly encourage the digitalisation of information, as it is an enabler for the free movement of goods in the EU territory¹⁰. Furthermore, the use of digital means is the only way to decrease the tension between the increased consumer information and labelling requirements on one hand, and the obligations of packaging minimisation on the other hand. This is particularly the case for the packaging of cosmetic products¹¹, given the significant space limitation that often characterises them and the fact that cosmetics are often sold individually and not in grouped packaging. Finally, digital labelling enables manufacturers to update or adapt information (e.g., to new regulatory or technological changes), without having to manufacture new packaging.

→Therefore, for packaging-related information, digital labelling, via a single data carrier/webpage, should be used as much as possible; on-pack symbols should be used only when necessary and text that requires translations should be entirely avoided.

→Digital labelling should be allowed through a single data carrier (same one for both information related to material composition and packaging recyclability) to avoid multiplication of data carriers and to build towards the future digital product passport.

⁹ For reference, please see the Commission’s infringement decision ([link](#)) on France’s possible breach of Articles 34-36 TFEU in relation to packaging labelling rules.

¹⁰ This has been acknowledged in Italy where the national Guidelines according to Art. 219 paragraph 5 of Legislative Decree 152/2006 has (i) introduced the possibility to comply with the national labelling requirements through digital channel and (ii) has justified it by guaranteeing “compliance with the free movement of the goods principle, provided in the TFEU”.

¹¹ Cosmetics are subject to exhaustive consumer information requirements under the EU Cosmetic Product Regulation, hence, an important amount of information needs to be conveyed to the consumers for health and safety reasons.

Manufacturers should be given adequate time to comply with new labelling requirements. Additionally, full stock disposal and exhaustion of packaging manufactured or imported before the application of the different obligations should be allowed so as not to cause waste.

→The deadline for manufacturers' compliance with new labelling requirements should be 36 months after the actual publication by the Commission of the implementing acts mentioned in Articles 11(5) and 11(6) (not after the publication of the PPWR) as it is the time necessary to allow manufacturers of packaged products to adjust their product labels and manufacturing processes and comply with the new labelling requirements.

→Implementing acts should be published as soon as possible, as the manufacturers' implementation of the requirements of this Regulation will directly depend on them. Therefore, the Commission's deadlines for the adoption of implementing acts should be shortened to 12 months.

→Finally, it is necessary to allow for the exhaustion of stocks of packaging manufactured or imported before the application of the different obligations. Without allowing for this, packaging that is not complying would go to waste, which contradicts the objectives of this initiative. This is crucial to avoid waste and destruction of unsold goods solely based on packaging requirements which would have severe environmental and financial implications.