

EUROPEAN COMMISSION, DG ENVIRONMENT

# ASSESSMENT OF OPTIONS FOR REINFORCING THE PACKAGING AND PACKAGING WASTE DIRECTIVE'S ESSENTIAL REQUIREMENTS AND **OTHER MEASURES TO REDUCE THE GENERATION OF PACKAGING WASTE**

FRAMEWORK CONTRACT ENV.F.1/FRA/2019/0001

## WASTE PREVENTION WORKSHOP - SUMMARY PAPER



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# 1 Introduction

This workshop forms part of the stakeholder engagement for the project "Assessment of options for reinforcing the Packaging and Packaging Waste Directive's essential requirements and other measures to reduce the generation of packaging and packaging waste". The objective for this study is to assist the Commission in developing and assessing a set of options to:

- > Reinforce the essential requirements with a view to improving design for reuse and promoting high quality recycling, as well as strengthening their enforcement; and achieve a reduction in the generation of packaging and packaging waste.

The workshop primarily relates to options for the prevention of waste (i.e. packaging reduction), with the main aims to:

- > Allow stakeholders to input into the definition of 'over-packaging';
- > Present and gather feedback from stakeholders on the proposed measures to minimise the occurrence of avoidable or excessive packaging;
- > Capture ideas surrounding the impacts that may need to be considered in the impact assessment process; and
- > Support the development of objectives for potential revisions to the PPWD.

The Packaging and Packaging Waste Directive's (PPWD) objective is to prevent the negative impact of packaging on the environment and to ensure the functioning of the internal market. The Packaging and Packaging Waste Directive, as last revised in 2018, specifies with regard to its objective that "to that end, this Directive lays down measures aimed, as a first priority, at preventing the production of packaging waste and, as additional fundamental principles, at reusing packaging, at recycling and other forms of recovering packaging waste and, therefore, at reducing the final disposal of such waste" (Article 1).

In addition, there is one Article relating to waste prevention, Article 4:

*1. Member States shall ensure that, in addition to the measures taken in accordance with Article 9 [the Essential Requirements], other preventive measures are implemented in order to prevent generation of packaging waste and to minimise the environmental impact of packaging.*

*Such other preventive measures may consist of national programmes, incentives through extended producer responsibility schemes to minimise the environmental impact of packaging, or similar actions adopted, if appropriate, in consultation with economic operators, and consumer and environmental organisations, and designed to bring together and take advantage of the many initiatives taken within Member States as regards prevention.*

*Member States shall make use of economic instruments and other measures to provide incentives for the application of the waste hierarchy such as those indicated in Annex IVa to Directive 2008/98/EC or other appropriate instruments and measures.*

Subsequent policy documents –the European Green Deal<sup>1</sup> and the new Circular Economy Action Plan<sup>2</sup> – both call for further action relating to waste prevention. The new element called for in the European Green Deal is that it seeks to reduce waste significantly, including through targets and measures for tackling over-packaging and waste generation. The Annex to the Commission's new Circular Economy Action Plan<sup>3</sup>, announces for 2021 an initiative entitled 'review to reinforce the essential requirements for packaging and reduce (over)packaging and packaging waste'. With regard to the scope of this initiative, the new CEAP specifies that the review of the PPWD will seek to reinforce the essential requirements with a focus on *inter alia* driving design for re-use and recyclability of packaging as well as "consider other measures, with a focus on

- reducing (over)packaging and packaging waste, including by setting targets and other waste prevention measures'
- reducing the complexity of packaging materials, including the number of materials and polymers used, and
- 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".

In spite of these legislative commitments, packaging waste generation within the EU is currently at its highest ever level, both in absolute terms and in terms of packaging waste generated per capita. While a shift in packaging materials, e.g. from glass to plastic, combined with light-weighting efforts within material categories, has led to an increase in packaging material efficiency and a net decline (by just over 10% between 2007 and 2016) in packaging weight per € of GDP, the rate of per capita GDP growth, combined with population growth, has resulted in far more packaging overall, outstripped the efficiency gains made in some areas. So, while some progress has been made to decouple growth in packaging waste from economic growth, the efforts to date have not been sufficient to combat absolute growth in packaging waste.

Recent efforts by brands and retailers to move away from plastic, and to use packaging that is 100% recyclable, are also resulting in an increased use of fibre-based packaging and some reversion to glass. Various market forecasts cite the pressure to reduce single use plastic as a major factor diverting substantial traffic from plastic packaging to more recyclable glass and paper-based packaging<sup>4 5</sup>. This may be considered good in some senses, e.g. in regard to making recycling more intuitive for citizens, but is a problem in weight terms, threatening to increase packaging weight further, and in some cases in carbon terms; notably single use glass which has a far higher carbon footprint (per functional unit) than standard single use plastic, aluminium and paper-based packaging.

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<sup>1</sup> [https://ec.europa.eu/info/sites/info/files/european-green-deal-communication\\_en.pdf](https://ec.europa.eu/info/sites/info/files/european-green-deal-communication_en.pdf)

<sup>2</sup> <https://ec.europa.eu/environment/circular-economy/>

<sup>3</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1583933814386&uri=COM:2020:98:FIN>

<sup>4</sup> <https://www.mordorintelligence.com/industry-reports/paper-packaging-market>

<sup>5</sup> <https://www.researchandmarkets.com/reports/3786661/glass-packaging-market-forecast-2020-2025>

While there are many case study examples of progress being made to lightweight and reduce the volume of packaging over the last 20+ years, often spurred on by the need to reduce costs, there are equally many examples of packaging that remains heavier and larger than necessary, as often evidenced by comparison with the same products from other brands where less packaging is used. The problem is far from confined to e-commerce, despite the publicity this receives, with significant over-packaging issues being evident in food and drink (particularly in glass), home and hygiene, hardware, cosmetics and other sectors, including food supplements. It should also be noted that the Essential Requirements as they stand, have been very poorly enforced in most Member States regarding minimisation, not least due to the numerous performance criteria (allowed in regard to defining the 'critical areas' that limits minimization) provided under EN 13428 which make non-compliance very difficult to prove. This has resulted in only a very small proportion of Member States enforcing the Essential Requirements, and very few prosecutions.

Some examples of different types of over-packaging are shown in the figures below.

Figure 1: Excessive weight ratio: 28g product to 25g of (glass) packaging



Figure 2: Excessive volume and weight ratio; 60g of product to 110g of (thick-walled plastic) packaging (hair-care product)



Figure 3: Excess packaging to product ratio; >60% void space (20 in box that holds 100)



Figure 4: Excessive volume ratio: Transit box ~100% larger than inner product box



Figure 5: Unnecessary packaging element: 9g of extra card vs 11g of pouch (82% in excess)



The objective of the workshop is to introduce the suggested measures to stakeholders, and to gather feedback on the advantages, disadvantages, and challenges in their implementation.

## 2 Defining Over-Packaging and Revisions to the Current Approach

Annex II of the Essential Requirements for Packaging states that:

*“Packaging shall be so manufactured that the packaging volume and weight be limited to the minimum adequate amount to maintain the necessary level of safety, hygiene and acceptance for the packed product and for the consumer”.*

There are, of course, conflicting opinions as to what constitutes ‘over-packaging’: some industry stakeholders dispute the existence of over-packaging or unnecessary packaging, yet at the same time, it is a prominent issue for consumers, and especially, for packaging of some specific product types (particularly toys, cosmetics, hardware, some food items and food supplements) and in regard to secondary e-commerce and other distribution packaging (B2C and B2B).

In terms of criteria and reference points, we believe that this can be framed in terms of three categories of over-packaging:

1. Functionally necessary packaging which is excessive in terms of being above the optimum volume or weight;
2. Packaging that is unnecessary in that it serves no essential function (in terms of the revised set of performance criteria that define the ‘critical area’ limiting minimisation – see below) and could be avoided without the need for an alternative; and
3. Single-use packaging that could be replaced in practice by a reuse/refill system.

These three types of over-packaging noted above can best be addressed through a set of measures, so as to:

- i) drive a significant reduction in packaging waste; whilst
- ii) not creating further product waste; and whilst
- iii) not being too draconian in regard to EU business needs and preventing consumer choice.

It is suggested that these measures could potentially involve the following Options:

1. The same broad approach as now, but allowing a reduced set of performance criteria to define the ‘critical area’ that limits minimisation (weight and volume within a packaging category/application), hence facilitating enforcement action;
2. A top-down target (e.g. by sector or cohort) for the reduction of single use packaging (e.g. by weight);
3. A restriction/penalty for placing on the market packaging that is deemed excessive relative to defined criteria and set reference points (weight and/or volume based);
4. A ban from the market where very specific types of packaging are deemed unnecessary altogether; and
5. A reuse target, for Member States to enforce, where suitable reuse and refill systems exist.

The first four of these are the subject of this workshop, reuse and refill being dealt with separately.

This multi-faceted approach is in line with the approach taken in the SUP Directive, with some packages being progressively phased out, some being subject to criteria-based restrictions as to what can be placed on the market, and others being made the target of a reduction (in this case a shift in the market share accounted for by refillables).

Any of these measures would need to be phased in over a period of time, to give producers and retailers a period to adjust, as necessary, their activities. Each specific measure could be targeted at selected product groups where the problem is mostly thought to exist.

### **Option 1 – Low Ambition Option. Modifications to the Current Approach**

Standard EN 13428 provides a procedure for assessing compliance on prevention by source reduction. This procedure relies on identifying a 'critical area', which is a specific performance criterion that prevents further reductions in the weight and/or volume of packaging. There is little detail in the Standard about how to test and verify the 'critical area', but the performance criteria are specified as:

- > Product protection
- > Manufacturing process
- > Packing/ filling process
- > Logistics
- > Product presentation and marketing
- > User/ consumer acceptance
- > Information
- > Safety
- > Legislation
- > Other issues

As noted in previous studies<sup>6</sup>, this list has no hierarchy or weighting within the criteria, all being considered equal, and consequently product presentation and marketing are considered as important as product protection or safety, for example. As noted earlier, this wide range of subjective performance criteria has effectively made this Essential Requirement almost impossible to enforce in a meaningful way. The approach taken by the Standard also effectively ranks packaging reduction at source below even subjective criteria like consumer acceptance and marketing considerations.

While clearly these two characteristics are very important to the brand and retailer, for example to command 'on-shelf presence' or improve customer convenience (even of a small proportion of the market), should these reasons alone be considered more important than sustainability considerations, i.e. enough to allow packs that are bigger and heavier than they would otherwise need to be (given the other functional necessities), having in mind the climate and resource use objectives of the Green Deal?

It is therefore suggested that the performance criteria included in EN 13428 on prevention by source reduction should be revised to focus only on core functionality criteria that reflect product protection, safety and legal requirements, e.g. for information labelling, and hence to reduce emphasis on more subjective criteria that it is believed are allowing some

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<sup>6</sup> Packaging Waste - Consumer Council of the Austrian Standards Institute, March 2005

excessive packaging to be produced, and inhibiting the ability to enforce the Essential Requirements in regard to reduction at source.

It is suggested that the Directive should include the core performance criteria (for determining the 'critical area') within it as an Annex, rather than under a voluntary standard as currently done under *EN 13428*, and that the core list of performance criteria is reduced to the following:

1. *Product protection limitations (to prevent significant product waste)*
2. *Manufacturing process limitations (handling/speed in pack-filling)*
3. *Logistics limitations (to allow appropriate handling in distribution)*
4. *Information requirements (for retailers and consumers)*
5. *Safety considerations (e.g. in regard to pack opening by consumers)*
6. *Legislation (i.e. other legal requirements)*

In other words, it is suggested that marketing and consumer acceptance (or convenience) alone should no longer be allowed to be the limiting factors that cause a pack to be larger or heavier than they would otherwise be. This is clearly a critical point that governs any further potential to further reduce packaging waste. This approach would reduce some of the subjectivity faced by enforcement authorities in Member States, and hence allow the ability to be firmer in enforcing the Directive requirements on minimisation, prosecuting as appropriate and hence creating a greater need for businesses to focus more seriously on minimisation.

It is important to note that the French Authorities are already taking steps in this direction for single use plastic packaging under Article L. 541-10-17 of the Environmental Code, where the text includes what the authorities regard as 'essential technical function' (underline added):

*A goal to work towards a 100% reduction in unnecessary single-use plastic packaging, defined as those that do not have an essential technical function, such as a product protection, health and integrity function, transport, or regulatory information support, is set by 31 December 2025.*

It is also suggested that the current definition (Annex II of the Essential Requirements) regarding minimisation is adapted as follows with the underlined portion being the major change:

*"Packaging shall be manufactured and used such that the packaging volume and weight be limited to the minimum amount that still allow that the core areas of functionality (set out in Annex X) are maintained. An excess packaging is defined as one where, subject to an exemptions or evidence that a core performance criteria otherwise limits the pack size and weight, the amount of packaging exceeds one or more of the limiting ratios and benchmarks set out for the relevant product/sub-product category for primary packaging, and in relation to secondary packaging for e-commerce and other distribution channels. The threshold ratios and benchmarks are as defined under an Implementing Act."*

This definition also sets out the idea of ratios and benchmarks, which are discussed further below.

### 3 New Approaches to Addressing Cases of Excessive Packaging

So as to address known areas of over-packaging, the following measures are put forward for discussion.

#### **Option 2 – Top-Down Reduction Targets**

It may be possible to introduce reduction targets for an industry sector (such as toys or cosmetics) or a cohort of companies (e.g. those over a certain size in several sectors), whereby the group would be asked to reduce the overall packaging weight placed on the market, e.g. at a Member State level or EU level. This would be something that would need to be done via a collaborative approach (as per the current Plastic Pacts) and a mandatory target would rest with the relevant industry association or other lead organisation. The target could be set through negotiation with the lead organisation, so as to establish a figure that is deemed reasonable for the sector/cohort as a whole to achieve in given timescales (e.g. to 2025). Voluntary agreements are not considered reliable enough to ensure sufficient progress in reasonable timescales.

Some Member States are already taking this type of approach, e.g. as described below for France in regards to plastic packaging:

*The reduction objective under Article L. 541-10-17 of the Environmental Code is set collectively, for all single-use plastic packaging marketers, at 20%, of which at least 50% are obtained through the reuse of packaging, by 31 December 2025, taking into account the specific potential of the product categories for which this packaging is intended.*

*This objective is calculated based on the tonnage of plastic incorporated into the single-use packaging put on the market, compared to the 2018 reference year. From 1 January 2023 a complementary indicator is set up to monitor the evolution of the number of Consumer Sales Units marketed in household single-use plastic packaging and of the number of units marketed in industrial and commercial single-use plastic packaging.*

A potential concern here is that a) the lead organisation may not be able to sufficiently drive action within its member businesses unless they were contractually obligated (which would be complex) and b) progress would be difficult to monitor accurately across a large cohort of companies. The difficulty with giving individual companies firm top-down targets is that it is difficult to assess what their reduction potential, and hence target, should be across a wide range of products. This then risks putting too much pressure on brands to reduce packaging which in turn could result in product waste, which is clearly counter-productive in environmental and commercial terms.

#### **Option 3 – Bottom-Up Reference Points for Regulators**

Given the difficulties in setting reduction targets 'top-down', it is suggested that a more bottom-up approach could be taken. The aim here would be to provide the regulatory authorities and businesses much greater clarity on where the boundaries are through setting of reference points by product category or sub-category.

It is suggested that a two-stage test is applied:

- > benchmarking (by weight) to drive pack weights down towards 'best in class'; a 'top-runner' approach to keep continuous attention on lightweighting within a product category.
- > product to pack ratios (weight and/or volume based) to deal with other issues that are a) apparent across a whole product sub-category (hence minor weight variation are swamped) or b) where volume is more of a problem in a primary pack or secondary pack (e.g. in e-commerce); the latter cutting across a wide range of product groups and hence not suitable for benchmarking.

The above approaches could be considered complimentary, dealing with different aspects of over-packaging, in different product groups.

### **3a: Best-in-Class Benchmarking**

The aim here would be to minimise packaging in a more systematic way, working steadily to bring the whole market towards 'best-in-class' benchmarks. It is suggested that this is done through a weight-based measure, rather than a volume based one, using benchmark information for a particular product sub-group of products (e.g. glass wine bottles or plastic yoghurt pots of a particular size).

The vast majority of weight reference data is already available from packaging EPR compliance submissions by producers across the EU, given that EPR fees are generally weight-based, and are included in standard retail databases used by the packaging PROs and third parties. The data here can be anonymised so as not to disclose confidential information from brands and retailers. This approach could be used as a means to define over-packaging within a sub-category, and provide a single point of reference for producers and enforcement bodies. Producers that exceed the thresholds would have their product excluded from the market or otherwise penalised, e.g. through a fine.

In this case it would be unreasonable to expect all producers to meet the lowest weight since there may be only particular packaging suppliers that offer the 'best-in-class' item, and all producers may not have access, or there may be other technical reasons why the lowest weight item is not useable by a particular producer, for example due to particular production line characteristics. Consequently, we would suggest that a reasonable margin is provided to set the threshold, e.g. no more than 120% of the 'best-in-class' (lowest) weight for product group X, and no more than 110% for product group Y<sup>7</sup>.

The sub-categorisation for the benchmarks will need to be fine grained if this approach is to be effective, although we know that the packaging weight data are widely available for almost all individual EU packaging items due to weight-based charging under EPR as already noted. These databases are regularly updated for commercial use and hence it would only be necessary for the Commission to develop an EU-wide tool that uses such databases, and provides the benchmark data in an anonymised and easily accessible format. This EU wide approach would also still allow the single-market to operate without hinderance.

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<sup>7</sup> It is worth noting that in some rare cases a whole product sub-category may have a high weight or volume, and the Step 1 assessment described earlier could, in those cases, offer the limiting criteria. Step 1 and Step 2 are therefore complimentary, and including void-space considerations as well as weight-based considerations.

The 'best-in-class' weight would, of course, need to be updated regularly (e.g. every year), although this is already done to a degree in terms of the commercially available databases utilised by the PROs and packaging compliance service consultancies. This provides a dynamic 'top-runner' approach, i.e. a benchmark that is continuously refined. As noted above, the reference database would be held at the EU level, but utilised by Member States. To minimise the administration burden on the Member State regulatory authorities, a requirement could potentially be made for packaging EPR schemes to ensure that this threshold is checked when compiling the annual data for their member producers.

Rather than excluding products, or fining thresholds exceedances, the approach could alternatively be used to modulate fees under EPR, complimenting recyclability criteria.

### **3b: Pack-to-Product Weight Ratios**

Another possible approach would be to define limiting pack-to-product ratios by weight, excluding or otherwise penalising, those that exceed these thresholds. This approach would be either an alternative to Option 3a, or a compliment, where the whole sub-category of products is considered excessive (e.g. hospitality single serve items) and a benchmarking approach within that sub-category would not be very effective.

Examples of packs that employ a heavy pack for a lightweight object, such as a small amount of shampoo or food in a single-serve pack (plastic or glass - an extreme example being dried saffron in a glass jar), or a small plastic product in a cardboard box, are examples of packs that can have a higher pack weight than product weight, which seems inherently wasteful and high carbon impact. Clearly this relates to the relative pack and product size, as well as the product and pack materials, but offers a potentially way to screen for some extreme examples of packaging excess.

Products are generally sold by weight and packaging weights are (relatively) well-known and reported in regard to compliance with packaging legislation and weight-based EPR fees as applied in most EU countries. Consequently, it is suggested that a screening criteria should be an over-arching 'packaging to product weight ratio'. This would need to be done by material, as material choice has a very significant effect on this ratio.

Product weights themselves vary considerably, however, and hence this affects the product to packaging ratio. Consequently, there would also need to be different ratios for different product categories (e.g. liquids vs dry goods). It is worth noting that these thresholds would be set at a relatively comfortable level, the aim being to eliminate only the very worst offenders, i.e. the top few percent of items that are responsible for a disproportionate share of the over-packaging problem.

This approach is potentially complex, however, with a high administrative burden for the Commission, given the need to define a potentially very large range of threshold ratios by product/material combinations, and potentially in setting exemptions for certain very lightweight products. There is also a potential cross-over here with reuse options (e.g. in this case refilling a shampoo dispenser in a hotel room rather than providing small single-use bottles) and with items that could be considered entirely avoidable as a category (see Option 4).

### 3c – Pack to Product Volume Ratios

Another area of concern is excess packaging volume and void space (including that in transit packaging), and while the detailed data may be difficult to establish en-masse across the market, having a maximum volume ratio (pack to product), or void space threshold, would be a useful reference point for enforcement bodies, and one that compliments a weight-based threshold (3a/b). This is also something that could be roughly assessed visually, in the first instance to identify likely exceedances, and checked in more detail subsequently during regulator investigations.

It is suggested that void space, as a percentage of pack volume, is a better measure than pack to product volume since the product could in some cases be a multitude of odd-shaped items that are difficult to measure. Void space would be defined as the volume not occupied by any of the product, rather than the space between product pieces, where these do not perfectly tessellate. For a pack of cereal, for example, this would be the clear headspace volume left in the inner bag and outer box once the product has settled. This would include any space between double wall layers, false bottoms etc. but excluding the air-space within any material that is by nature multi-skinned, e.g. within corrugated board or insulating extruded PP sheets.

This would need to be done by product type, however, with particular care needed for products that don't tessellate quickly or easily, i.e. the shape of the product parts, and packaging line processes, are such that the product takes some time to settle, certain breakfast cereals being a well-known example, screws in a pack being another. So, for example, there could be a maximum default void space of 10% of the pack volume for 'regular' products, and 20% for those that 'need to settle'. The fragility of a product is also a factor in regard to how much cushioning is required.

Amazon uses an approach of this kind in its Frustration Free Packaging programme, whereby it works with manufacturers and brands to certify packaging that has minimum void space and does not need further transit packaging (i.e. is fit to despatch on its own without an outer box). Amazon has been working with various product groups, but most notably toy manufacturers. E-commerce offers an advantage over bricks and mortar retail here in that the way the product physically looks on a shelf is not important, and images can be used as necessary on a web site to display the product 'virtually' and encourage purchases.

#### **Amazon Frustration Free Packaging Programme**

The Amazon frustration free packaging (FFP) program certification establishes several requirements, including those leading to packaging reduction, based on the product measurements.<sup>8</sup> According to the guidelines for this program certification, the product to packaging ratio or box-utilization score must be greater than 50% for non-fragile products and greater than 30% for fragile products such as glass, porcelain, ceramic, clay, liquids, etc. The packaging certification program defines also minimum packaging dimensions for the EU market, i.e. larger than 203.2 mm (length) x 119.9 mm (width) x 9.5 mm (height). Any products with smaller packaging in any dimension cannot qualify for FFP, as it will require additional secondary packaging for handling in a fulfilment centre.

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<sup>8</sup> Amazon (2019), Amazon Frustration-Free Packaging Program Certification Guidelines.

It is understood that the Chinese authorities are also currently considering such an approach to restricting excessive package of foods and cosmetics (primary sales packaging) by setting thresholds for the void space to product volume ratio (referred to as 'interspace' ratio). A standard is being produced which uses a formula to calculate the ratio by product type (a coefficient being used in the equation for each product group). It is suggested that product volumes for complex shapes can be assessed/checked by means of water displacement.

In addition, it should be noted that where a 2D packaging is used, such as a card with a blister pack on it, the volume ratio or void space argument can fall down. A further possibility here is having a pack surface area to product volume ratio, as suggested by a study by the Austrian Standards Institute<sup>9</sup>. The study argued that such a ratio - as well as allowing for 2D packaging - also encourages more environmentally friendly geometric styles of packaging, such as a card combined with a blister pack. This same Austrian study took an empirical approach, sampling various types of products, which suggested that for many products the limit ratio (pack surface area to product volume) should be 3.2, but with various exceptions and exemptions necessary.

As with the weight ratio approach (3b), the thresholds would be set in such a way as to identify only the worst offenders, and hence the thresholds can be set with quite a large tolerance to allow for some variety within a product category. For primary packaging, however, there would (like Option 3b) still be the need to define a potentially large range of threshold ratios by product/material combinations, with could be complex in administrative terms.

This volume ratio approach could, however, be more readily used for transit packaging, such as the boxes used in distribution, including e-commerce. Volume ratios are relatively simple to assess given that this a) often involves a rectangular box in a rectangular box and b) there is no uncertainty in regard to marketing demands since, as noted above, transit packaging does not play a significant sales role as the product has already been sold, and the customer experience is related more to the primary pack.

Bags within bags, or boxes within bags, could be dealt with through a pack surface area to product surface area or volume ratio, depending on the nature of the product.

### **Development of benchmarks and ratios**

As noted above, the 'best-in-class' benchmark weights should be readily available, and only need to be made available via a standard tool at the EU-wide level, allowing producers and regulators a simple reference point and associated legally-binding thresholds.

The pack to product ratios, weight-based or volume based, would, however, need far more development work through consideration of product variations and pack material variations. Transit (tertiary) packaging is potentially a less complex proposition, however any such approach would still require further study and subsequent implementing acts to support the approach being set out in the Packaging and Packaging Waste Directive.

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<sup>9</sup> Packaging Waste - Consumer Council of the Austrian Standards Institute, March 2005

#### **Option 4 – Measure Addressing Cases of Avoidable Packaging**

There are a number of packaging items that are already being removed by some of the more pro-active brands and retailers in the EU, with a significant degree of consensus for example in relation to signatories of the various Plastic Pacts and Ellen MacArthur Global Commitment. In these cases, where the packaging is not seen as being strictly necessary to protect and preserve the product, it seems appropriate to aim for an outright elimination, to be phased in over time, rather than a criteria-based approach as indicated above.

It is therefore suggested that the following items, which have some precedent for removal already, could be gradually eliminated from the EU market:

- > Single use multi-pack collation packaging for cans, tins, pots, tubs, and snacks
- > Single use multi-pack collation netting for fruit and vegetables
- > Single use plastic bags for in-store loose fruit and vegetable picking by consumers
- > Single serving food pots, e.g. of preserves or sauces, for hospitality eating-in
- > Single use hotel 'miniatures' for shampoo, shower gels, hand and body lotions etc.
- > Internal plastic trays (within card) e.g. trays for premium biscuits, where additional product damage does not result.
- > Packaging with double walls, false bottoms and other means to create the impression that the product volume is greater than it is.

The below categories could potentially also be included given suitable alternatives and where food waste would not increase:

- > Milk, salad dressing and other condiment mini-pots, sachets and tubes/sticks for on the go application; and
- > Fruit and vegetable punnets/trays e.g. grape, tomato, mushroom etc.

Such a list could be reviewed and potentially added to on an annual basis as new examples of packaging avoidance are proved by best-practice initiatives by retailers and brands. Should these lists need to be amended, this should be possible via delegated acts.

It may not be necessary to have a definition in regard to unnecessary packaging, however this could potentially be set out as follows:

*"Packaging shall not be placed on the EU market where it is unnecessary in that it, a) serves no clear core performance function (as set out in Annex X) and b) where there is a viable un-packaged or un-grouped (in the sense of multi-packs) equivalent. An initial list of banned items for the EU is set out in Annex Y. The period in years for phase out to occur is also set out for each banned item in the same Annex."*

## 4 Enforcement and monitoring

The Options set out above under Sections 2 and 3, aim to assist enforcement bodies in establishing the use of excess packaging, and take action against those in breach of thresholds. For producers, thresholds offer clarity in terms of what they can and cannot place on the market, and the potential consequences of exceeding thresholds.

The thresholds could potentially be used as a guide for regulators, rather than as a hard and fast boundary. SMEs, below a certain turnover threshold, could potentially be exempted from certain requirements and/or sanctions, while pure sales platforms which do not sell themselves, such as e-bay, would be treated differently to companies that also undertake fulfilment and use transit packaging.

The measures suggested could be monitored through random inspections by enforcement agencies; potentially assisted through use of mobile x-ray devices to avoid the package being opened. An EU portal could also be established so as to facilitate the reporting of perceived exceedances of publicised thresholds, making the measures self-regulating to a degree, utilising consumer and competitor reporting to assist regulators.

As a further approach, a label could be mandated for application to transit packaging to incentivise consumers to report incidents of over-packaging to the portal mentioned above.