

Tobacco Europe position on the EU Commission Proposal for a Regulation on Packaging and Packaging Waste

In Brief

[Tobacco Europe](#) (TE)¹ is fully committed to the EU Green Deal objectives and the respective efforts striving for the reduction of waste in general and packaging waste in particular.

We welcome the choice of a Regulation as a legal instrument, as we believe that to fully achieve a sustainable circular economy, a higher level of harmonisation of EU waste and packaging legislation across EU Member States is needed. We also support the choice of an internal market legal basis as the right step towards boosting packaging circularity across the EU.

However, we remain concerned that certain provisions included in the Commission's proposal could still allow Member States to introduce diverging national requirements.

Tobacco Europe is the umbrella organisation representing major European-based tobacco and nicotine products manufacturers. We take notice of the feedback period on the adopted act being opened and would like to provide comments accordingly.

General Observations

- Tobacco Europe would like to express its concerns for certain elements of the Commission's proposal that would weaken the harmonisation attempts as certain provisions included in the Commission's proposal still allow Member States to introduce diverging national requirements. This is the case of labelling, as Member States can introduce further labelling for the purpose of identifying EPR schemes, (Art. 4 (4) and 4(5) and Art. 11(8)) or for sustainability purposes (Art. 11(7)).
- Providing clarity and clear guidance for the industry around key provisions is crucial for successful implementation. It is of essence that the industry is given enough certainty and time to adapt to the new requirements. This clarity should also pertain to the adoption of related secondary legislation. The numerous Delegated and Implementing Acts foreseen by the proposal should be adopted with clear deadlines to ensure legal certainty for all operators.
- The proposed application date of 12 months after entry into force of the Regulation, is already very ambitious considering the extent and complexity of its provisions. Moreover, we noticed the lack of a specific exemption for products that have already been packaged before the entry into force of the requirements (e.g., transitional periods and rules on exhaustion of stocks).
- We consider such an inclusion to be of crucial importance to provide clarity to all the operators and avoid any disruption in production and distribution processes.

Remarks on some key provisions

- **Article 6 Recyclable packaging:** We welcome the introduction of an EU-wide and clear definition of 'recyclable packaging' and the proposal to assess packaging recyclability against Design for Recycling (DfR) criteria. While food safety should not be in conflict with recycled content in Article 7, recyclability should not be in conflict with product sustainability (shelf-life, function & quality): barrier materials are needed for certain applications, however their recycling is barely possible as recycling technologies are not yet available. In addition, we believe that having aligned recycling infrastructures in all Member States is vital. We hope that the Delegated Act related to DfR will be issued timely and that economic operators will be involved in preparatory discussions to bring their views and expertise.

¹ [Tobacco Europe](#) is the European association representing three of Europe's largest producers of cigarettes, e-cigarettes, tobacco heated products and modern oral products. Our aim is to put forward the industry's common views on regulation and policy and promote scientific and evidence-based policies that respects the choice of consumers.

- **Article 7 Recycled content:** TE believes that this is a key to improve circularity, however targets for recycled content in plastic packaging should not be set on the individual plastic packaging units but rather as an average of all plastic packaging placed on the market by an economic operator. Moreover, due consideration should be given to the safety of consumers, particularly to existing limitations in relation to the use of recycled plastics in contact-sensitive applications.

To use recycled content coming from post-consumer waste, there are European Food Safety Authority (EFSA) approved recycling processes needed to ensure safety of consumer. In this regard, it is important to highlight that that food approved post-consumer recyclates (PCR) for plastic packaging are currently very limited on the market and this makes the reaching of the targets prescribed by the proposal very difficult. Therefore, we encourage EFSA to consider further recycled materials and relevant recycling technologies for food contact application, as well as further chemical recycling processes, in particular, the mass balance approach in accordance with International Sustainability & Carbon Certification (ISCC) should be considered.

- **Article 26 Refill and reuse targets:** TE believes that reuse and refill targets should be assessed considering several elements, such as the preparation of the packaging for reuse, hygiene requirements, required infrastructure and logistics and the benefits of current alternatives. Reuse and refill targets should only be considered when it makes environmental and ecological sense. For instance, if the cleaning, transportation, and other parts of the process create higher Co2 footprint than recycling and manufacturing new packaging, then reuse would generate an environmental disadvantage.

Considerations on provisions specifically impacting the tobacco sector

- **Article 11 Labelling:** As stated above, TE welcomes the strengthened harmonisation of this regulation as it will help, among others, to put an end to the proliferation of national marking obligations that have created diverging legal requirements within the Union market, and we, therefore, believe that Member States should not be allowed to introduce further labelling requirements.

For the tobacco industry, the topic of labelling has a particular importance as our products are already subject to very strict and unique labelling requirements under the Directive 2014/40/EU² which imposes the presence on our packaging of health warnings, combined health warnings (text and image), general warnings, cessation messages, a unique identifier aimed at granting the traceability of products and a security feature to ensure the integrity of the product. All dimensions and specifications related to the above elements are defined and mandated by the concerned Directive.

In addition to the above, in several Members States our products are also subject to National health related and/or commercial related marking and labelling requirements that complicates the overall scenario.

Moreover, tobacco products with filters are also subject to the Single-Use Plastic marking under the Directive 2019/904/EU³ aimed at indicating the presence of plastic in the filter.

As a result, the remaining space on our packaging is already almost non-existent, and it would be impossible to place other markings on almost the entirety of our primary packaging.

We, therefore, encourage EU regulators to take a bolder approach towards labelling solutions (including digital solutions) that would respond to the need of informing consumers while reducing, or even eliminating, the impact on packaging on the environment. Technology has made dramatic improvements and it would be a missed opportunity to focus on labelling on the packaging itself, relegating digital solutions only for material composition markings. TE believes that where packaging is already highly regulated and space constrained, labelling outside of the

² DIRECTIVE 2014/40/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 3 April 2014 on the approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco and related products

³ DIRECTIVE (EU) 2019/904 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 5 June 2019 on the reduction of the impact of certain plastic products on the environment

main packaging could be considered, and in addition, regulators should consider innovative or digital solutions.

- **Article 9 Packaging minimisation:** Although there is merit in the proposal to reduce the amount of empty space taken up by packaging, to minimise packaging waste, it is important not to underestimate the main functionality of packaging which is to protect the product thus in itself preventing the generation of waste.

With regards to the tobacco sector, there is a need for clarity on how the proposed regulation will coexist with criteria set out in the above-mentioned Directive 2014/40/UE, where the dimensions of specific health warnings, combined health warnings (text and image), general warnings, cessation messages have imposed economic operators to increase the dimensions of certain primary packaging thus increasing the empty space within them.

It is important to take all these elements in due consideration, to avoid contradicting measures and over-regulation.

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