



**Joint Statement of the Plastics Packaging Industry
in France and Germany on the
Circular Economy Action Plan
by the European Commission, 11 March 2020**

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Introduction: Towards a Circular Economy

On 11 March 2020 the EU Commission published the new Circular Economy Action Plan as announced in the Green Deal. "Packaging" and "Plastics" are two of the seven value chains that the Commission pays particular attention to.

Elipso and IK represent the plastic converting industries of France and Germany with together about 400 member companies, mostly SMEs in the field of plastic packaging production. The branch in both countries produces a revenue of 23 bn Euro and employs 130.000 people.

The shift towards a Circular Economy is a key challenge for industry and governments as it reduces dependence on fossil raw materials and CO₂ emissions. Under the conditions of climate neutrality, which the EU is aiming for the year 2050, high-quality recyclates will have to make a significant contribution to securing the supply of raw materials to the plastics industry.

The amounts of littered plastic waste in the environment have been taken by our companies as a wake-up call. Plastic packaging waste simply does not belong in the environment. That is why we are committed both at home and abroad to ensuring that all plastic packaging waste is collected for recycling or recovery and does not end up in a landfill or - worse - in the environment.

Working towards the Commission's goals requires major efforts from public actors at EU, national and local levels and all parts of the packaging value chain. It requires in particular investments in innovative packaging design, as well as in collection, sorting and recycling technologies and related infrastructures. Together, all players involved in the plastics value chain must ensure that plastics can be recycled with the highest possible quality and without material losses. For the plastics packaging industry, this brings great challenges, but also new opportunities. Plastics are needed like no other material in tomorrow's climate-neutral economy as energy and resource-saving packaging for our goods.

The plastics packaging associations in France and Germany, along with many of their member companies, have therefore signed the *Circular Plastic Alliance* striving towards 10 million tonnes recycled plastics used to make new products in the EU by 2025. To achieve this, the French and German producers of plastics packaging actively engage with the value chain partners and invest in research and the development of new plastic packaging. Together, they aim at increasing the proportion of recyclable or reusable household packaging on the market to at least 90% by 2025 and at raising the use of recycled materials in the production of plastic packaging to 1,44 million tonnes.

The transition from a linear to a circular and climate-neutral economy requires a profound structural change in the supply of raw materials. This change must now be promoted. The plastics producing, converting and recycling companies urgently need reliable and harmonized framework conditions and planning security for their investments towards a circular economy. Policy makers are therefore called upon to set the course for structural change by setting clear goals and reliable framework conditions.

In view of this, we would like to comment on the new Circular Economy Action Plan by the European Commission.

General requirements of the legal framework in order to achieve a more circular economy

The circular economy must remain a market economy

The transition from a linear to a circular and climate-neutral economy brings with it a profound structural change in the supply of raw materials. Politicians are called upon to set the course for structural change by setting clear goals and reliable framework conditions.

However, the state must not overregulate. The new Circular Economy Action Plan foresees many concrete interventions in the markets by dirigiste market interventions, such as mandatory recycled content quotas and other product design requirements, marketing restrictions for non-recyclable packaging etc. Dirigiste market interventions weaken the balancing function of supply and demand and the competition for innovation and quality.

One point is unmistakable: the circular economy must remain a market economy - with open markets, functioning competition and fairness of opportunity and performance. A functioning market economy, based on sound supply and demand mechanism, is crucial not only to ensure prosperity and quality of life in Europe in the long term, and also to achieve the set goals safely and efficiently.

We therefore urge the Commission that the announced regulatory proposals for implementing the Action Plan - in the sense of an efficient and successful transformation process - are reduced to the necessary minimum regulatory level and that the greatest possible scope is left for entrepreneurial inventiveness and innovative solutions. After all, corporate creativity, openness to technology and free markets are indispensable prerequisites for the desired innovations and technological leaps.

Regulation should aim at helping innovative and resource-saving products in low-emission production processes to achieve a breakthrough across the economy and thus enable new business models in a circular economy. Instead of dirigiste market interventions, companies need stable and harmonized framework conditions across Europe to innovate and invest in new business models. Harmonized, market-based regulatory approaches such as Eco Fee Modulation and pricing of CO₂ are most suitable for achieving the targets while securing the competitiveness of European companies and maintaining high-quality jobs in the EU.

Safeguard the single market

Since most goods circulating within the Union are packaged – often in plastics – divergent packaging restrictions and design requirements across the EU undermine the free movement of packaged goods. We urge the Commission to take its role as "guardian of the treaties" seriously and – in line with the "*Long term action plan for better implementation and enforcement of single market rules*" (COM(2020) 94) – verify that the national restrictions are compatible with EU law, proportionate and non-discriminatory. The future of the EU single market could depend on this. Under no circumstances should the Commission attempt to prevent this conflict by taking up unilateral national restrictions and proposing such restrictions across the EU.

We remind the Commission in particular of the vital role of the Packaging and Packaging Waste Directive (94/62/EC) for ensuring the functioning of the internal market and avoiding obstacles to trade and distortion and restriction of competition within the Community.

Therefore, the revised Essential Requirements must continue to apply in a non-discriminatory and material-neutral fashion to all packaging materials and types placed on the EU market. The Essential Requirements should continue to constitute the legal minimum requirement that all packaging must meet in order to be allowed to enter and freely circulate throughout the EU market.

Focus on harmonized and reliable framework conditions and implementation of existing law

We regret that the state of implementation of the already valid regulations on the circular economy varies greatly in the member states. For example, even today in many Member States there is still no functioning separate collection of household waste and no adequate disposal infrastructure.

We understand the political priority and the sense of urgency at the moment when it comes to plastic packaging, however actionism and the resulting lack of reliability and planning are damageable both for the economy and the environment. Companies need reliable and harmonized framework conditions for urgently needed investments. We consider it to be a major task of the Commission to ensure that existing law is implemented in Europe. Therefore, we urge the Commission to aim at realistic and attainable targets and focus on the implementation of existing EU requirements first. Too often, existing European law is not or not fully implemented in many EU Member States. This has been acknowledged by the Commission in their “*Long term Action Plan for Better Implementation and Enforcement of single market rules*” (COM(2020) 94). There are various reasons for this, such as a lack of administrative or infrastructural conditions in the Member States or unrealistic and unattainable European targets.

We are convinced that the measures outlined in the new action plan can only be effectively implemented in Europe if there is a comparable level of implementation of the regulations in the member states. Otherwise, there is concern that the existing inequalities in Europe will deepen further. This should not serve to slow down the further development of the circular economy. However, more energy than before must be invested in ensuring that there is a reasonably comparable level of implementation of existing regulations on waste management within Europe. We therefore urge the Commission to give the implementation of existing regulations within Europe the same priority as the implementation of the many necessary measures of the action plan.

Conduct thorough impact assessment

We consider it necessary to examine the large number of measures announced in the Action Plan in detail with regard to their practical suitability and their economic and ecological consequences, taking particular account of possible technical barriers and the principle of proportionality. This requires in particular an intensive dialogue and exchange with the stakeholders concerned.

We also consider a comprehensive impact assessment to be indispensable in order to avoid placing an unnecessary burden on SMEs. The measures must maintain the competitiveness of the many small and medium sized companies producing plastics packaging in the EU and their ability to innovate and invest.

Summary of main recommendations

Revision of the Essential Requirements

The revised Essential Requirements should continue to constitute the **legal minimum requirement** that all packaging must meet in order to be allowed to enter and freely circulate throughout the EU market.

Product bans or marketing restrictions (like e.g. for the packaging of fruits and vegetables or for non-recyclable packaging) are a significant intervention in the freedom of the market actors and must therefore remain the ultima ratio of regulation.

The ambitious political goal that “*all packaging on the EU market is reusable or recyclable in an economically viable way by 2030*” must remain an **aspirational goal** to ensure that non-recyclable plastic packaging that cannot be replaced or that has clear environmental benefits compared to recyclable alternatives is not discriminated by market bans.

Recyclability should instead be promoted by **strong and effective financial incentives**, e.g. eco modulation of EPR fees. Such fee-system will make non-recyclable packaging much more expensive and drive the market towards recyclable solutions. Monitoring of recyclability and adjustment of the fees will ensure that the market transformation is effective.

For this, industry needs a **harmonized definition and assessment of packaging recyclability** on a European level. The assessment of recyclability should be based on best available technology and management practices in collection, sorting and recycling in Europe. The definition of recyclability must allow for future market innovation in the fields of packaging design, sorting and recycling technology, comprising chemical recycling. Cost effectiveness of new technology must be proven by commercially operating plants.

Mandatory requirements for recycled content for plastic packaging

Any mandatory minimum recycled content therefore represents a **significant intervention** in the market that is potentially associated with risks to product quality and safety as well as raw material and product prices. The decision on the use of recyclates can therefore only be made by the respective manufacturer on the basis of a comprehensive weighing of the legal, technical, economic and environmental aspects in each individual case. Prior to any concrete proposal of minimum recycled content quotas for different sectors we urge the Commission to assess the availability of recycling materials, taking into account the quality specifications needed for raw materials in these sectors.

Before setting recycled content quotas for plastic packaging, the Commission should **assess less onerous, market-based measures** to achieve the goal of using more recyclates in plastic packaging. For example, the Commission should assess whether a further harmonisation and strengthening of Extended Producer Responsibility (EPR) **requirements** in particular in view of **financial incentives to promote the recyclability and the use of recyclates** in packaging would achieve the goal in a less onerous way.

A priority for achieving the recycled content targets must be the development of **functioning markets for recycled plastic materials** that can provide the quantities and qualities required by the plastics converting industry, without compromising on product quality and consumer safety. This requires measures at all stages of the supply chain, starting with improved product design and higher separate collection rates across all Member States.

Under current EU legislation, Member States are allowed to continue the landfilling of municipal waste until 2035 when this is restricted to 10%. We urge the Commission to close this cheapest outlet inter alia for municipal plastic packaging waste and **bring forward the end of landfill of all recyclable waste in the EU by 2030.**

Quality standards, traceability and assurance systems for recycled materials are urgently needed by converters in order to mitigate risks for product quality and consumer safety and ensure legal security of the producer. The EU should also sustain the market shift in the recycling industry through making more investment funds available and increasing demand for recyclates through **public procurement** policies. It is also important that the **legal barriers to the use of recyclates in food packaging are removed**, including for recyclates from non-food material.

Own resource based on the amount of non-recycled plastic packaging waste (“Plastics Tax”)

With this levy the EU would receive an additional 8 billion Euro per year. The amount of the levy is **disproportionate** to the investments required to improve the recycling of plastic packaging (approx. 800 million Euro per year) and does not take into consideration the fees paid by industry for all packaging to the national Extended Producer Responsibility schemes (approx. 5 billion Euro per year). A mayor problem of the levy also is that its revenues are **not earmarked**, i.e. that they will directly feed into the overall EU budget and are not reserved for measures dealing with e.g. plastic packaging waste. We must expect that many Member States will reclaim the money from the national plastics industry which may **seriously compromise the existence of the plastics packaging industry in Europe**

We therefore urge the Commission to first of all **assess the direct and indirect impacts of such a levy**, including whether it could lead to perverse incentives to switch from plastic packaging to materials with greater environmental impacts, and weaken the ability of the industry to innovate and invest into the circular economy.

June 2020

Detailed Recommendations

1. Review of the Essential Requirements for packaging

The changes to the Essential Requirements for packaging should raise the bar for packaging design, while preserving packaging's functionalities, innovation and the EU Internal Market.

Reducing (over)packaging and packaging waste

Packaging always has to fulfil a task, such as the protection of the packaged goods during storage and transport, information of the consumer, handling of the product, or hygiene aspects. Overpackaging is unnecessary and should be avoided.

However, underpackaging also has negative environmental consequences such as spoilage of food and other product waste, associated with avoidable resource consumption and CO₂ emissions. The optimum packaging design depends on the packed product, its intended use and logistics chains. As the Round Table Eco Design of Plastics Packaging emphasises *“packaging eco design aims to **minimize the overall environmental impacts of the packed product and its packaging over the entire life cycle**”*. It should also include a holistic view on the whole packaging system as reduced primary packaging may require more secondary packaging (e.g. outer carton) and tertiary packaging (transport packaging). In general, industry itself has an economic interest in a minimum use of packaging resources.

Plastics packaging contributes to the overall reduction of packaging waste. Thanks to its intrinsic material properties such as lightness, unbreakability and unlimited shaping possibilities, plastics packaging is particularly material efficient. That is demonstrated by the fact that despite 63% of packed goods for private consumption in Germany are packed in plastic, plastic packaging accounts for just 24% of the packaging waste by weight (GVM 2014).

Since the introduction of the Packaging Ordinance in Germany in 1991, which introduced mass based EPR fees, innovation in the packaging industry was driven by increasing material efficiency through light-weighting of packaging, resulting in an average **reduction of plastics packaging weight by 25%** between the years 1991 and 2013. Thanks to this weight reduction, almost 1 million tons of plastic could be saved in the production of packaging in Germany in one year alone. Material reductions were particularly high for closures (-42%), flexible packaging (-38%), bottles (-33%) and food containers (-32%). The material savings have been achieved despite increased demands on the packaging, such as recloseability and increased food law requirements. That was made possible by continuous innovation in the fields of material properties (e.g. improved breaking strength), converting technology (e.g. increase of thermoformed cups and trays, progress in extrusion and injection moulding technology) and optimized shaping (GVM 2014).

Untapped potential for reducing over-packaging without compromising on its functionalities should be explored in the domain of shipping packaging for online trade, which has been a main reason for the increase of packaging waste in the past years.

Design for re-use and recyclability of packaging

The Commission has set the ambitious goal that “*all packaging on the EU market is reusable or recyclable in an economically viable way by 2030*”.

Better recyclability of packaging is a prerequisite for increasing yields and qualities in recycling while reducing costs. That will also contribute to achieving the goal of the Circular Plastics Alliance to use 10 million tons of recycled plastics in the production of new products by 2025. Too often, design-for-recycling has no priority because it does not pay up. It is therefore important to promote design-for-recycling by harmonized assessment criteria and strong financial incentives.

The Commission should therefore clarify as quickly as possible what “*recyclable in an economically viable way*” means. Industry needs a **harmonized definition** and assessment of packaging recyclability on a European level. This will create a clear framework for innovation, secure investments and reduce costs in recycling through economies-of-scale. The assessment should be **based on best available technology and management practices in collection, sorting and recycling in Europe**. It should not be based on the current state-of-practice, since investments in better waste management infrastructure is urgently needed in many regions. The definition of recyclability must furthermore **allow for future market innovation** in the fields of packaging design, sorting and recycling technology, comprising chemical recycling. Cost effectiveness of new technology must be proven by commercially operating plants.

Design-for-recycling must be promoted by **strong financial incentives**, e.g. eco modulation of EPR fees. Differentiated fees applying to *all* packaging materials is also one of the key recommendations by scientists (see EASAC 2020). Such fee-system will make non-recyclable packaging much more expensive and drive the market towards recyclable solutions. Monitoring of recyclability and adjustment of the fees will ensure that the market transformation is effective. In this context, the Commission needs to secure the competitiveness of Small and Medium Enterprises (SMEs) and their role in the innovation of new plastics packaging.

However, **recyclability is not the only criterion for environmental sustainability**. It can in some cases conflict with other environmental goals, such as packaging waste reduction, resource efficiency and CO₂ reduction. That has also been expressed by the German Environment Agency: “*When evaluating material cycles, all life cycle phases of products must be taken into account. The reduction of resource consumption in the production and use phase - for example, in the case of lightweight composite materials - can be at the expense of the recyclability of the products produced, but can be justified if the savings effects outweigh those of a functional cycle as a whole*” (German Environment Agency 2020).

Therefore, the political goal that “*all packaging on the EU market is reusable or recyclable in an economically viable way by 2030*” **must remain an aspirational goal** to ensure that non-recyclable plastic packaging that has clear environmental benefits compared to recyclable alternatives is not discriminated by market bans. Market bans must also be avoided as they would hinder innovation, both in packaging design and in recycling technology. However, through strong financial incentives in the form EPR eco fee modulation, innovation into more recyclable solutions will be promoted. Revenues generated from those EPR fees should be invested in the circular economy.

Most plastics packaging currently on the market in France and Germany is already recyclable according to national standards. For example, in Germany, about 75% of household plastics packaging is recyclable according to the strict standards of the [Minimum Standards](#) by the Central Agency Packaging Register (ZSVR 2020). However, there is still untapped potential for further increase of recyclability without compromising on the packaging's weight or functionality. In 2018, the German manufacturers of plastic packaging have set themselves the **ambitious goal to secure that 90% of household plastics packaging on the German market is recyclable or reusable by 2025**. Already today, design-for-recycling has become a core element in the design of plastic packaging. The Management Guidelines of the Round Table [Eco Design](#) of Plastic Packaging - developed together with the entire value chain - are the standard guidelines for packaging development (Round Table Eco Design 2019).

In France, the new anti-waste law for a circular economy, that entered into force in January 2020, and the guarantee of completing the simplification of the sorting rules for household packaging will increase the collection rate to cover all packaging in the years to come. Elipso believes that **90% of household plastics packaging on the French market is recyclable or reusable by 2025**.

Reusable packaging represents both economically and ecologically sound packaging solutions in many areas. Reusable packaging is particularly widespread in the field of industrial packaging and refillable beverage packaging. However, due to the high logistical effort for the return of the empty packaging to the filler and its cleaning, refill systems are not always ecologically more advantageous compared to disposable packaging that is collected for recycling. That is particularly the case where branded refillable packaging is used that must be returned to one particular producer instead of pool systems with standardized packaging that is shared by different producers. Equally important is that the return of refillable household packaging must be incentivized by an adequate deposit and wide-spread return points must be available in order to achieve sufficiently high return rates. If these conditions are not met, the increase of reusable packaging can risk adverse effects on the environment.

Refillable packaging that is returned to retail must therefore be embedded in efficient logistical systems and is not per se more environmentally sound than single-use packaging. However, our industry sees a sustainable growth opportunity for reusable plastics packaging in the growing markets for service packaging (e.g. coffee cups) and shipment packaging for online commerce where the above conditions could be met and durable reuse packaging solutions could significantly help reducing packaging waste.

Packaging restrictions

In the Action Plan, the Commission has announced to consider "*restrictions on the use of some packaging materials for certain applications, in particular where alternative reusable products or systems are possible or consumer goods can be handled safely without packaging*".

Plastic packaging always has to serve a purpose. For example, the purpose of packaging of fruits and vegetables is first and foremost to prevent them from spoiling and being thrown away on the way "from farm to fork". CO₂ emissions from food waste globally amount to 4.4 Gt p.a. which is almost 10% of all man-made CO₂ emissions. **Waste from fruits and vegetables accounts for a staggering 30% of all CO₂ emissions of food waste**. The

reason for this is that vegetables and fruits are among the most-wasted food items in Europe. Food packaging is one effective solution to prevent such losses from the production, distribution and consumption. The CO₂ emissions by food packaging (all materials) are compared to these figures very low: They account for around 0.7% of the European climate footprint. Their key functions are to extend the shelf life of the product, e.g. by sealing off air, protecting against shock and ensuring complete hygiene.

In all cases where no avoidable waste (including no food waste) is produced either in the retail chain or by the consumer, packaging is dispensable. However, different to common belief, unpacked fruits and vegetables are not always eco-friendlier. In the case of cucumbers, for example, a thin plastic film halves the waste rate from 9.4 to 4.6% in the retail sector alone. This means that the environmental benefit of reducing waste in the retail sector is three times greater than the resource use required for packaging. Even at ideal storage temperatures in the refrigerator, unpackaged miniature gherkins have only half the shelf life of packed gherkins (Ecoplus 2020).

Product bans or restrictions like e.g. for the packaging of fruits and vegetables are the *ultima ratio* of regulation and therefore the legal requirements for such bans are high: Any product restriction is a significant intervention in the freedom of the market actors. As such, the ban must be *suitable* to promote a legitimate political goal, it must be *necessary*, i.e. there must be no less onerous measures that also fulfil such goal, and finally the intervention must be *proportionate*.

We want to make it clear that in the area of packaging there are rarely simple solutions that can be enforced by means of bans. Instead of bans, what is needed is a better information base for manufacturers, retailers, consumers and regulators alike. We therefore support the **increased use of life-cycle calculation models** that show the environmental impact of certain products independently and on a scientific basis.

The revised Packaging and Packaging Waste Directive (94/62/EG) and the Single-Use Plastics Directive (2019/904) give Member States the possibility to unilaterally restrict specific plastic packaging (i.e. lightweight plastics carrier bags, cups for beverages and take-away food containers). Unlike carrier bags, restrictions on packaging in one Member State pose an obstacle to trade in the EU internal market. Since most goods circulating within the Union are packaged – often in plastics – divergent packaging restrictions across the EU undermine the free movement of packaged goods. We urge the Commission to take its role as "guardian of the treaties" seriously and – in line with the "*Long term action plan for better implementation and enforcement of single market rules*" (COM(2020) 94) – to verify that unilateral national measure comply with EU-law and are proportionate and non-discriminatory. The future of the EU single market could depend on this. Under no circumstances should the Commission attempt to prevent this conflict by taking up unilateral national bans and proposing such a ban itself.

Reducing the complexity of the packaging materials, including number of materials and polymers used

In France and Germany only five resins (PET, PP, LDPE, HDPE and PS) are used for 90% of the packaging placed on the market. It must be understood that each packaging material and polymer is chosen because of the specific properties and functions it adds in packaging, e.g. protection against oxygen. With the drive towards circular economy, the market will evolve in the coming years and it is likely to see innovation, including change of materials in

packaging design. However, as long as the packaging can be reused or recycled under economic conditions there is **no need for reduction of the complexity of packaging or of materials and polymers used.**

Complexity of packaging materials can e.g. be caused by multi-material composite packaging. Indeed, there are material combination, such as composites of paper and plastics, that hinder recyclability of both materials and can in many cases easily be avoided. This goal is however already addressed by the goal of designing packaging for recycling.

Unlike multi-material composite packaging, multi-layer plastic films can be made of a single polymer or of different polymers that can be recycled together. Multi-layer technology serves two important eco design goals. Firstly, it adds desired functionalities to the packaging such as e.g. sealing ability, barriers against oxygen or contaminants or puncture resistance. Secondly, sounding paradox, through using a higher number of ultra-thin layers the desired properties are achieved with less material consumption compared to a lower number of layers. In fact, the thickness of films can nowadays be reduced to a few microns. Increased material efficiency has been the economic driver for multi-layer technology which is at the same time reducing the use of plastics. Flexible film producers are nowadays investing in research and development to increase recyclability of multi-layer packaging without compromising on functionality and material efficiency. Their investments must not be put at risk.

Also, from a scientific perspective, there is currently no need for regulation: The scientists from the European Academies (EASAC) have acknowledged the swift technological progress companies are currently achieving in redesigning their packaging so that it can be recycled. Explicitly mentioned is multilayer film packaging which uses the same polymer resin to make it better recyclable. EASAC recommends *"to monitor progress and consider further regulations if the leading companies' examples are not followed by most users of packaging plastics"* ([link](#)).

Also, it is important that innovation such as biobased plastics should not be blocked by any restrictions on materials or polymers, in order for new resins with environmental benefits to emerge. Alongside with recyclates, the use of biobased plastic in packaging needs to increase in order to meet the target of a circular and climate neutral economy.

2. Mandatory requirements for recycled content for plastic packaging

The use of recyclates in plastic products is an important contribution to a circular economy, as it is closing material loops and reducing dependence on fossil raw materials and cutting on CO₂ emissions. The EU Commission and the *Circular Plastics Alliance* have set themselves the goal of using **10 million tonnes of recycled materials in plastic products across Europe by 2025**. In the new Circular Economy Action Plan, the Commission has announced to propose mandatory requirements on recycled plastic content for key products such as packaging, construction materials and vehicles by 2021/2022.

The German and French plastic packaging associations have signed the declaration of the Circular Plastics Alliance and support this goal with the joint commitment to **increase the use of recyclates in the production of plastic packaging in both countries from 660.000 to 1.44 Million tonnes by 2025.**¹ Besides of PET beverage bottles, recyclates are already widely found in industrial and commercial packaging such as pallets, drums and jerricans, IBCs and film packaging. In these applications, plastic recyclates meet the market requirements and are competitive with virgin material. In large parts of the packaging market, however, recycled materials have hardly found their way into production. This applies in particular to the large area of food packaging, that accounts for 44% of plastics packaging in Germany, but also to other packaging, such as in the area of personal care and cosmetic products or hazardous goods.

According to a recent study performed in Germany, based on the recyclate qualities currently in use in the packaging sector **up to 22% (960 kt) of the raw material used in plastics packaging could potentially be made of recycled materials, if moderate constraints on packaging quality with regard of aesthetic properties such as transparency and colour are accepted.** A further increase in the use of recycled materials beyond this (up to 51% of the raw material demand; i.e. 2.200 kt) would be associated with substantial to major quality constraints, which would not only affect aesthetics but also deteriorate the physical properties of the packaging, complicate processing of the material and impact on material efficiency. Almost half of the amount of plastic processed into packaging in Germany (49% of 4,378 kt) as today could not be substituted by recycled materials due to the key requirements for the packaging (i.e. primary packaging functions and approvals) (BKV 2020).

However, as the study also notes, the identified potential of 22% (960 kt) of recyclate use in the packaging sector can currently not be met on the supply side. Given the quality requirements in the targeted packaging sectors, about 850 kt of suitable recyclates are produced but partly used in other sectors (e.g. construction and automotive). Without diverting recyclates from other applications, the additional recyclate demand (510 kt) in packaging sector would have to be generated by recyclates from waste previously energetically recovered or landfilled.

A priority for achieving the recycled content targets must be the development of **functioning markets for recycled plastic materials** that can provide the quantities and qualities required by the plastics converting industry, without compromising on product quality and consumer safety. Despite the increasing demand for recycled plastics, the recycling sector remains very fragmented and relatively immature, which is holding back recycling efficiency, quality and profitability. High investments are needed in the recycling infrastructure aiming at larger scales, automation and latest technology that can increase yields, output quality and profitability of the recycling sector. However, as the recycling industry emerged from small-scale companies with limited access to capital, only few players have the means to invest and consolidate. Also, the existing price-performance competition with virgin plastics is making the further spread of recyclates in the packaging market more difficult and exposing recyclers to the risk of unpredictable price fluctuations in the virgin plastics market.

Furthermore, **quality standards, traceability and assurance systems for recycled materials are urgently needed** by converters in order to mitigate risks for product quality

¹ In Germany, IK member companies committed to increase the use of recyclates in plastic packaging from 400.000 tonnes in 2017 to one million tonnes by 2025. In France, the plastic packing industry committed to increase the amount of recycled materials from 260.000 to 440.000 tonnes by 2025.

and consumer safety and ensure legal security of the producer. The EU should therefore sustain the market shift in the recycling industry through making **more investment funds** available and increasing demand for recyclates through **public procurement** policies.

Any mandatory minimum recycled content quota is a **significant intervention in the freedom of manufacturers to design their products** and therefore needs to be legally justified. As such, the quota must be *suitable* to promote the political goal of using more recyclates in packaging, it must be *necessary*, i.e. there must be no less onerous measures that also fulfil such goal, and finally the intervention must be *proportionate*. The decision on the use of recyclates can only be made by the respective manufacturer on the basis of a comprehensive weighing of the legal, technical, economic and environmental aspects in each individual case. In this context, we would like to point out that **science does not attach any decisive importance to regulatory minimum recycled content quotas** for plastic packaging. None of the 15 demands of the European Academies go in this direction (EASAC 2020).

There are also constraints to the use of recyclates in non-food plastics packaging, such as packaging for personal care and cosmetic products or for hazardous goods. Despite the increased demand, there are still considerable hurdles to the use of recycled materials in these markets. They place special demands on the quality of the raw materials. The quality demanded and the quality offered do not match sufficiently in these segments. Minimum quotas for recyclates can therefore be associated with important risks, inter alia for product safety and consumer protection.

An important limitation in other packaging segments is the **unavailability of large quantities of recycled material in consistent quality** which is causing problems in processing and by this increasing production waste. In addition, customers are reluctant to accept colour and odour deviations and lack a trustworthy product seal. In order to increase the use of recyclates in these markets, it is necessary to improve the supply and quality of recyclates as well as to strengthen demand (push and pull).

Prior to any concrete proposal of minimum recycled content quotas for different sectors we urge the Commission to **assess the availability of recycling materials** in these sectors. It should be noted that the demand for high-quality recyclates will increase strongly until the year 2025 due to extensive voluntary commitments by consumer goods companies and retail. We warn in particular against an overly simple generalisation of the specific target for PET drinking bottles in the Single-use-plastics-Directive (article 6(5)). The Commission should also take into consideration the effects of parallel targets for packaging, construction products and vehicles, as announced. In our view, such parallel targets could lead to an outflow of valuable plastic packaging materials into applications which – with the current state of the art technology – will not find their way back into plastic packaging. Moreover, such targets might not increase the use of recyclates in the overall market, but merely divert recyclates from existing applications to those with a quota – without any benefit for the environment.

Before setting recycled content quotas for plastic packaging, the Commission should also **assess less onerous, market-based measures** to achieve the goal of using more recyclates in plastic packaging. For example, the Commission should assess whether a further harmonisation and strengthening of Extended Producer Responsibility (EPR) requirements in particular in view of **financial incentives to promote the recyclability and the use of recyclates** in packaging would achieve the goal in a less onerous way. This is

also a recommendation by the European Academies (EASAC 2020). In this context the Commission needs to clarify the role of the *Circular Plastics Alliance*: Is this initiative still the way to achieve the target of 10 million tonnes of recyclates in 2025 or will this be achieved by mandatory quotas, meaning the *Alliance* is obsolete?

Finally, the Commission should **thoroughly assess the impacts of such quotas**, not only on the respective markets but also on the overall impacts on CO₂ emissions, economic and social impacts. Besides of product specific minimum quotas, other models such as legal polymer specific substitution quotes should also be assessed as they might be less onerous. In particular, the impact assessment should comprise the effectiveness with regard to the increase of recyclates used, not only in the regulated markets, but in the production of plastic products in total (under consideration of possible diversion from non-regulated to regulated market segments), the associated reduction of fossil raw materials and CO₂ emissions, the availability of the recyclates with regard to required quantities and quality in the regulated markets, the risks related to scarcity of supply, comprising risks for quality, product safety and prices, costs of enforcement costs and risk of fraud.

While we recognize that the increase of recyclate use must come from post-consumer waste, it is important for the achievement of the political goals that recyclates generated from **unavoidable post-industrial waste is also counted**. Recycling and use of these waste streams also contribute to the circular economy, and in many applications, these are the only recyclates that can currently be used. They currently account for the majority of recyclates used in the German packaging production (260 kt) and will, even without an increase, account for at least one quarter of the 2025 target in the packaging sector. However, there is only little potential for increase as most of post-industrial waste is already being recycled.

Rules for the safe recycling into food contact materials

For years, EFSA has issued about 140 positive scientific opinions on the safety of processes to recycle plastics for use in food contact materials, nearly all of them for PET, just very few cover polyolefins (HDPE) in only a single application (milk bottles in the UK). However, the Commission so far has not officially authorised a single process. Therefore, we urge the Commission to quickly **establish rules for the safe recycling of PET and other plastic materials in food contact materials**.

Rules on measuring recycled content in products (i.e. PET bottles)

Trials performed by institutes in Germany in the past years have shown that it is not possible to quantify the recycled content by analytical methods. Audit schemes will therefore be the only way to verify compliance with the recycled content provisions. It is particularly important that customs will control compliance of imports to the EU as already now, companies report from incorrectly declared imports.

3. Addressing the presence of microplastics in the environment

Reducing intentionally added microplastics and tackling pellets

In the context of future restrictions for intentionally added microplastics, the Commission announces that it would “tackle” pellets. Industry strongly supports the implementation of retention measures for plastic pellets in the industrial production and logistics. For many

years, programmes such as *Operation Clean Sweep* and *Zero Pellet Loss* have been rolled out throughout the plastics producing and converting industries.

Intentionally added microplastics, e.g. in cosmetics, must be stopped. The ECHA proposal for a REACH restriction should be reduced to what is actually required regarding already existing national restrictions for cosmetics.

Closing the gaps on scientific knowledge related to the risk and occurrence of microplastics in the environment, drinking water and foods

When exposed to UV radiation and friction over a long time, plastic products eventually break down into smaller fragments. Microparticles from this and other sources may be present in many environmental areas, including drinking water and foods. This represents an uncertainty for consumers. According to current knowledge, there are no indications of health risks from the intake of microplastics with food. However, **a reliable risk assessment is not yet possible because of insufficient data and lack of standardized analytical procedures** (EFSA 2016). It is therefore important that EFSA and national research bodies close knowledge gaps through further assessment of the effects of microplastics on human health. At the same time, it is important to develop recognized and tested methods for the identification and quantification of microplastics and to combat microplastic pollution at source. According to the recommendations from the study of the Fraunhofer Institute UMSICHT, research activities should not solely focus on the pollution of the oceans, but rather take the different environmental compartments into consideration. Measures aimed at the most important sources, which include traffic, construction and infrastructure, shall have priority here (Fraunhofer UMSICHT 2018).

4. Own resource based on the amount of non-recycled plastic packaging waste (“Plastics Tax”)

We are concerned that the proposal for a new “own resource” for the EU based on the plastic packaging recycling rates seriously backfires at the ambitious aims of the Circular Economy initiative. With this levy the Commission has calculated to receive an additional 6.6 billion Euro per year. Due to the recent change in the calculation methodology for the recycling quotas, this amount will increase by 20-30% to **at least 8 billion Euro per year in the EU27**.

The impacts of such a levy on the plastics industry and circular economy goals are unknown, since the Commission has **not provided any thorough impact analysis**. We urge the Commission to first of all assess the direct and indirect impacts of such a levy. The indirect impacts could result from the fact that Member States likely will recover “their” money via a national plastic levy. Such comprehensive assessment is also demanded by the scientific community (EASAC 2020).

The main problem of the levy is that its revenues are **not earmarked**, i.e. that they will directly feed into the overall EU budget and are not reserved for measures dealing with e.g. plastic packaging waste. The levy will affect in particular those Member States with only little plastics recycling capacities. Instead of support, those countries will be forced to contribute disproportionately more to the general EU budget than others.

In terms of scope, the proposed levy is completely **disproportionate** to the actual costs of recycling plastic packaging waste. It does not take into account, for example, that industry in Europe already contributes around 5 billion Euro per year to the costs of collecting and

recycling of all packaging under national EPR systems. The amount of the levy is also disproportionate to the investments required to improve the recycling of plastic packaging: These are estimated to be just under 6 billion Euro for the EU27 in the years 2021-2027 (see Eunomia, COWI: [Study on investment needs in the waste sector](#) (2019), page 60). This would be a good 800 million Euro per year, or about one tenth of the expected revenue from the plastics levy.

Improving the circularity requires considerable investment by companies and the ecological design of plastic packaging, in innovative materials and new machinery. These investments can only be made if politicians set reliable framework conditions that guarantee planning and legal certainty. The proposed levy however, would lead to **considerable uncertainty** for companies because they would have to fear that the Member States would try in different ways to **pass on their additional contribution to the EU budget to the domestic plastics industry**. This would also lead to a fragmentation of the internal market in this sector.

Moreover, a levy on plastic packaging alone would **discriminate against plastic as a material** compared to other packaging materials. Within the framework of the existing Extended Producer Responsibility (EPR) schemes, this would encourage a switch from plastics to materials with a greater environmental impact. However, plastic packaging is particularly light compared to packaging made of other materials, which means that it usually consumes less fuel when transporting the packaged goods. A plastics levy could therefore unintentionally undermine progress in CO₂ reduction in the transport sector. This is also a warning from science: For example, EASAC calls for further investigations be carried out *“how any such tax would interact with an enhanced EPR system, whether it could lead to **perverse incentives to switch from plastic packaging to materials with greater environmental impacts**, and issues of monitoring, enforcement and other factors”* (see EASAC, [Packaging plastics in the circular economy](#), 2020).

We therefore suggest withdrawing the proposal – at least until the impacts are thoroughly assessed.

5. Further measures of importance to plastics packaging

Harmonise separate collection systems and EU-wide labelling that facilitates the correct separation of packaging waste at source

High-quality recycling also relies on effective separate collection of waste. We therefore very much welcome the fact that the Commission will propose to **harmonise separate waste collection systems** and hope that the Commission will enforce this against the highly divergent interests of local public waste management companies. The current patchwork of different collection systems, even at local and regional level, is a major reason for the current loopholes and inefficiencies in the separate collection of plastic waste. A harmonized separate waste collection system would help improve the separation of waste by consumers, and **foster economies-of-scale in sorting and recycling processes**, thereby increasing yields, output quality and profitability of the recycling sector. Moreover, a harmonized collection system is an important prerequisite for the harmonisation **of design-for-recycling guidelines** which is urgently needed by the converting industry in order to achieve investment security.

In fact, even in Germany, where all light-weight household packaging is collected separately, only 42% of recyclable household plastics packaging is indeed entering a recycling facility (GVM 2016).² The rest is lost due to inefficiencies in collection and sorting. These loopholes of recyclable plastic products are presumably much larger in Member States without landfill bans and represent a major bottleneck for the circular economy of plastics. Therefore, we suggest the political goal that **all plastic packaging is collected for recycling by 2030**.

This target could be supported by a **mandatory deposit system for all beverage bottles** in Europe. Scientists also recommend a wider deployment of deposit-return systems based on the successful developments in several Member States (see EASAC 2020).

Under current EU legislation, Member States are allowed to continue the landfilling of municipal waste until 2035 when this is restricted to 10%. We urge the Commission to close this cheapest outlet inter alia for municipal plastic packaging waste and **bring forward the end of landfill of all recyclable waste in the EU by 2030**.

The Commission intends to examine in 2022 the conditions for introducing a uniform EU-wide **packaging label to improve separate collection in households**. The EASAC paper calls for “*a uniform and mandatory labelling related to actual (rather than theoretical) recyclability*” (EASAC 2020). However, the experts do note that the “*adoption of such a unified system, however, does require that the opportunities for recycling are uniform across the EU*”, which the Expert Group considers should be one of the longer-term objectives of EU policy.

Addressing waste exports from the EU

The Commission has announced a review of the Waste Shipment Regulation (1013/2006) with the aim of restricting the export of waste that has harmful effects on the environment and health in third countries, with a focus on problematic waste streams, and the fight against illegal shipments.

We support this action, as well as measures to further promote recycling in Europe. The illegal and improper disposal of packaging waste in mainly Asian countries has severely damaged confidence in functioning disposal systems in the EU. **Under no circumstances should the EU export its waste problems to third countries where this could have negative effects on the environment and health**. Moreover, plastic waste is our raw material in a circular economy and investments for recycling should be done in the EU.

Further measures on waste prevention and circularity

The new Commission’s aim to halve the overall amount of non-recycled residual municipal waste by 2030 is welcomed but very ambitious. A prerequisite to reach this would be to **stop the landfilling of residual municipal waste** much earlier than 2035 and more ambitiously regarding the amount. This is also one of the scientific recommendations with the highest priority, both in terms of content and time (EASAC 2020). So far, **still 3.3 million tonnes (18.5%) of plastic packaging from municipal waste streams are buried in landfills in Europe** each year. In France, 31% of plastic packaging still ends up in landfills. This material is needed in order to secure the raw material streams for plastic packaging in the future.

² Out of 1.022 kt of recyclable household plastics packaging placed on the German market in 2015, only 432 kt entered a recycling facility (GVM 2016).

Also, it does not make sense to invest into the recyclability of plastic packaging if a large amount of the packaging is not collected for recycling but end up in landfills.

Under current EU legislation, Member States are allowed to continue the landfilling of municipal waste until 2035 when this is restricted to 10%. We urge the Commission to close this cheapest outlet inter alia for municipal plastic packaging waste and **bring forward the end of landfill of all recyclable waste in the EU by 2030.**

Policy framework on bio-based and biodegradable or compostable plastics

Plastics can be made of any carbon source, be it fossil or renewable organic matter. Examples on the market are PET bottles, which are made from 30% plant-based raw materials, the production of PE from sugar cane, or pots and bottles made of PLA. So called “drop-in” solutions like bio-based PET or PE are identical to fossil-based plastics and can be recycled all together in the respective recycling stream. Other bio-based plastics, like e.g. PLA, are different polymers that add to the number of polymers used in packaging and require separate end-of-life treatment.

Despite the small market share of bio-based plastics, which account for approximately 2% of worldwide plastic consumption, experts forecast growth rates of approximately 67% from 2018 to 2023. In France, the use of biobased plastic in packaging increased by 80% between 2017 and 2018. Bio-based recyclable “drop-in” plastics are likely to expand in various packaging markets, i.e. in the beverage sector, organic produce and fast-moving consumer goods (FMCG) markets (e.g. packaging for detergents). Bio-based compostable plastics have grown considerably in legally privileged markets like in Italy, France and Spain (e.g. for lightweight plastic carrier bags) or in waste management product markets (e.g. bio-waste bags). The packaging market will be the leading area of application among all application areas in the foreseeable future (over 50%). New bio-based packaging plastics are currently being developed. Our industries are targeting bio-based plastics with relevance for packaging applications, i.e. bio-based PE and PET, PLA, biodegradable as well as bio-based polyester-based compounds, and cellulose-based plastics.

There are only few meaningful applications for bio-degradable plastics in packaging, e.g. when the packaging is disposed of with food waste (e.g. service packaging). Bio-degradation does not provide a solution to littering issues as the plastics do not decompose easily in nature but need defined conditions to degrade. As with energy recovery, the end products of complete bio-degradation are CO₂ and water. However, the energy bound in the plastic is lost and cannot be used in power generation. Recycling and even energy recovery are preferable against bio-degradation.

Under the conditions of climate neutrality, plastics made from renewable raw materials will gain in importance alongside recycled materials. IK and Elipso therefore call on the Commission to **define the framework conditions for sustainable production, use and disposal of bio-based materials** at an early stage in order to avoid adverse effects on the environment and land use conflicts in their production and provide for sound end-of-life solutions in the case of new polymers.

Sustainable product policy framework

In view of the announced “*Sustainable Product Policy Framework*” the Commission should aim at completing the picture by taking into consideration the multiple benefits plastic packaging are bringing with regards to reducing energy consumption and the carbon

footprint, saving food and natural resources, while securing hygiene and safety. The optimum packaging depends on the product and its logistical chains. Conflicting packaging design targets, e.g. between recyclability and life cycle CO₂ emissions cannot always be avoided.

As a contribution to the strategy for sustainable products, we draw attention to the **Management Guidelines of the Round Table Eco Design of Plastic Packaging**, which were developed by experts from the entire supply chain (<https://ecodesign-packaging.org/en/>). It deals with all environmental aspects of packaging design and describes how to deal with conflicting targets.

Of considerable importance in this context is the announcement that the Commission will suggest to extend the **EU Ecodesign Directive** to non-energy-related products and to include other specific aspects like product, waste, environmental and chemical issues in this regulatory framework. Even though the focus of the Commission seems to be more on electronics, textiles, furniture etc., plastic packaging is not excluded. We have the concern that an extension of the Ecodesign Directive to “all” products and various criteria would consequently make it an all-encompassing policy intervention and control instrument in the EU. Such a development would be very worrying: It would contradict the market economy principles of the EU internal market and there would be a great danger of arbitrary and administrative intervention for the entire industry in Europe. We also point out that **science does not recommend extending the Ecodesign Directive** with regard to plastics packaging. In the 15 recommendations of the European Academies this idea does not even appear (EASAC 2020). In this context, we also remind the Commission that the establishment of a circular economy will only succeed with a **functioning market economy**.

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