

## **EXPRA feedback to the surveys on IA of the PPWD review by Eunomia**

EUNOMIA, the consultant assigned by the Commission to carry out the IA of the PPWD review, carried out 6 half-day thematic Webinars within the last two weeks of June. The Webinars were attended by over 950 participants, where EXPRA was represented by the MD, Joachim Quoden as well as EXPRA members. The 6 Webinars focused on the following themes, on which EXPRA provided feedback:

- Recyclability
- Over-arching measures
- Recycled Content
- Waste Prevention
- Reuse
- Compostable Packaging

## Questionnaire Recyclability

### 1. Do you have any comments about the Intervention Area of **Recyclability**?

Recyclability is a complex concept that should reflect multiple factors as actual collection, sorting, recycling and applications of the recycled material. In order to develop a feasible and future proof definition, it would be necessary to take in consideration this multi layered complexity, whilst ensuring material and technology neutrality.

Creating a level playing field among the different stakeholders should be prioritized, avoiding ambiguity for the definition implementation and enabling innovation in recycling technologies and infrastructures. Respectively, future definitions should also provide sufficient visibility to drive investments into new packaging solutions, reuse schemes and waste management technologies.

### 2. Do you have any feedback about Measure 21 "**Updates to Essential Requirements**"?

The process of strengthening the ER must be coupled with their effective enforcement across all Member States. As for all EU legislation, strengthening the ER alone is not sufficient, they will remain ineffective in driving sustainable packaging design if not properly enforced. The feasibility of measures 21 (a) and 21 (b) will depend on the adoption of a feasible and future proof definition of recyclability. It should be taken into consideration and recyclability concept should not be hampered because in some MS, a certain packaging would be deemed not to be recyclable whilst it would be recyclable in the vast majority of the other MS.

### 3. Do you have any feedback about Measure 22 "**Defining recycling**"?

Regarding Measure 22(a), a feasible and future proof definition of recyclability should be technology- and material- neutral, and foster the co-evolution of innovative packaging, recycling technologies and infrastructure. Definitions and core criteria should be clearly defined to avoid any ambiguity for stakeholders and ensure harmonised and effective implementation across the EU. Still some flexibility for MS should be provided, of course in line with the said core criteria, as to take into account the specific national conditions/situation.

It is unclear what is meant by "functional unit of packaging", a definition of this term is necessary for the clarity of the definition of recyclability.

It should be noted that the 95% threshold proposed in the definition would not be suitable for several types of packaging as it would, for instance, require increasing the thickness of the main material just to reach this threshold. Design for Recycling guidelines could be a more flexible means to assess recyclability over a generic threshold. It should be noted that for a PET bottle of 0.5 l, the PET body part is far below 95%. If the caps would be recycled, the recyclable part would barely reach 95%.

It would also be important to define what is effective and efficient recycling and how it is going to be supervised.

The proposed timeline of 2 years is not viable for the development of new infrastructure to ensure that innovative packaging could be recycled at scale. It should be also ensured that the proposed qualitative definition of recyclability recognises all available recycling technologies, including mechanical, chemical and organic recycling, and that it does not set a hierarchy amongst these.

**Measure 22(b):** Packaging recyclability must be assessed based on recognised Design for Recycling (DfR) guidelines built on multistakeholder input (comprising all the value chain for the specific packaging type, i.e packaging manufacturers, packaging users, EPR schemes and recyclers) and specific to each material and packaging type. Packaging design must be considered together with the product, the waste management infrastructure and the recycling technologies.

A packaging item should be deemed recyclable if all its components meet the requirements of the DfR guidelines. More specifically, if a solution for a type of packaging is not listed in the design guidelines, a recognised sortability and recyclability assessment procedure should be in place, in compliance with confidentiality issues. This will allow companies to assess solutions and solve potential issues prior to the commercial and market stages. A procedure needs also to be in place to ensure revision whenever new evidence comes out suggesting a revision. The whole process should be transparent and flexible enough to allow revisions at least on a yearly basis. To ensure that all packaging is not just recyclable but effectively recycled by 2030, packaging design must be considered together with the product, the waste management infrastructure and the recycling technologies. Engaged consumers will also play a key role in ensuring recycling takes place in practice.

**Measure 22(c)** would be difficult to implement for all packaging placed on the market, given the high granularity required on market data, the complexity for the traceability of specific packaging formats. This option will therefore require a more mature tracing technology. Furthermore, it is not acceptable as the measures would mean that de facto new additional recycling targets would have to be met, which is disproportionate. Such measure would require respective guidelines/Implementing or Delegated Acts that will further complicate and possibly delay their implementation.

4. Do you have any feedback about Measure 23 Harmonisation of EPR fee modulation criteria in an implementing act "?

The Waste Framework Directive introduced a number of changes including eco-modulation, which has become an obligation to boost packaging recyclability under the general, minimum requirements outlined for EPR schemes. In addition, the Directive calls for this modulation to be applied in a harmonised fashion.

Up to now the EPR compliance fees have been influenced by multiple factors that should be taken into account when comparing the relative fees across the various European schemes. Among others, these factors include: the existing collection and recovery infrastructure in the waste management sector; the packaging waste sources - whether household or commercial/industrial; the waste management cost share borne by the industry (costs for collection, sorting and recovery of used packaging); the national recycling target(s) and the effect of derogations; the collection systems being used (bring systems or door-to-door collection); the geographic location and population density; and the number of companies participating in the scheme. Under the overarching premise that *no modulation fee regime shall affect the effectiveness and efficiency of EPR schemes*, the following principles should lay the foundation for a common approach:

- Reflect the real effective and efficient management cost of the concerned packaging;
- Be based on appropriate, real and measurable technical references, as for example DfR guidelines;
- Be minimally based on a packaging LCA approach;
- Avoid market restrictions and distorting the free flow of products;
- Encourage innovation and R&D;

- Be transparent, feasible and administratively simple.

Any additional principles should pivot around the recyclability criteria. In this light, the eco-modulation would reflect a 'recyclable' vs 'non-recyclable packaging' norm. As noted above, this will depend on the definition for 'recyclability'. These principles would encompass:

- The packaging material being sortable;
- The existence of one or more recyclers;
- The existence of one or more companies using the secondary raw material;
- That there is a minimum available quantity;
- That the packaging material is compatible with industrially-available known sorting and recycling technologies.

It should also be possible for stakeholders to have some flexibility, using the same set of data to comply with both EPR and any future ER enforcement mechanism, thus minimising the administrative and financial burdens on companies. At the same time, while following harmonized principles, as for example the listed above, individual EPR schemes should be able to define the base fee, the eco modulation of the fee levels and its granularity level (i.e. the number of fee levels). Moreover, countries' specificities should also be taken into account, especially where there is competition between EPR systems, ensuring that systems compete on the base fee and not on modulation.

#### 5. Do you have any feedback about Measure 27 "**Harmonised labelling**"?

Harmonised labelling might be beneficial but needs a harmonized definition of recyclable packaging. However, the issues related to the label of products sold in several MS and in several languages should be addressed with the possibility of including digital information. If correctly implemented, this measure could help consumers to better sort their household waste.

#### 6. Do you have any additional feedback about the Impact Assessment study?

We believe that the IA there should take into account of the actual waste management status quo in all 27 MS. More importantly it should consider the (packaging) waste management situation in light of the recent EU legislation, namely WFD, PPWD and SUPD which have not yet been fully transposed in MS. That means that the IA should also consider the developments that will be triggered by the regulatory alignments stemming from the said Directives. Seeing the recent developments in many MS, we believe that when all requirements stemming for the stated Directives are implemented in practice the situation will be drastically different from the one at this moment of time and that this should be taken into consideration by the Eunomia as well as the Commission.

We strongly believe that the objective of the review should be to address barriers and bottlenecks resulting from weak enforcement of existing EU provisions and insufficient harmonisation at national level. It should respectively complement the current EU legislation and not aim to replace it. We would strongly recommend that these considerations are taken into account by the consultants and reflected in the IA.

## Questionnaire Over-arching measures

1. Do you have any feedback about the intervention area of **Green Public Procurement** and the described measures?

- **Measure 40 - Packaging criteria in GPP**

The proposed measures should ensure that the functioning of the internal market is not affected and should avoid the use of GPP as a protectionist measure. When deciding on the criteria, the overall environmental impact should be taken into consideration, and not only the waste phase. Furthermore, if there would be mandatory criteria imposed, a procedure for exemptions should be ensured, allowing the use of certain products in extraordinary circumstances (e.g. single use packaged goods for disaster relief supplies).

- **Measure 41 - Environmental award criteria**

EXPRA supports environmental award criteria only if related to the whole product or service lifecycle, and not limited to the waste phase only. Ranking should be based on overall environmental benefits. The latter should be based on solid, reliable and harmonised methodologies.

2. Do you have any feedback about the intervention area **of Hazardous substances** and the described measures?

EXPRA believes that the discussion is excessively focused on hazardous substances in plastic packaging only and not sufficiently substantiated and quantified by the consultant. Besides, parts of the IA have not been carried out “due to the lack of data” making the proposals mostly theoretical instead of practicable. In other cases, real effectiveness has not been made clear and impacts are in the view of EXPRA largely underestimated.

Hazardous substances should be kept out of packaging and appropriately traced, and the same provisions should apply to all packaging materials to ensure a level playing field. As the number, type and classification of substances to be taken into consideration is likely to change in the future, the impacts of regulatory measures should undergo a proper impact assessment, to ensure practical feasibility and manageable analytical and administrative burdens, especially for SMEs. Pre-screening approach to rule out some substances would greatly reduce communication and analytical burdens. Furthermore, confidentiality issues (e.g. in material formulations) need to be properly managed. In order to ensure the consistency of EU legislation and avoid overlaps, such measures should be implemented through existing legislation (e.g. REACH and CLP), rather than by creating ad-hoc measures and processes under the PPWD.

We also exhort to give careful consideration to the issue of legacy substances and additives needs (e.g. lead in glass, inks and mineral oils in paper and additives in plastics), and overlaps with packaged products residuals, which is critical vis a vis the increasing demand for recycled materials. In this regard, policymakers should be mindful that monitoring waste streams and recycled materials to ensure the absence of specific substances requires substantial efforts and is not always feasible in practice, given the intrinsic variable nature of waste.

Last, the impact of a substance on recycling is difficult to assess in advance and depends on the recycling process involved. As far as plastics are considered, mechanical recycling processes have limited decontamination capabilities for substances embedded in the polymer matrix, while processes like dissolution for plastics recycling have been proven very effective in removing some legacy additives such as flame retardants. Therefore, the assessment of the hazardous properties of a substance, which determines the appropriateness of its use in a product, should be kept separated from considerations on the impact of a substance on recycling. The latter should be addressed in relation to design for recycling.

3. Do you have any feedback about the intervention area of **Data & Enforcement** and the described measures?

- **Measure 42 - EPR reporting harmonisation and consideration of packaging registries.**

Regarding measure 42 We believe that using a registry as a way of enforcement would lead to disproportionate administrative burden for national authorities and industry alike, because large amounts of data would need to be generated and verified. This is especially not necessary as EPR schemes already act as national registries to record data on packaging and packaging waste.

By establishing an EU registry or enforcement authority, or even a new national registry, on top of the current registry or single EPR system (in countries where this exists), companies would have to increase their efforts in order to comply with requirements reporting to two different registries (not only a *double administration*) Therefore, it is important to ensure that any new reporting requirements are harmonised with national EPR schemes, and that data is only reported once by producers to ensure no duplication of efforts.

Mandatory proof of compliance based on CEN standards would be more suitable to enforce the application of the Essential Requirements than a registry, regardless of whether this is set at the national or at the EU level.

Regarding EPR reporting harmonization, a positive approach could be the optimization of synergies with the EPR systems for the enforcement of the Essential Requirements. Alignment and harmonisation between Member States on EPR requirements should be supported through effective implementation and enforcement of the Waste Framework Directive.

Regarding adequate level of granularity for reporting, when suggesting best practices from MS, several aspects should be considered: what type of packaging is included in the specific EPR organization: HH, I&C or both, differences in EPR implementation and market size in the EU Member States, etc. We would consider as a practical solution to use as a starting point a granularity level that is currently achievable in all Member States and when appropriate to update this level at a later stage. Future innovative technologies could allow easier and more detailed traceability thus allowing for a greater granularity level without increasing the administrative burden. In addition, appropriate thresholds should be considered for SMEs with small scale (small amounts of packaging) operations. Furthermore, there should be a reason to be reporting a packaging format separately, e.g. because of specific goals on recycled content, recyclability or the like.

Special attention should be paid to the confidentiality of data: currently product specific data reported to the national EPR schemes is confidential and it is transmitted to the national

authorities in an aggregated and anonymized format.

4. Do you have any additional feedback about the Impact Assessment study?

We believe that the IA should take into account the actual waste management status quo in all 27 MS. More importantly it should consider the (packaging) waste management situation in light of the recent EU legislation, namely WFD, PPWD and SUPD which have not yet been fully transposed in all MS. This means that the IA should also consider the developments that will be triggered by the regulatory alignments stemming from the said Directives. Seeing the recent developments in many MS, we believe that when all requirements stemming for the stated Directives are implemented in practice, the situation will be drastically different from the one at this moment of time and that this should be taken into consideration by the Eunomia as well as the Commission.

We strongly believe that the objective of the review should be to address barriers and bottlenecks resulting from weak enforcement of existing EU provisions and insufficient harmonisation at national level. It should respectively complement the current EU legislation and not aim to replace it. We would strongly recommend that these considerations are taken into account by the consultants and reflected in the IA.

## Questionnaire on Recycled Content

1. Do you have any comments about the Intervention Area of **Recycled Content**? It can be related to the measure itself, or the impact assessment.

### **Answer:**

Currently, there are both legislative provisions and non-legislative measures on the uptake of post-consumer recycled materials (PCR) in products, e.g.:

- Art. 8 (2) of Directive 94/62/EC encourages the design of products that contain recycled materials;
- Art. 6 of Directive (EU) 2019/904 sets a target of 25% recycled content for PET beverage bottles by 2025 (30% recycled content on all beverage bottle by 2030);
- Regulation (EC) 282/2008 regulates the use of recycled plastic materials in food contact applications (approval on a case-by-case basis by EFSA, around 98% of approvals relate to the use of recycled PET);
- CPA target to boost the EU market for recycled plastics to 10 million tonnes by 2025;
- Various EU Plastic Pacts (e.g. among industry; authorities and civil society) which include pledges on the increase of PCR;
- EU Own resources on plastic packaging (some national fiscal measures on packaging – i.e. the so called Italian and Spanish tax).

The new EU Circular Economy Action Plan states the EU ambition of creating a well-functioning EU market for secondary raw materials and elaborates on a number of actions that will contribute to expanding their use over primary raw materials.

However, the consistent use of secondary raw materials in Europe is currently hindered by the lack of consistent quantity of high quality recyclates, as well as by the competition with the low prices of virgin raw materials. This applies in particular to the plastic sector.

EXPRA agrees with and welcomes the overall objective of increasing the uptake of PCR and at the same time decreasing the use of virgin/primary resources.

EXPRA believes that the regulatory requirements aimed at boosting the use of recycled materials would require specific enabling conditions such as:

- Consider the ongoing developments in the amount and quality of waste collection and sorting to ensure the consistent production of critical masses of recyclates. To this end, responsible entities (in most cases local authorities) should continue with their efforts to ensure the implementation of specific and tailored effective methodologies to increment separate waste collection. This will lead to an improvement of recycling (in quantitative and qualitative terms) which in turn will boost the uptake of PCR. PROs should be supported by means of appropriate rules and common principle. Importantly, their operations should be tailored and reflect the waste management needs existing in the territory they operate. Also, they should not be overly burdened with additional administrative requirements deriving from new possible rules on packaging and waste management in general.
- Recycled content must meet the standards and specifications required by the market;
- Regulatory support for the uptake of new recycling technologies such as chemical recycling; the latter is necessary to close the loop, where necessary.
- Recycled content rules and requirements should apply to all packaging materials to avoid risks of material substitution with potential detrimental environmental impacts. In addition, regarding traceability and implementation, it is necessary to clarify that the reporting requirements must apply to EU manufacturers but also for importers.

Furthermore, an appropriate chain of custody as well as efficient and reliable methods to prove the percentage of recycled content in packaging need to be in place prior to considering the setting up of mandatory targets to prevent issues with the reporting, verification and enforcement of these requirements.

For plastic packaging in particular, it will be key to define clear and harmonised calculation methodologies and standards for recycled content, which recognize a mass balance approach. Once the rules on PCR are defined, they should apply only to packaging falling under the scope of the obligations. For packaging materials with a well-functioning market for Secondary Raw Materials, policy measures should avoid unnecessary requirements.

- Rules on the use of recycled content should be developed, taking into consideration the requirements of product groups, their market size as well as their applications (e.g. food contact);
- The Waste Shipment Regulation review could support intra-EU shipments of waste and to enable a single market for recyclates. A Schengen for Waste would allow the free circulation of (sorted) packaging waste which, in the context of a circular economy model, should be perceived as a resource that could and should be freely sent where recycling capacities/structures are available.

## 2. Do you have any feedback about Measure 34 "**Updates to Essential Requirements**"?

If the Essential Requirement are updated to support the uptake of recycled content in packaging, a number of additional key aspects need to be reflected besides the very important reference to technical feasibility and the need to “maintain the necessary level of safety and hygiene for the consumer”, There are also other aspects to be considered as for example weight (recycled fibre is heavier than virgin fibre) and functional properties (strength, color).

It is also necessary to guarantee that quality and performance of packaging is not affected by the use of recycled materials as well as that the further uptake of recycled content leads to overall environmental and climate benefits ensuring significant savings in resources and emissions.

Regarding mandatory reporting, it is within the competence of Member States to check if companies in their territory are complying with the Essential Requirements. Mandatory reporting would be an extra administrative hurdle. Sufficient evidence in the form of demonstrated application of an improved EN standard should suffice. Another important point to keep in mind is the confidentiality aspect.

Also, the introduction of mandatory recycled content reporting for all packaging would represent an unnecessary and disproportionate requirement. For packaging materials with a well-functioning market for Secondary Raw Materials, policy measures should avoid unnecessary reporting requirements focusing instead on enabling innovation. A harmonised recycled content measurement method would be a necessary prerequisite.

## 3. Do you have any feedback about Measure 35 "**Recycled content for packaging**"?

### **Measure 35 (variant a - top-down)**

This measure may trigger disparities and competitive disadvantages for certain market operators. In particular, where the portfolio of an operator would include packaging that is required to meet specific and stringent standards (e.g. food contact material; pharma; etc.), the achievement of a preset ‘recyclate uptake quota’ may be difficult.

**Measure 35 (variant b - bottom-up).**

This option may present greater risks relating to quality of final product (given the lack of standardized supply of secondary material). This standardized inclusion may also fail to reflect the different status of recycling in different countries making the price of the secondary raw material more expensive where recycling infrastructure is under-developed.

Also, the specific of the requirements and their associated targets for different applications may demand a more granular system of collection and sorting which could trigger an increase cost of these operations with unclear environmental benefits. Such a granular system should be gradual and well gauged and should not entail disproportionate costs for companies and PROs.

It should be also ensured that there will be an equal treatment of EU companies and non-EU companies, small and large companies as well as a detailed description of enforcement, with a separate paragraph on non-EU companies.

We believe that it is not guaranteed that setting a challenging bottom-up target will automatically drive the increase in availability of recycled plastic with the required quality. The amount of recycled plastic with a given quality is intrinsically limited by the amount of packaging waste generated that can be recycled leading to a recyclate with the required quality, taking the unavoidable losses in collection, sorting and recycling into account. Therefore, the bottom-up targets need to be carefully considered case by case before adoption. It could be that a target that is ambitious but achievable for one packaging format is not achievable for another or that the two are mutually excluding because they compete for the same recycled material.

4. Do you have any feedback about Measure 37 "**Harmonised definition and measurement method**"?

Measure 37 is an enabling measure with definitions and calculation methodology. Efficient and reliable methods to prove the percentage of recycled content in plastic packaging need to be in place prior to considering the setting up of mandatory targets to prevent issues with the reporting, verification and enforcement of these requirements.

In such a context, it is quite important to emphasize that there should be a clear legal recognition of a clear and EU harmonised chain of custody model rules (such as mass-balance) to define the use of recycled content originated from recycling technologies.

5. Do you have any additional feedback about the Impact Assessment study?

EPR systems cannot be held legally responsible for any activities beyond their scope of work as design aspects of individual companies. They can and do provide advice and support to companies regarding sustainable packaging, based on their expert knowledge, being the link between producers, local authorities and recyclers.

## Questionnaire Waste Prevention

### 1. Do you have any comments about the Intervention Area of **Waste Prevention**?

E.g. problem definition, objectives, baseline calculations, state of play, etc.

Common principles and goals and locally customized operational methodologies could stimulate operators to look for increasingly sustainable solutions. Also, for packaging to serve waste prevention goals, a packaging harmonised internal market conformity assessment and consistent and effective market surveillance mechanisms are indispensable. Once packaging is compliant with the essential requirements and compliance is assessed in consistent ways, then its market access and free circulation should be ensured, preventing undue hindrances. Same should apply to packaging waste (e.g. by creating a Schengen for waste) so as to ensure that waste can become resources and find their way into products once they are recycled.

Successful achievement of the Green Deal's climate targets requires consideration of the significant savings provided by modern and efficient packaging solutions (e.g. in terms of material use, reduced transport emissions while at the same time ensuring excellent functionality, e.g. safety, hygiene, shelf-life extension, etc.). We would like to highlight the important role EPR Organisations play in waste prevention. In the IA EPR Organizations are somehow considered relevant only for fee modulation on the basis of reusability requirements, and EPR Organizations play a much wider role in promoting waste prevention in EU member states as well as in monitoring and enforcing waste prevention measures.

In this regard, EPR organizations undertake a wide range of activities, including:

- The definition of prevention plans at national level;
- Tools and LCA studies on packaging design to incentivize waste prevention on the basis of the concept of "packaging functionality";
- Information and communication activities to promote waste prevention;
- Data gathering on the input of packaging in the market and on recycling and reuse. These data are then used to develop eco-design tools to assess the environmental impact of packaging.

Further information on the waste prevention activities carried out by EXPRA members can be found at the following link:

<http://www.expra.eu/uploads/EXPRA%20WG%20Sustainability%20and%20Packaging%20Leaflet%202018.pdf>

Regarding the analysis provided by the consultants, it is quite general and not backed by sufficient quantitative analysis, or example not taking into account Demographic changes: population growth, especially growth of one-person households as well as consumer model changes: increase in # of working persons per household, less time to prepare food, increase in online sales, etc.

### 2. Do you have any feedback about Measure 1 "**Over-arching changes to limiting criteria approach**"?

It can be related to the measure itself, or the impact assessment.

- *Clear definition of 'over packaging'*
- *Update the list of minimisation limiting performance criteria (from CEN 13428)*

- *Include as a mandatory set in the Directive.*

From our perspective, the PPWD legislative revision should stimulate new packaging design choices which should be material neutral and apply to all packaging types and be achieved through a harmonised definition of 'over-packaging' (and identification of 'under-packaging') that results in solutions that do not exacerbate GHG emissions, product damage and subsequent losses. EPR/PROs via their (eco modulated) fees as well as via providing expert support to companies would complement these, promoting sustainable packaging. These rules should also provide for a clear investment framework supporting innovation and the development of the required infrastructure to meet the Circular Economy goals for recycling. Finally, the above-mentioned rules should also apply to imported ~~traded~~ goods, thus ensuring a level playing field with packaging imported from outside the EU.

### 3. Do you have any feedback about Measure 2 "**Mandatory MS 'top-down' % reduction targets**"?

It can be related to the measure itself, or the impact assessment

EXPRA believes that the amounts (i.e. weight) of packaging placed on the market (POM), as well as the type of materials and material combinations used should not be seen in isolation from the packed products. A robust scientific information and proofs should be used to prevent any negative burden shift that may exacerbate GHG emissions, etc. With regard to the possible measures that were put forward for discussion during the workshops, we believe that National top-down reduction targets would aggravate the existing issues with Single Market distortions and complicate the enforcement of EU provisions at national level. Also, they could lead to disparate national measures which may be adopted to comply with such targets.

### 4. Do you have any feedback about Measure 3 "**Best-in-Class weight limits**"?

It can be related to the measure itself, or the impact assessment.

Although appealing, this solution reflects a "one size fits all" approach. For the same packaging type, differences in weight are not necessarily due to overpackaging. For example, a plastic bottle for a still product is lighter than one for a carbonated product, and the weight increases with the carbonation level, in order to withstand the internal pressure. A plastic bottle designed for hot filling is heavier than one designed for cold filling due to the need to ensure vacuum resistance as the product cools down. In order to implement such approach, a wide granularity, with options and exceptions needs to be considered, rather than a simple threshold value.

Care also needs to be taken in defining the "best-in-class", as this could be the result of a proprietary technology or process. By becoming the benchmark, it would push of the market solutions from other companies, especially small business or packaging for traditional products. In order to preserve small businesses and products that rely on "traditional" packaging, such as a hand-blown bottle, at minimum a de minimis threshold should be envisaged.

So, to conclude, we think that benchmarking (by weight) in order to drive packaging weights down, towards 'best in class examples' using a 'top-runner' approach within a product category should be avoided. This would be difficult to administer and implement (e.g. prohibitive level of granularity; necessity to amend complex product lines, etc.). Moreover, this would also be prohibitively expensive for small and medium enterprises who may struggle with the necessary investments to fulfil the technological gap to match top-runner requirements for product lines set by much larger entities and enforced by legislation.

5. Do you have any feedback about Measure 5 "**Void space threshold limits**"? It can be related to the measure itself, or the impact assessment.

Ensuring EPR responsibilities of e-commerce and especially online market places should be highlighted and strengthened. E-Commerce platforms should take the financial waste management responsibility for the packaging they place on the market through participation in EPR schemes. This would be a one measure to minimize void packaging space via respective EPR fees. Like any other mandatory limits on packaging, also thresholds on e-commerce packaging (or other identified sectors) need to be based on the same considerations as to the preservation of packaging functionalities.

6. Do you have any additional feedback about the Impact Assessment study?

We believe that the IA there should take into account an overview of the actual waste management status quo in all 27 MS. More importantly it should consider the (packaging) waste management situation in light of the recent EU legislation, namely WFD, PPWD and SUPD which have not yet been fully transposed in MS. That means that the IA should also consider the developments that will be triggered by these regulatory alignments. Seeing the recent developments in many MS, we believe that when all requirements stemming for the stated Directives are implemented in practice the situation will be drastically different from the one at this moment of time and that this should be taken into consideration by the Eunomia as well as the Commission.

We strongly believe that the objective of the review should be to address barriers and bottlenecks resulting from weak enforcement of existing EU provisions and insufficient harmonisation at national level. It should respectively complement the current EU legislation and not aim to replace it. We would strongly recommend that these considerations are taken into account by the consultants and reflected in the IA.

## Questionnaire on Reuse

### 1. Do you have any comments about the Intervention Area of **Reuse**?

The possibility of creating requirements for packaging reuse entails the creation of clear and harmonized definitions and core criteria. Potential provisions should prevent ambiguity and harmonized and effective implementation across the EU Member States.

In order to achieve this objective, it will be necessary tackling the issue of insufficient harmonisation and weak enforcement of existing EU provisions at national level.

Reuse models must always ensure that product safety and hygiene standards are met and need to be accompanied by a holistic life-cycle perspective accounting for environmental, social and economic factors. In this way it will be possible to compare benefits and impacts of single-use and multiple use packaging for the same product categories.

### 2. Do you have any feedback about Measure 8 "**xxx**"? (MS level 'bottom up' reuse targets)

An effective implementation of reuse schemes requires a systemic change across supply chains, ranging from the packaging until retailers' sectors. In addition, consumers have a strong role to play, and bottom-up targets will not work unless they are actively involved. At a business level, companies will need to adjust their production models, trigger the transition across the whole supply chain, and invest in proper infrastructure, including efficient sanitization systems. It should be also taken into consideration that the (ambition) level of reusable packaging can't be the same in each Member State as consumption patterns differ. Furthermore, prior to the introduction of mandatory reuse targets, it would be necessary to use reliable data and studies to assess the contribution of the sector to the EU objectives on climate, biodiversity, and circularity, especially for perishable goods and with the different specificities at a national level in the different member states.

### 3. Do you have any feedback about Measure 9 "**xxx**"? (MS 'top down' reduction targets)

National top-down reuse targets might lead to further Single Market distortions and weaken the enforcement of EU provisions at nation level. This measure would also require increased market surveillance inspections, adding costs and administrative burdens. It is not certain how the size of the targets has been set and how it would have to be measured as for 2018 packaging waste production per capita is unknown if there is no assessment of separate collection, mixed waste collection (both B2B and B2C), statistical analysis of packaging in mixed waste (both B2B and B2C) and litter. We are not aware that such analysis is available for any MS.

### 4. Do you have any feedback about Measure 10 "**xxx**"? (Standardisation of reusable packaging and effective reuse)

Reuse systems' guidelines based on a European standard would be welcome, but they need to include essential aspects such as recyclability requirements, pools to share, local distribution and minimum refill rates. In addition to an environmental impact assessment, also financial and logistics implications of establishing a take-back infrastructure and storage of empties need to be taken into account. Moreover, packaging rotation is not infinite, therefore reusable packaging should be recyclable at the end of its life cycle. The minimum number of rotations that reusable packaging can endure and the resources used for the sanitization should also be considered.

5. Do you have any feedback about Measure 11 "xxx"? (Business advisory body, mandated formally at the EU or national level)

Further investigation of this measure among EXPRA members is necessary to provide input.

6. Do you have any feedback about Measure 12 "xxx"? (Harmonised labelling for reusable packaging)

Clear harmonised labelling will improve consumers information. Still with all current and new requirements on labeling, introducing additional labels should be carefully considered. To avoid unnecessary complexity, it is preferable to keep the number of labels to a minimum. Innovations such as EAN or a QR codes to access all necessary information about the product and the packaging should be considered.

7. Do you have any additional feedback about the Impact Assessment study?

It is essential that any researcher who proposes policy measures should verify if the measures would be feasible.

## Questionnaire Compostability

1. Do you have any comments about the Intervention Area of Compostable Packaging?

EXPRA overall supports the principles behind setting essential requirements for packaging as long as they are targeted, clear and well developed.

Among other things, clear rules should also address compostable packaging.

Compostability should be clearly defined and used when it can provide for environmental and sustainability advantages.

2. Do you have any feedback about Measure 29 "Updates to EN 13432"?

The harmonisation of definitions of compostability and biodegradability of packaging will bring regulatory consistency, helping recyclers and actors along the waste value chain.

The standardization update should support further efforts of separate collection of bio- and food waste and treatment. This will prevent the loss of waste resources due to contamination of separately collected recyclable packaging waste and respectively increase its quality.

Do you have any feedback about Measure 29 "Criteria for Compostable Packaging"?

The current PPWD provides the requirements for packaging that can be recycled through organic recycling. The Directive does not identify a priori the materials suitable for this type of recovery, but defines the essential requirements and asks CEN to prepare standards necessary to identify packaging that is suitable for organic recycling.

3. Do you have any feedback about Measure 30 "Harmonised labelling and/or watermarking"?

The labelling efforts should consider labels that already exist, at European and Member State level as well as the local, regional and national specificities influencing waste management processes. Especially as there is clear marking: EN13432 provides a systematic check and by positive fulfilment, companies can place the following logo on their biodegradable products and packaging.

4. Do you have any additional feedback about the Impact Assessment study?

The measures need to consider the context in which they will be implemented to be the most efficient possible while leaving space for innovation in packaging. Finally, any measure should understand the primary function of a package that is to protect the product through all/most its life stages.

The IA should address the totality of the EU instead of making measures that would imply that measures should be taken in all countries individually (e.g. by referring to EU recycling capacity instead of having to recycle domestically per se)