Round Table "Essential Requirements" of the Packaging Value Chain in Germany

Position paper

As a building block of the Packaging and Packaging Waste Directive (94/62/EC), the "*Essential Requirements for Packaging and Packaging Waste*" are currently being revised and aligned with the concept of recycling management. They are to be given a central orientation function for the entire packaging value chain, so that they contribute to the avoidance and improved recycling of packaging.

In order to achieve these objectives, the Essential Requirements must **strictly respect** the **waste hierarchy** laid down in the Waste Framework Directive. Under certain circumstances, this can lead to conflicts of objectives, for example between further packaging reduction and the ability to recycle packaging. In these cases, the CO_2 balance of a packaging over its entire life cycle should serve as an evaluation criterion.

When revising the Essential Requirements, the properties and condition of the packaging must always be seen in the context of the packaged product. Furthermore, it must be ensured that each product receives the optimum packaging for the requirements profile.

The following comments refer to proposals from the study "*Effectiveness of the Essential Requirements for Packaging and Packaging Waste and Proposals for Reinforcement*" (Eunomia et al., Feb. 2020) published by the EU Commission.

Packaging reduction:

- The introduction of a **new reporting obligation for "ratios"**, i.e. defined ratios of packaging to product, must be critically reviewed: The imprecise nature of the data is clearly disproportionate to the expected high bureaucratic effort involved in collecting the data.

  Should a reporting obligation on the proportionality of packaging and product nevertheless be introduced, care must be taken to ensure that the **differentiation between packaging materials and product groups** is precisely tailored to exclude false incentives and unequal treatment. The data collected through a reporting obligation may then only be used to identify "anomalies", such as excessive packaging or, in a positive case, particularly economical packaging solutions.

- The definition of fixed ratio limits is not appropriate; they cannot do justice to the immense variety of packaging and products. There would also be a **risk of under-packaging** of products: This can be accompanied by negative environmental consequences such as avoidable consumption of resources and CO_2 emissions, for example from food spoilage.

- It is being discussed whether the **industry standard EN 13428** *(Prevention by source reduction*) should be used **as the basis for a new commitment to packaging reduction**. In connection with this, only a few criteria should now justify packaging that exceeds a defined minimum size.

  In concrete terms, it is proposed to remove the criteria "manufacturing process", "pack/filling process" and "logistics (including transport, warehousing and handling)".

However, the complete removal of these aspects could lead to disproportionate cost increases in packaging production. Instead, these criteria should be defined more narrowly and appropriately.

The aspects "**climate protection**" and "**product usage**" should be added as **criteria** justifying more elaborate packaging. The criterion "product usage" takes into account the fact that certain products can only be used by means of packaging that supports their use.

- A one-sided focus on packaging reduction can lead to conflicts of objectives: Consequently, any such reduction could lead to the increased use of materials with lower recyclability and inhibit the use of reusable packaging and renewable raw materials. Producers, fillers and packaging manufacturers therefore need transparent **rules for prioritising packaging policy objectives** as a basis for their investment decisions.

Recycled content:

- Approaches for a **mandatory recycled content** in packaging should be analysed in detail in the Impact Assessment of the Packaging Directive (PPWD). It should be borne in mind that there is little comparability between recycled materials markets for different materials and product groups; this applies in particular to the availability of high-quality recycled materials. Concrete specifications on the proportion of recycled material can therefore only be effective within the framework of product-specific regulation.
- Less burdensome and market-based measures need to be considered before any obligations regarding the use of recycled materials are defined. In particular, further **harmonisation of Extended Producer Responsibility** (EPR), tax incentives or CO_2 credits for the use of recycled materials could be considered in order to create incentives for better recycling and higher recycled content in packaging. In order to guarantee product quality and consumer protection, a **traceability** system should also be introduced **for recycled plastics**.
- The use of recycled plastic is prevented by the lack of EU standards, especially for **packaging in contact with food**. This is a highly complex subject. The risk assessment by the European Food Safety Authority EFSA has not yet been completed and corresponding recycling processes have not yet been approved by the EU Commission. Until these procedures are completed and thus comprehensive legal certainty is created, most food packaging and other product groups affected by regulatory gaps must remain exempt from obligations to use recycled materials.

Definition of recyclability:

- Consideration is being given to the possibility of an official body developing **lists of components** that either impede recycling processes (negative list) or are considered recyclable (positive list). The use of components on the negative list is to be prohibited in future. If such an approach is adopted, the technical body establishing the lists must continuously monitor new developments, such as advances in recycling or innovation in packaging components, and reflect these in the lists. Industry representatives are to be involved on a permanent basis. An example of a well-balanced body could be the Expert Group III at the German Central Agency Packaging Register.

- For the development of a European definition of recyclability, the contents of the German **Minimum standard for determining the recyclability of packaging** can be used.
- As an additional criterion for the recyclability of packaging, a threshold for the "recycling rate" - the extent to which the packaging components contained in the packaging are actually recycled throughout the EU - is being considered. However, determining the actual recycling performance of packaging components is highly complex not only from a technical point of view. Thus, the grouping of components and the very heterogeneous recycling infrastructure in the EU Member States are also major obstacles. However, **technologies to determine the actual recycling performance** could help to create an accurate picture of recycling in the EU and allow for a systematic increase in capacity.
- The draft Essential Requirements for packaging formulates the objective that **95% of the components of each packaging** should be **recyclable by 2030**. This very ambitious objective can only be achieved through material innovations and high investments in recycling technologies and capacities. This requires reliable framework conditions that promote such investments. In addition, possible conflicts of objectives between recyclability, resource consumption (material reduction) and climate protection should be considered and regulated in a practical manner. In any case, the achievement of 95% recyclability should not be achieved by an otherwise unjustified increase in the respective recyclable components of packaging. The basic principle is that the non-recyclable components must not hinder the recycling processes.
- In accordance with the principle of **technological openness**, **chemical recycling** must be considered alongside the further development of mechanical recycling in the EU regulatory approach. A prerequisite is that the corresponding processes have a CO2 balance comparable to material recycling. In the comparison, the efforts to achieve recycled material in different quality levels, if necessary, including suitability for food contact, must be included.

Register:

- A new packaging register at European level must be fully compatible with the already existing register in Germany (Central Agency Packaging Register). **Double reporting obligations** must be excluded. In particular for small distributors the reporting obligation should be kept to a minimum.
- An **official authorisation of packaging** is to be rejected due to the very high bureaucratic effort and the expected considerable delays in the development and marketing process for packaging.

Reusability:

- The Essential Requirements for packaging and packaging waste are not suitable for the introduction of new incentives or obligations for **reuse systems**.
- In principle, it should be noted that incentives or even obligations to implement reuse systems only make sense in those cases where a significant improvement in the CO_2 balance can be expected.

Labelling:

- The **labelling** of packaging as "recyclable" or "reusable" should be **uniform** throughout Europe and **free of charge** in order to keep the extra effort for companies placing packaging on the market to a minimum and not to hinder cross-border trade.

October 2020

Companies and associations participating in the Round Table "Essential Requirements":