

The Polish Confederation Lewiatan postulates to the Trilogue phase on Packaging and Packaging Waste Regulation (PPWR)

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1. Executive summary

In view of the trilogue negotiations on the Packaging and Packaging Waste Regulation proposal (PPWR), The Polish Confederation Lewiatan (Lewiatan) – the voice of the industry in Poland – postulates the following directions in the Trilogue process.

1. Article 4 – Free movement
 - a. Lewiatan supports merging of paragraph 2 and 3 as proposed by the Council.
 - b. Lewiatan recommends editing paragraph 4 as to not allow Member States to introduce national sustainability or information requirements.
 - c. Lewiatan recommends deleting paragraph 5 as per Parliament’s position.
2. Article 6 – Recyclable packaging
 - a. Lewiatan supports the EP position to set January 2027 as the deadline for the Commission to adopt delegated acts establishing Design for Recycling criteria.
3. Article 7 – Minimum recycled plastic content
 - a. Lewiatan recommends calculating the minimum RPC based on an average of the total number of units placed by a producer on the internal market per year.
 - b. We fully support the intention of the EC to boost the market for recycled plastics by mandating a minimum amount of recycled material in plastic packaging. However, the proposed text of the Article 7(1) is highly problematic. It might imply that the packaging’s constituents, such as plastic layers in paper-based packaging be required to contain recycled content. The mandatory rContent targets for packaging other than packaging that is predominantly made of plastic would be problematic. For these reasons, **we urge you to consider the following amendments to the text**, for the recycled content rules to be applied to the packaging as a whole
4. Article 9 + Annex IV – Packaging minimisation
 - a. Lewiatan supports the EP proposal for article 9(1) foreseeing the implementation to January 2030, and adding a reference to “shape” to ensure that packaging minimisation can occur while preserving packaging differentiation, product/brand recognition, and other packaging functions as per Annex IV, Part I.
 - b. With the same aim, we also support the Parliament’s suggestion to enshrine IPRs in Annex IV.
 - c. Lewiatan recommends supporting the Council proposal covering design rights and trademarks in paragraph 2, however deleting the last sub-paragraph introducing a timebound limitation excluding IPRs protected after the entry into force of the regulation.
 - d. Lewiatan recommends deleting the second half of paragraph 2a (EP)/4a (Council), requiring maximum adequate weight and volume limits, wall thickness and maximum empty space for “most common packaging types and formats”.
5. Article 11 – Labelling of packaging
 - a. Lewiatan supports the EP position on paragraph 1 related to the exclusive use of pictograms to display information on material composition of packaging.
 - b. We recommend to set a 36-month deadline for the implementing acts on the labelling information on packaging reusability envisaged in paragraph 1 and 2.
 - c. Lewiatan supports the EP position on paragraph 4 allowing the use of digital labels for small packaging which – because of their size or nature – cannot provide all the

mandatory information requirements in a physical form.

- d. Lewiatan recommends that the Commission is granted 12 months after the entry into force of the regulation to adopt the implementing acts envisaged in paragraphs 5 and 6.

6. Article 26 - Re-use and refill targets

- a. Lewiatan supports the EP version of the paragraph 12, first subparagraph, as it set up a transitional period for transport packaging used by an economic operator - to be reusable from 1 January 2030 (item 477 in the Council 4 columns document)
- b. For the same reason, Lewiatan supports EP version of the paragraph 13, first subparagraph, as it set up the transitional period for transport packaging delivering products to another economic operator within the same Member State – to be reusable from 1 January 2030 (item 481 in the Council 4 column document).
- c. Supporting for the European Parliament's both on the entirety of Article 8 and excluding transport packaging for dangerous goods from the entire scope of the PPWR.
- d. Transport packaging in the proposal is also subject to either reusability or refillability targets. While the overarching spirit in encouraging more circularity here is sound, this may not be feasible for certain goods. The packaging used to transport dangerous goods, for instance those with carcinogenic, mutagenic, or toxic for reproduction (CMR) properties, is often single-use due to the very nature of these goods.

7. Annex V – Restrictions on certain packaging formats

- a. Lewiatan recommends a mixed approach between the Commission and Parliament's positions, namely maintaining clear volume and weight thresholds (50ml and 100g).
- b. Lewiatan recommends deleting point 5b restricting secondary packaging for products from the final text of the regulation.

2. Lewiatan's priorities: articles 4, 6, 7, 9, 11, 26, Annex IV and V

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| Article 4 – Free Movement | | | |
| 2. Member States shall not prohibit, restrict or impede the placing on the market of packaging that complies with the sustainability requirements set out in Articles 5 to 10 of this Regulation. | 2. Member States shall not prohibit, restrict or impede the placing on the market of packaging that complies with the sustainability requirements set out in Articles 5 to 10 of this Regulation. | 2. Member States shall not prohibit, restrict or impede the placing on the market of packaging that complies with the sustainability, labelling and information requirements set out in Articles 5 to 11 . | 2. Member States shall not prohibit, restrict or impede the placing on the market of packaging that complies with the sustainability, labelling and information requirements set out in Articles 5 to 11 . |
| 3. Member States shall not prohibit, restrict or impede the placing on the market of packaging that complies with the labelling and information requirements set out in Article 11 of this Regulation. | 3. Member States shall not prohibit, restrict or impede the placing on the market of packaging that complies with the labelling and information requirements set out in Article 11 of this Regulation. | Deleted. | |
| 4. In case Member States choose to maintain or introduce national sustainability requirements or information requirements additional to those laid down in this Regulation, those requirements shall not conflict | 4. In case Member States choose to maintain or introduce national sustainability requirements or information requirements additional to those laid down in this Regulation, those requirements shall not conflict | 4. If Member States choose to maintain or introduce national sustainability requirements or information requirements additional to those laid down in this Regulation, those requirements shall not conflict | 4. In case Member States choose to maintain or introduce national sustainability requirements or information requirements additional to those laid down in this Regulation, those requirements shall not conflict |

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| with those laid down in this Regulation and the Member States shall not prohibit, restrict or impede the placing on the market of packaging that complies with the requirements under this Regulation for reasons of non-compliance with those national requirements. | with those laid down in this Regulation and the Member States shall not prohibit, restrict or impede the placing on the market of packaging that complies with the requirements under this Regulation for reasons of non-compliance with those national requirements. | with those laid down in this Regulation. Member States shall not prohibit, restrict or impede the making available on the market for the first time within the territory of a Member State of packaging that complies with the requirements under this Regulation for reasons of non-compliance with those national requirements. | down in this Regulation. Member States shall not prohibit, restrict or impede the placing on the market of packaging that complies with the requirements under this Regulation for reasons of non-compliance with those national requirements. |
| 5. In addition to the labelling requirements laid down in Article 11, Member States may provide for further labelling requirements, for the purpose of identifying the extended producer responsibility scheme or a deposit and return system other than those referred to in Article 44(1). | Deleted. | 5. In addition to the labelling requirements laid down in Article 11, Member States may provide for further labelling requirements, for the purpose of identifying a deposit and return system or by means of standardised digital marking technology the extended producer responsibility scheme or a deposit and return system. Member States shall not prohibit the affixing of labels related to deposit and return system in place in other Member State. | Deleted. |
| <p>Justification</p> <ul style="list-style-type: none"> • In line with the objective of internal market harmonisation of the proposal, Lewiatan supports the merging of paragraph 2 and 3 proposed in the Council General Approach. • However, the wording of paragraph 4 and 5 proposed by the Commission contradicts this objective. Member States should not be able to | | | |

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| <p>introduce national sustainability requirements or information requirements additional to those laid down in this Regulation, as this risks to greatly fragment the EU Single Market and disrupt the circulation of packaging and packaged goods in the EU. Companies might be forced to develop different country-specific packaging for the same products, requiring costly and potentially continuous adjustments in their supply chains. This would also reduce market flexibilities in redirecting underperforming products in different Member States, potentially leading to an increase in waste. For the same reason, the replacement of the wording “placing on the market of packaging” with “making available on the market for the first time within the territory of a Member State of packaging” is against the spirit of harmonisation underlying the proposal, and contrary to the EU-wide concept of “placing on the market” defined in the European Commission’s Blue Guide on the implementation of EU products rules 2022. This wording means that a Member State could effectively prohibit a packaged product from entering its market while it is compliant with the Regulation and was already placed on the market. Such replacement should therefore be deleted.</p> <ul style="list-style-type: none"> • Therefore, Lewiatan recommends editing paragraph 4 as to not allow Member States to introduce national sustainability or information requirements. For the same reason, since paragraph 5 allows Member States to provide national labelling requirements on EPR and DRS, Lewiatan recommends deleting paragraph 5 as per Parliament’s position. | | | |
| <h3>Article 6 – Recyclable packaging</h3> | | | |
| <p>4. The Commission is empowered to adopt delegated acts in accordance with Article 58 to supplement this Regulation in order to establish design for recycling criteria and recycling performance grades based on the criteria and parameters listed in Table 2 of Annex II for packaging categories listed in Table 1 of that Annex, as well as rules concerning the modulation of financial contributions to be paid by producers to comply with their extended producer responsibility obligations set out in Article</p> | <p>4. By 1 January 2027 the Commission shall, after consulting the Packaging Forum established under Article 12a and taking into consideration standards developed by the European Standards Organisations, adopt delegated acts in accordance with Article 58 to supplement this Regulation in order to:</p> <p>[...]</p> | <p>4. By 1 January 2028, the Commission shall adopt implementing acts to establish:</p> <p>[...]</p> | <p>4. By January 2027, the Commission shall, after consulting the Packaging Forum established under Article 12a and taking into consideration standards developed by the European Standards Organisations, adopt delegated acts in accordance with Article 58 to supplement this Regulation in order to:</p> <p>[...]</p> |

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| <p>40(1), based on the packaging recycling performance grade, and for plastic packaging, the percentage of recycled content. Design-for-recycling criteria shall consider state of the art collection, sorting and recycling processes and shall cover all packaging components.</p> | | | |
| <p>Justification</p> <p>Lewiatan supports the EP position to set January 2027 as the deadline for the Commission to adopt delegated acts establishing Design for Recycling criteria. Economic operators will rely on these delegated acts to develop recyclable packaging and therefore these rules should be adopted as soon as possible.</p> | | | |
| <p>Article 7 - Minimum recycled content in plastic packaging</p> | | | |
| <p>1. From 1 January 2030, the plastic part in packaging shall contain the following minimum percentage of recycled content recovered from post-consumer plastic waste, per unit of packaging:</p> <p>[...]</p> | <p>1. From 1 January 2030, the plastic part in packaging placed on the market shall, unless this results in non-compliance with food safety requirements laid down at Union level, contain the following minimum percentage of recycled content recovered from post-consumer plastic waste, per packaging format as referred to in Table 1 of Annex II, calculated as an average per manufacturing plant, per year:</p> <p>[...]</p> | <p>1. By 1 January 2030 or three years after the date into force of the implementing act referred to in paragraph 7, whichever is the latest, any plastic part of packaging placed on the market, shall contain the following minimum percentage of recycled content recovered from post-consumer plastic waste, per packaging type and format as referred to in Table 1 of Annex II, manufacturing plant and year:</p> | <p>1. From 1 January 2030, plastic packaging placed on the market, shall contain the following minimum percentage of recycled content recovered from postconsumer plastic waste as a percentage of the total number of units placed by a producer on the internal market, per year:</p> <p>[...]</p> |

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| <p>2. From 1 January 2040, the plastic part in packaging shall contain the following minimum percentage of recycled content recovered from post-consumer plastic waste, per unit of packaging:</p> | <p>2. From 1 January 2040, the plastic part in packaging shall contain the following minimum percentage of recycled content recovered from post-consumer plastic waste, per packaging format as referred to in Table 1 of Annex II, per manufacturing plant, per year:</p> | <p>[...]</p> <p>2. By 1 January 2040, any plastic part of packaging placed on the market shall contain the following minimum percentage of recycled content recovered from post-consumer plastic waste, per packaging type and format as referred to in Table 1 of Annex II, manufacturing plant and year:</p> | <p>2. From 1 January 2040, plastic packaging placed on the market shall contain the following minimum percentage of recycled content recovered from postconsumer plastic waste, as a percentage of the total number of units placed by a producer on the internal market, per year:</p> |
| <p><u>Justification</u></p> <p>Lewiatan recommends calculating the minimum RPC based on an average of the total number of units placed by a producer on the internal market per year.</p> <ul style="list-style-type: none"> • The high diversity in products’ functions and formats means that not all products and packaging types may be able to integrate the same percentage of post-consumer recycled materials and therefore targets per unit of packaging are not realistic for products as proposed by the European Commission. For instance, recycled plastics cannot be indiscriminately used in cosmetics packaging due to safety and performance related reasons. As an example, in a mascara, RPC cannot be integrated into the brush as it does not guarantee the same degree of softness to brush eyebrows. • On the other hand, the “per packaging type and format” conditions proposed by the Council would substantially increase the administrative burdens companies will have to fulfil to certify that minimum RPC requirements. Moreover, the calculation per “manufacturing plant” may discriminate those economic operators specialised in the production of a single or several products and packaging: for example, if a plant is mainly dedicated to the manufacture of fragrances, there will be no possibility for a company to compensate for the technical difficulty to incorporate the minimum amount of recycled content in the pumps of fragrance bottles. This criterion may also create an uneven level playing field between products manufactured in the EU and products imported from abroad. Another practical challenge is the limited and fluctuating availability of recycled plastic material, especially for contact-sensitive packaging, which requires higher quality recycled material to ensure consumer safety. | | | |

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| <ul style="list-style-type: none"> We have noted that in the <i>first draft compromise</i> on article 7(1), the rules on minimum percentage of recycled content apply to “plastic part of packaging” . We fully support the intention of the EC to boost the market for recycled plastics by mandating a minimum amount of recycled material in plastic packaging. However, the proposed text of the Article 7(1) is highly problematic. It might imply that the packaging’ s constituents, such as plastic layers in paper-based packaging be required to contain recycled content. The mandatory rContent targets for packaging other than packaging that is predominantly made of plastic would be problematic: <ol style="list-style-type: none"> Setting mandatory recycled content targets for plastic in e.g paper-based packaging could create a <u>demand-supply imbalance</u>, leading to higher costs and potential supply chain disruptions. Incorporating recycled plastic into e.g. paper-based packaging can pose <u>technical challenges</u>. For these reasons, <u>we urge you to consider the following amendments to the text</u>, for the recycled content rules to be applied to the packaging as a whole. | | | |
| <h3>Article 9 – Packaging minimization + Annex IV – Part I</h3> | | | |
| <p>1. Packaging shall be designed so that its weight and volume is reduced to the minimum necessary for ensuring its functionality taking account of the material that the packaging is made of.</p> | <p>1. By 1 January 2030, packaging shall be designed so that its weight and volume is reduced to the minimum necessary for ensuring its functions, as listed in Annex IV, part 1, and the purpose of the product, taking account of the shape and the material that the packaging is made of.</p> | <p>1. The manufacturer or importer shall ensure that the packaging placed on the market is designed so that its weight and volume is reduced to the minimum necessary for ensuring its functionality taking account of the material that the packaging is made of.</p> | <p>1. By 1 January 2030, packaging shall be designed so that its weight and volume is reduced to the minimum necessary for ensuring its functions, as listed in Annex IV, part 1, and the purpose of the product, taking account of the shape and the material that the packaging is made of.</p> |
| <p>Annex IV, Part 1</p> <p>1. Product protection: packaging design shall ensure the product protection from the point of packaging or filling until the</p> | <p>Annex IV, Part 1</p> <p>1. Product protection: packaging design shall ensure the product protection from the point of packaging or filling until the</p> | <p>Annex IV, Part 1</p> <p>1. Product protection: packaging design shall ensure the product protection from the point of packaging or filling until the</p> | <p>Annex IV, Part 1</p> <p>1. Product protection: packaging design shall ensure the product protection from the point of packaging or filling until the</p> |

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| <p>end use, with a view to prevent significant product damage, loss, deterioration or waste.</p> <p>Requirements may consist of protection against mechanical or chemical damage, vibration, compression, humidity, light, oxygen, microbiological infection, pest, deterioration of organoleptic properties etc. and include references to specific legislation setting out requirements on product quality.</p> | <p>end use, with a view to prevent significant product damage, loss, deterioration or waste.</p> <p>Requirements may consist of protection against mechanical or chemical damage, vibration, compression, humidity, light, oxygen, microbiological infection, pest, deterioration of organoleptic properties etc. and include references to specific legislation setting out requirements on product quality. Protection measures may include necessary anti-tamper, antitheft and anti-counterfeit provisions.</p> | <p>end use, with a view to prevent significant product damage, loss, deterioration or waste.</p> <p>Requirements may consist of protection against mechanical or chemical damage, vibration, compression, humidity, moisture loss, oxidation, light, oxygen, microbiological infection, pest, deterioration of organoleptic properties etc. and include references to specific legislation setting out requirements on product quality.</p> | <p>end use, with a view to prevent significant product damage, loss, deterioration or waste.</p> <p>Requirements may consist of protection against mechanical or chemical damage, vibration, compression, humidity, moisture loss, oxidation, light, oxygen, microbiological infection, pest, deterioration of organoleptic properties etc. and include references to specific legislation setting out requirements on product quality. Protection measures may include necessary anti-tamper, antitheft and anti-counterfeit provisions.</p> |
| <p>Annex IV, Part 1</p> <p>2. Packaging manufacturing processes: The packaging design shall be compatible with the packaging manufacturing and filling processes.</p> | <p>Annex IV, Part 1</p> <p>2. Packaging manufacturing processes: The packaging design shall be compatible with the packaging manufacturing and filling processes.</p> | <p>Annex IV, Part 1</p> <p>2. Packaging manufacturing processes: The packaging design shall be compatible with the packaging manufacturing and filling processes. <i>The packaging manufacturing processes may determine packaging design elements such as the shape of a container, thickness tolerances, size, feasibility of tooling, specifications minimising waste in manufacturing. The processes operated by manufacturer of</i></p> | <p>Annex IV, Part 1</p> <p>2. Packaging manufacturing processes: The packaging design shall be compatible with the packaging manufacturing and filling processes. <i>The packaging manufacturing processes may determine packaging design elements such as the shape of a container, thickness tolerances, size, feasibility of tooling, specifications minimising waste in manufacturing. The processes operated by manufacturer of</i></p> |

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| | | <i>products may also require certain design elements of packaging, such as impact and stress resistance, mechanical strength, packing line speed and efficiency, stability in conveying, heat resistance, effective closing, minimum headspace, hygiene.</i> | <i>products may also require certain design elements of packaging, such as impact and stress resistance, mechanical strength, packing line speed and efficiency, stability in conveying, heat resistance, effective closing, minimum headspace, hygiene.</i> |
| | Annex IV, Part 1 3a. Packaging functionality: the packaging design shall ensure its functionality, including criteria for consumers' products acceptance. Design elements required to indicate distinctive product recognition, intellectual property rights or geographical indications of origin under Union legislation shall be respected. | | Annex IV, Part 1 3a. Packaging functionality: the packaging design shall ensure its functionality, including criteria for consumers' products acceptance. Design elements required to indicate distinctive product recognition, intellectual property rights or geographical indications of origin under Union legislation shall be respected. |
| Annex IV, Part 1 6. Legal requirements: the packaging design shall ensure that the packaging and packaged product can comply with the applicable legislation. | Annex IV, Part 1 6. Legal requirements: the packaging design shall ensure that the packaging and packaged product can comply with the applicable legislation including the protection of geographical indications under Union legislation or legal protection | Annex IV, Part 1 6. Legal requirements: the packaging design shall ensure that the packaging and packaged product can comply with the applicable legislation. | Annex IV, Part 1 6. Legal requirements: the packaging design shall ensure that the packaging and packaged product can comply with the applicable legislation including the protection of geographical indications under Union legislation or legal protection |

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| | under intellectual property rights. | | under intellectual property rights. |
| <p>Justification</p> <p>Lewiatan supports the EP position on paragraph 1 because:</p> <ul style="list-style-type: none"> • It provides sufficient time to implement minimisation rules, by setting the implementation horizon to 1 January 2030. • By clearly referring to the <u>shape</u> of the packaging, it ensures that packaging minimisation can be implemented while preserving packaging differentiation and product/brand recognition. This may be the case of perfumes enjoying a long-standing history and heritage, as well as shampoos, shower gels, creams, mouthwash and other products benefiting from iconic packaging. If narrowly interpreted, the Commission proposal could lead to all packaging be reduced to a round shape at it is the one minimising the surface and weight to the greatest extent. This would have a negative impact on the competitiveness within the sector, and on innovation too, narrowing companies' freedom to develop new and inventive packaging. On the contrary, referring to shape would guarantee the protection of the packaging functions by striking a balance between minimisation and freedom of creativity, preserving key aspects of competitiveness for cosmetic products. • The reference to Annex IV ensures that all the functions performed by the packaging in terms of product protection, consumer information, logistics are taken into account when minimising packaging. • The reference to IPRs in annex IV ensures that elements like design rights, trademarks and patents are protected, fostering incentives to competitiveness and innovation in new and sustainable packaging solutions. | | | |
| <p>2. Packaging not necessary to comply with any of the performance criteria set out in Annex IV and packaging with characteristics that are only aimed to increase the perceived volume of the product, including double walls, false bottoms, and unnecessary layers, shall not be placed on the market, unless the packaging design is subject to geographical indications of origin protected under Union legislation.</p> | <p>2. Packaging not necessary to comply with any of the performance criteria set out in Annex IV, and packaging with characteristics that are only aimed to increase the perceived volume of the product including double walls, false bottoms, and unnecessary layers, shall not be placed on the market, unless the packaging design is subject to geographical indications of origin under Union legislation or it is subject to legal protection under</p> | <p>2. The manufacturer or importer shall ensure that packaging which does not comply with the performance criteria set out in Annex IV; and packaging with characteristics that are only aimed to increase the perceived volume of the product, including double walls, false bottoms, and unnecessary layers , is not placed on the market, unless the packaging design is protected by a Community design under Council Regulation (EC) 6/2002,</p> | <p>2. The manufacturer or importer shall ensure that packaging which does not comply with the performance criteria set out in Annex IV; and packaging with characteristics that are only aimed to increase the perceived volume of the product, including double walls, false bottoms, and unnecessary layers , is not placed on the market, unless the packaging design is protected by a Community design under Council Regulation (EC) 6/2002,</p> |

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| | <p>Regulation (EC) No 6/2002.</p> | <p>design rights falling under the scope of applications of Directive 98/71/EC, including international agreements having effect in one of the Member States, or its shape is a trademark falling under the scope of Regulation (EU) 2017/1001, or Directive (EU) 2015/2436, including trademarks registered under international agreements having effect in one of the Member States, or the packaged product or beverage belongs to geographical indications protected under Union legislation including Regulation (EU) No 1308/2013 for wine and Regulation (EU) 2019/787 for spirit drinks or covered by a quality schemes as referred to in Regulation (EU) No 1151/2012.</p> <p>The exemption in the subparagraph above applies only to design rights and trademarks protected by [date of entry into force of this Regulation], and only in case the application of the requirements under this Article affects (i) the packaging design in a way that it alters its novelty or its individual</p> | <p>design rights falling under the scope of applications of Directive 98/71/EC, including international agreements having effect in one of the Member States, or its shape is a trademark falling under the scope of Regulation (EU) 2017/1001, or Directive (EU) 2015/2436, including trademarks registered under international agreements having effect in one of the Member States, or the packaged product or beverage belongs to geographical indications protected under Union legislation including Regulation (EU) No 1308/2013 for wine and Regulation (EU) 2019/787 for spirit drinks or covered by a quality schemes as referred to in Regulation (EU) No 1151/2012.</p> |

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| | | character, or (ii) the trademark in a way that the trademark is not capable anymore to distinguish the marked good from those of other undertakings.’ | |
| <p>Justification</p> <p>Lewiatan recommends supporting the Council proposal covering design rights and trademarks, however deleting the last sub-paragraph introducing a timebound limitation excluding IPRs protected by the entry into force of the regulation. The reasons are multiple:</p> <ul style="list-style-type: none"> • Design rights can be extended up to 25 years and only apply to new designs, while trademarks are indefinitely renewable and are applicable to existing designs. These IPRs foster the competitiveness of the product and their packaging by preserving the know-how and the cultural heritage represented by iconic packaging; and by provide an additional layer of protection against counterfeiting. • Limiting this measure to registered IP rights existing by the time of entry into force of the regulation would create an asymmetry favouring products covered by pre-existing IPRs, and it would also discourage companies’ innovation and creativity in developing new and innovative packaging. | | | |
| | 2a. By ... [OP: Please insert the date =36 months from the date of entry into force of this Regulation], the Commission shall request the European standardisation organisations, as appropriate, to prepare or update harmonised standards laying down the methodology for the calculation and measurement of compliance with the requirements concerning packaging minimisation under this Regulation. For most common packaging types and formats such standards should specify maximum adequate weight and | 4a. By ... [12 months from the entry into force of this Regulation] the Commission shall request the European standardisation organisations to prepare or update, as appropriate, harmonised standards laying down the methodology for the calculation and measurement of compliance with the requirements concerning packaging minimisation under this Regulation. For certain most common packaging types and formats the Commission shall request that those standards | <i>2a. By ... [OP: Please insert the date =36 months from the date of entry into force of this Regulation], the Commission shall request the European standardisation organisations, to prepare or update, as appropriate, harmonised standards laying down the methodology for the calculation and measurement of compliance with the requirements concerning packaging minimisation under this Regulation.</i> |

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| | volume limits, and, if appropriate, wall thickness and maximum empty space. | should specify maximum adequate weight and volume limits, and, if appropriate, wall thickness and maximum empty space. | |
| <p>Justification</p> <p>While recognising the role of standardisation in verifying the compliance with packaging minimisation rules, Lewiatan recommends deleting the second half of the paragraph, requiring maximum adequate weight and volume limits, wall thickness and maximum empty space for “<i>most common packaging types and formats</i>”.</p> <p>This provision may lead to packaging standardisation and several related unintended consequences:</p> <ul style="list-style-type: none"> • Clarity and legal certainty: it is not defined what “most common packaging types and formats” means, creating a risk of arbitrary decisions. Moreover, instead of focusing on product/packaging specifications improving its performance, this sentence would regulate packaging’s inherent characteristics and technical solutions that are not directly related to its performance. • A horizontal standard is unlikely to capture the needs and characteristics of the wide diversity of products and their corresponding packaging. For instance, the bottom of a mascara falls within the definition of ‘bottle’, but such a bottle has different characteristics compared to a beverage bottle as it needs to accommodate a brush and applicator. The functionality of a packaging format also varies within the cosmetics sector, depending on how the product is used. For instance, eye products require a higher level of contamination protection and thus need dedicated types of opaque jars. • Standardisation in weight and volume may also have impact on innovation too, narrowing companies’ freedom to develop new and inventive packaging by limiting their choice to a small set of predefined packaging options. This would severely impact brand/product differentiation and, ultimately, competitiveness. Indirect economic consequences will also impact neighbouring economic sectors such as travel retail, tourism shopping, or selective distribution. • Limitations to other packaging features such as wall thickness would be a particularly challenging task, considering that such packaging characteristics may depend on the filling technology used and are meant to protect the product, facilitate its distribution, or prolong its shelf life. • Standardised packaging bears the risk of easier product counterfeiting, with potential harmful consequences for consumer health and safety. Illicit and dangerous products would have an easier way into the market in an environment of more standardised packaging. | | | |

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| Article 11 - Labelling of packaging | | | |
| <p>1. From [<i>OP: Please insert the date = 42 months after the entry into force of this Regulation</i>], packaging shall be marked with a label containing information on its material composition. This obligation does not apply to transport packaging. However, it applies to e-commerce packaging.</p> <p>Packaging subject to deposit and return systems referred to in Article 44(1) shall, in addition to the labelling referred to in the first subparagraph, be marked with a harmonised label established in the relevant implementing act adopted pursuant to paragraph 5.</p> | <p>1. From [OP: Please insert the date = 24 months after the adoption of the implementing acts referred to in paragraph 5 and 6], packaging placed on the market shall be marked with a label containing information on its material composition in order to facilitate consumer sorting. The label shall be exclusively based on pictograms and be easily understandable, including for persons with disabilities. This obligation does not apply to transport packaging. However, it applies to e-commerce packaging.</p> <p>The label may be accompanied by a QR code or other type of digital data carrier placed on the packaging that contains information on the destination of each separate component of the packaging in order to facilitate consumer sorting.</p> <p>Packaging subject to deposit and return systems referred to in Article 44(1) shall be marked with</p> | <p>1. From ... [42 months from the date of the entry into force of this Regulation] or 24 months from the date of entry into force of the implementing act referred to in paragraph 5 and 6, whichever is the latest, packaging placed on the market shall be marked with a label containing information on its material composition. For the packaging referred to in Article 8 (1) and, where applicable, 8(2), the label shall indicate that the material is compostable, it is not suitable for home-composting, and compostable packaging shall not be thrown away in nature. With the exception of e-commerce packaging, this obligation does not apply to transport packaging or packaging part of a deposit and return system.</p> | <p>1. From [OP: Please insert the date = 36 months after the adoption of the implementing acts referred to in paragraph 5 and 6], packaging placed on the market shall be marked with a label containing information on its material composition in order to facilitate consumer sorting. The label shall be exclusively based on pictograms and be easily understandable, including for persons with disabilities. This obligation does not apply to transport packaging. However, it applies to e-commerce packaging.</p> <p>The label may be accompanied by a QR code or other type of digital data carrier placed on the packaging that contains information on the destination of each separate component of the packaging in order to facilitate consumer sorting.</p> <p>Packaging subject to deposit and return systems referred to in Article 44(1) shall be marked with</p> |

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| | <p>a colour harmonised label established in the relevant implementing act adopted pursuant to paragraph 5.</p> <p>Labels of deposit and return systems established before the entry into force of this Regulation may be used together with the harmonised label until 36 months after the adoption of the implementing act pursuant to paragraph 5.</p> | | <p>a harmonised label established in the relevant implementing act adopted pursuant to paragraph 5.</p> <p>Labels of deposit and return systems established before the entry into force of this Regulation may be used together with the harmonised label until 36 months after the adoption of the implementing act pursuant to paragraph 5.</p> |
| <p>2. From [OP: Please insert the date = 48 months after the date of entry into force of this Regulation], packaging shall bear a label on packaging reusability and a QR code or other type of digital data carrier that provides further information on packaging reusability including the availability of a system for re-use and of collection points, and that facilitates the tracking of the packaging and the calculation of trips and rotations. In addition, reusable sales packaging shall be clearly identified and distinguished from single use packaging at the point of sale.</p> | <p>2. From [OP: Please insert the date = 30 months after the entry into force of the implementing act referred to in paragraph 5], reusable packaging placed on the market shall bear a label on packaging reusability. Further information on reusability may be made available through a QR code or other type of digital data carrier that provides further information on packaging reusability including the availability of a system for re-use and of collection points, and that facilitates the tracking of the packaging and the calculation of trips and rotations. In addition, reusable sales</p> | <p>2. Reusable packaging placed on the market from ... [48 months from the date of entry into force of this Regulation] or 24 months from the date of entry into force of the implementing act referred to in paragraph 5, whichever is the latest, packaging shall bear a label informing users that the packaging is reusable and a QR code or other type of standardised, open, digital data carrier that provides further information on packaging reusability including the availability of a local, national or EU-wide system for re-use and information on collection points, and that facilitates the tracking of the packaging and the calculation</p> | <p>2. From [OP: Please insert the date = 36 months after the entry into force of the implementing act referred to in paragraph 5] [...]</p> |

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| | packaging shall be clearly identified and distinguished from single use packaging at the point of sale. | of trips and rotations, or an average estimation if that calculation is not feasible. In addition, reusable sales packaging shall be clearly identified and distinguished from single use packaging at the point of sale. | |
| <p><u>Justification</u></p> <p>Lewiatan supports a mixed approach between the Parliament and Council’s position on paragprah 1 to rationalise the amount of information present on the packaging, and to streamline the timeline of implementation of labelling-related tertiary legislation:</p> <ul style="list-style-type: none"> • Providing harmonised composition information exclusively through on-pack pictograms and sorting instructions through digital data carriers would allow economic operators to provide clear and comprehensive instructions, making the most efficient use of the packaging surface by avoiding an excessive amount of text and other printed information. This is particularly important for cosmetics, often sold in small packaging. • Moreover, to align the timeline of adoption of the implementing acts related to labelling and provide sufficient time for economic operator to be prepared to abide by them, we recommend to set a 36-month deadline to implement the implementing acts on the labelling information on packaging reusability. | | | |
| 4. Labels referred to in paragraphs 1 to 3 and the QR code or other type of digital data carrier referred to in paragraph 2 shall be placed, printed or engraved visibly, clearly legibly and indelibly on the packaging Where this is not possible or not warranted on account of the nature and size of the packaging, they shall be affixed to the grouped packaging. | 4. Labels referred to in paragraphs 1 to 3 and the QR code or other type of digital data carrier referred to in paragraph 2 shall be placed, printed or engraved visibly, clearly legibly and firmly on the packaging, so that it cannot be easily erased. Where this is not possible or not warranted on account of the nature and size of the packaging, they shall be affixed to the | 4. Labels referred to in paragraphs 1 to 3 and the QR code or other type of digital data carrier referred to in paragraph 2 shall be placed, printed or engraved visibly, clearly and legibly on the packaging and the information shall be available to end-users before the purchase of the product in on line sales. The information contained in the labels referred to in paragraphs 1 to 3 and QR | 4. Labels referred to in paragraphs 1 to 3 and the QR code or other type of digital data carrier referred to in paragraph 2 shall be placed, printed or engraved visibly, clearly and legibly on the packaging and the information shall be available to end-users before the purchase of the product in on line sales. The information contained in the labels referred to in paragraphs 1 to 3 and QR |

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| <p>Where Union legislation requires information on the packaged product to be provided via a data carrier, a single data carrier shall be used for providing the information required for both the packaged product and the packaging.</p> | <p>grouped packaging.</p> <p>Where this is not possible or not warranted on account of the nature and size of the packaging or where it is relevant to provide for non-discriminatory access to information for vulnerable groups, particularly visually impaired persons, labels referred to in paragraphs 1 and 3 shall be provided via a single electronically readable code or other type of data carrier.</p> <p>Where information is provided by electronic means in accordance with paragraphs 2 to 3, the following requirements shall apply:</p> <p>(a) adequate, relevant personal data is collected only for the limited purpose of giving the user access to relevant compliance information referred to in paragraphs 2 to 3 of this Article in respect of Article 5(1) of Regulation 2016/679/EU</p> <p>(b) the information is not displayed with other information intended for sales or marketing purposes.</p> | <p><i>code or other type of digital data carrier shall be made available in one or more languages which can be easily understood by end users as determined by the Member State in which the packaging is to be made available on the market.</i></p> <p>Where Union legislation requires information on the packaged product to be provided via a data carrier, a single data carrier shall be used for providing the information required for the packaged product and <i>for the packaging, and both of them shall be easily distinguishable.</i></p> | <p><i>code or other type of digital data carrier shall be made available in one or more languages which can be easily understood by end users as determined by the Member State in which the packaging is to be made available on the market.</i></p> <p>Where this is not possible or not warranted on account of the nature and size of the packaging or where it is relevant to provide for non-discriminatory access to information for vulnerable groups, particularly visually impaired persons, labels referred to in paragraphs 1 and 3 shall be provided via a single electronically readable code or other type of data carrier.</p> <p>Where Union legislation requires information on the packaged product to be provided via a data carrier, a single data carrier shall be used for providing the information required for the packaged product and <i>for the packaging, and both of them shall be easily distinguishable.</i></p> |

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| <p>Justification</p> <p>Lewiatan supports the EP position allowing the use of digital labels only for small packaging which because of its size or nature cannot provide all the information requirements under this regulation in a physical form.</p> <ul style="list-style-type: none"> • Packaging of small products (e.g., lipsticks, mascaras, pencils) provides little surface where information can be displayed and would require additional packaging material to contain all the mandatory information for consumers. In fact, while the PPWR aims at minimising packaging to reduce the use of virgin material and the production of waste, there is a clear trend in the EU and national legislation to increase the amount of information to be provided to consumers (REACH, Green Claims, Cosmetic Products Regulation, UCPD, etc.). These two trends of packaging minimisation and increasing information requirements clash against each other. Imposing an excessive amount of information without considering the size of the product and other information requirements imposed under EU and national legislation, cosmetic manufacturers may have no other choice but increase the packaging or use fold-out labels, tie-on tags, or other information carriers, leading to more materials and resources being used and more waste generated. This need was acknowledged and reflected in the national legislation in some Member States, allowing the use of digital labelling under certain circumstances. For instance, under the “Loi AGECE” in France, an implementing decree allows the dematerialisation of information for packaging with a surface below 10cm². Similarly, the Italian legislation on environmental labelling allows the use of labelling to product packaging of any size. From a consumer perspective, Eurostat confirmed that the percentage of individuals using the internet increased considerably in the last 10 years, going from 74% of the EU27 population in 2012 to 90% in 2021. This technology update has seen a strong increase also amongst older groups of citizens (from the European Commission’s impact assessment accompanying the proposal for a regulation on detergents and surfactants - SWD(2023) 114). • Lewiatan supports the Council wording allowing flexibility on the use of language in labelling of packaging and digital data carrier. | | | |
| <p>5. By [OP: Please insert the date = 18 months after the date of entry into force of this Regulation], the Commission shall adopt implementing acts to establish a harmonised label and specifications for the labelling requirements and formats for the labelling of packaging referred to in paragraphs 1 to 3 and the labelling of waste receptacles</p> | <p>5. By [OP: Please insert the date = 18 months after the date of entry into force of this Regulation], the Commission shall adopt implementing acts to establish a harmonised label and specifications for the labelling requirements and formats, including when provided through digital means, for the labelling of packaging,</p> | <p>5. By [OP: Please insert the date = 24 months after the date of entry into force of this Regulation], the Commission shall adopt implementing acts to establish a harmonised label and specifications for the labelling requirements and formats for the labelling of packaging referred to in paragraphs 1 to 3. The Commission shall take into</p> | <p>. By [OP: Please insert the date = 12 months after the date of entry into force of this Regulation [...]</p> |

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| <p>referred to in Article 12. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 59(3).</p> | <p>referred to in paragraphs 1 to 3 and the labelling of waste receptacles referred to in Article 12. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 59(3).</p> | <p>account the specificities of composite packaging when developing the implementing act. When developing the harmonised label for packaging subject to deposit and return systems referred to in Article 44(2), the Commission shall take into consideration any variation which exists in the deposit charged by Member States. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 59(3).</p> | |
| <p>6. By [OP: Please insert the date = 24 months after the date of entry into force of this Regulation], the Commission shall adopt implementing acts to establish the methodology for identifying the material composition of packaging referred to in paragraph 1 by means of digital marking technologies. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 59(3).</p> | <p>6. By [OP: Please insert the date = 18 months after the date of entry into force of this Regulation], the Commission shall adopt implementing acts to establish the methodology for identifying the material composition of packaging referred to in paragraph 1 by means of digital marking technologies. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 59(3).</p> | <p>6. By [OP: Please insert the date = 24 months after the date of entry into force of this Regulation], the Commission shall adopt implementing acts to establish the methodology for identifying the material composition of packaging referred to in paragraph 1 by means of standardised, open, digital marking technologies, including for composite packaging and integrated or separate components of packaging. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article</p> | <p>6. By [OP: Please insert the date = 12 months after the date of entry into force of this Regulation], the Commission shall adopt implementing acts to establish the methodology for identifying the material composition of packaging referred to in paragraph 1 by means of digital marking technologies. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 59(3).</p> |

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| | | <p>59(3). <i>The identification of substances of concern by means of standardised, open, digital technologies shall also be included and shall include at least the name and concentration of the substance of concern present in each material in a packaging unit.</i></p> <p>The packaging placed on the market containing substances of concern shall be marked using the technologies referred to in the first subparagraph by 2030.</p> | |
| <p>Justification</p> <p>Lewiatan recommends that the Commission is granted 12 months after the entry into force of the regulation to adopt the implementing acts envisaged in paragraphs 5 and 6 and establishing harmonised labelling and specification for labelling requirements and formats, and to establishing the methodology for identifying the material composition of packaging. In fact, manufacturers will rely on the publication of the implementing acts to implement the provisions of article 11 and therefore enough time should be granted between the adoption of the implementing acts and the deadline for economic operators to comply with new labelling requirements. Moreover, it is important to align the adoption of these two sets of implementing acts to ensure a timely coordinated adoption of new labelling rules and avoid a series of subsequent changes that the operations of economic operators.</p> | | | |
| 7. Without prejudice to requirements concerning other harmonised EU labels, economic operators shall not provide or display labels, marks, symbols or inscriptions that are likely to mislead or confuse consumers or | 7. Without prejudice to requirements concerning other harmonised EU labels, economic operators shall not provide or display labels, marks, symbols or inscriptions that are likely to mislead or confuse consumers or | 7. Without prejudice to requirements concerning other harmonised EU labels, economic operators shall not provide or display labels, marks, symbols or inscriptions, that are likely to mislead or confuse consumers or | 7. Without prejudice to requirements concerning other harmonised EU labels, economic operators shall not provide or display labels, marks, symbols or inscriptions that are likely to mislead or confuse consumers or |

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| <p>other end users with respect to the sustainability requirements for packaging, other packaging characteristics or packaging waste management options, for which harmonised labelling has been laid down in this Regulation.</p> | <p>other end users with respect to the sustainability requirements for packaging, other packaging characteristics or packaging waste management options, for which harmonised labelling has been laid down in this Regulation.</p> <p>From ... [OP: Please insert the date = 24 months after the entry into force of this Regulation], the Commission shall adopt guidelines in order to clarify aspects that are likely to mislead or confuse consumers or other end users.</p> | <p>other end users with respect to the sustainability requirements for packaging, other packaging characteristics or packaging waste management options, for which harmonised labelling has been laid down in this Regulation.</p> | <p>other end users with respect to the sustainability requirements for packaging, other packaging characteristics or packaging waste management options, for which harmonised labelling has been laid down in this Regulation.</p> <p>From ... [OP: Please insert the date = 24 months after the entry into force of this Regulation], the Commission shall adopt guidelines in order to clarify aspects that are likely to mislead or confuse consumers or other end users.</p> |
| <p>8. Packaging included in an extended producer responsibility scheme or covered by a deposit and return system other than that referred to in Article 44(1) may be identified by means of a corresponding symbol throughout the territory in which that scheme or system applies. That symbol shall be clear and unambiguous and shall not mislead consumers or users as to the recyclability or reusability of the packaging.</p> | <p>8. Packaging included in an extended producer responsibility scheme or covered by a deposit and return system other than that referred to in Article 44(1) may be identified by means of a corresponding symbol throughout the territory in which that scheme or system applies. That symbol shall be clear and unambiguous and shall not mislead consumers or users as to the recyclability or reusability of the packaging.</p> | <p>8. By [two years after entry into force of this Regulation], packaging included in an extended producer responsibility scheme may be identified throughout the territory of the Member States in which that scheme or system applies only by means of a corresponding symbol in a QR code or other standardised digital marking technology in order to signify that the producer fulfils its extended producer responsibility obligations. That symbol shall be clear and unambiguous and shall not mislead consumers or users</p> | <p>8. By [two years after entry into force of this Regulation], packaging included in an extended producer responsibility scheme may be identified throughout the territory of the Member States in which that scheme or system applies only by means of a corresponding symbol in a QR code or other standardised digital marking technology in order to signify that the producer fulfils its extended producer responsibility obligations. That symbol shall be clear and unambiguous and shall not mislead consumers or users</p> |

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| | | as to the recyclability or reusability of the packaging. | as to the recyclability or reusability of the packaging. |
| | 8a. Packaging as referred to in paragraphs 1, 2 and 3, that is manufactured or imported before the deadlines referred in those paragraphs, may be marketed until 36 months after the date of entry into force of the labelling requirements laid down in paragraphs 1, 2 and 3. | | 8a. Packaging as referred to in paragraphs 1, 2 and 3, that is manufactured or imported before the deadlines referred in those paragraphs, may be marketed until 36 months after the date of entry into force of the labelling requirements laid down in paragraphs 1, 2 and 3. |
| <p>Justification</p> <ul style="list-style-type: none"> • Lewiatan supports the EP recommendation to paragraph (7) that the European Commission shall adopt guidelines in order to clarify aspects that are likely to mislead or confuse consumers. This will be fundamental to support economic operators in the correct implementation of article 11. • Lewiatan also supports the Council position on paragraph 8 allowing EPR-related information to be provided in a dematerialised way through digital marking technology. • Lewiatan supports the EP recommendation (paragraph 8a) that packaging manufactured before the deadline established in article 11 can still be marketed for three years after the entry into force of the labelling requirements, as this would allow companies enough time to shift toward the marketing of packaging fulfilling the new requirements while at the same time avoid the withdrawal of otherwise fit for sale products that will still be unsold by that time. | | | |
| <h3>Article 26 – Re-use and refill targets</h3> | | | |
| 12. Transport packaging used by an economic operator shall be reusable where it is used for transporting products: | 12. From 1 January 2030, 95% of the transport packaging used by an economic operator shall be reusable where it is used for transporting products: | 12. Transport packaging used by an Economic operator shall be reusable where it is operators using transport packaging or sales packaging used for transporting products: | Lewiatan supports the EP version of the paragraph 12, first subparagraph, as it set up a transitional period for transport packaging used by an economic |

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| | | | operator - to be reusable from 1 January 2030 (item 477 in the Council 4 columns document) similar to all other parts of article 26. |
| 13. Economic operators delivering products to another economic operator within the same Member State shall use only reusable transport packaging for the purpose of the transportation of such products. | 13. From 1 January 2030 , economic operators, including online platforms , delivering products to another economic operator within the same Member State shall use only reusable transport packaging for the purpose of the transportation of such products. | 13. Economic operators delivering using transport packaging or sales packaging used for transportation to deliver products to another economic operator within the same Member State shall use only reusable transport ensure that such packaging for the purpose of the transportation of such products is reusable within a system for re-use. | Lewiatan supports EP version of the paragraph 13, first subparagraph, as it set up the transitional period for transport packaging delivering products to another economic operator within the same Member State – to be reusable from 1 January 2030 (item 481 in the Council 4 column document). Similar to all other parts of article 26. |
| <p>Justification</p> <p>All targets set in the article 26 are subject to the transitional period – 1 January 2030, except the two paragraphs mentioned above. This seems to be clear omission by the European Commission, as there is no reason to not grant any transitional period for the two situation mentioned. Only the version proposed by the EP will be workable, as the market is not ready for 100% reusable transport packaging neither at the level of one company, one country or in whole Europe. Lewiatan consulted its members on numerous occasions during the PPWR regulatory process and it was clearly stated, available technologies do not provide for full replacement of transport packaging towards reusable in 12 or 18 months, the standard transitional period for PPWR provisions, unless otherwise set in the specific articles.</p> | | | |
| Annex V - Restrictions on use of packaging formats | | | |
| Row 5 | Row 5 | Row 5 | Row 5 |
| Packaging format Single use hotel miniature packaging | Packaging format Single use plastic hotel miniature packaging | Packaging format Single use hotel packaging intended for an individual booking | Packaging format Single use plastic hotel miniature Packaging |

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| <p>Restricted use For cosmetics, hygiene and toiletry products of less than 50 ml for liquid products or less than 100 g for non-liquid products</p> <p>Illustrative examples Shampoo bottles, hand and body lotion bottles, sachets around</p> | <p>Restricted use For cosmetics as defined in Article 2 of Regulation (EC) No 1223/2009, hygiene and toiletry products of less than 100 ml for liquid products or less than 100 g for non-liquid products</p> <p>Illustrative examples Shampoo bottles, hand and body lotion bottles, sachets around</p> | <p>Restricted use Single use packaging for cosmetics, hygiene and toiletry products for the use in the accommodation sector, according to NACE Rev. 2 – Statistical classification of economic activities⁵⁸, intended for an individual booking only and intended to be discarded before the next guest arrives.</p> <p>58: NACE code 155, list can be found in EUROPA - Competition - Cases by NACE code - I</p> | <p>Restricted use For cosmetics as defined in Article 2 of Regulation (EC) No 1223/2009, hygiene and toiletry products of less than 50 ml for liquid products or less than 100 g for non-liquid products</p> <p>Illustrative examples Shampoo bottles, hand and body lotion bottles, sachets around</p> |
| <p>Justification</p> <p>Lewiatan recommends a mixed approach between the Commission and Parliament’s positions, namely maintaining clear volume and weight thresholds (50ml and 100g) to ensure legal certainty.</p> <ul style="list-style-type: none"> • Products between 50 and 100 ml in volume can be easily used several times by a guest or even been taken away for future uses, without being impacted by volume limits set in airports, for example. • While we understand the Council’s ambition to move away from single use packaging, we would like to stress that some essential hygiene products provided to customer of the accommodation sector cannot be shared by several guests through refillable packaging (such as toothpaste, shaving cream, bar soap...). The restriction envisaged from the Council would de facto exclude customers from accessing these essential hygiene products. | | | |
| | <p>Row 5b</p> <p>Packaging format Secondary packaging not necessary to comply with the performance criteria in Annex IV</p> | | <p>Support COM and Council approach (deletion of row 5b)</p> |

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| | <p>Restricted use For cosmetics, except perfumes, hygiene and toiletry products</p> <p>Illustrative examples Boxes for toothpaste and creams</p> | | |
| <p>Justification</p> <p>Lewiatan recommends deleting point 5b restricting secondary packaging for cosmetic products from the final text of the regulation, for several reasons:</p> <ul style="list-style-type: none"> • Row 5b is redundant because packaging not necessary to comply with any of the performance criteria set out in Annex IV is already banned from being placed on the market under Article 9(2). Moreover, the current wording is contradictory and misleading as it appears to exempt perfumes, hygiene and toiletry products from the restriction, but then it proceeds to present a hygiene product (toothpaste) and a toiletry product (cream) as illustrative examples of banned uses. • External packaging protects inner packaging and the product: for instance, in toothpastes it is important that the tube is flexible/soft to best preserve the formula from air oxidation, making however the tube subject to risk of squeezing or bursting . External packaging thus prevents product damage and the consequence avoidable excessive waste. • Packaging is essential to display the mandatory information to consumers (such as list of ingredients), in an easily readable format, especially when the inner packaging is too small or unpractical to carry information. Cosmetics products must carry continuously increasing amount of information for the informed purchase, the safe use and the proper disposal of the product by the consumer – a trend clashing with packaging minimisation requirements. • External packaging can also serve as guarantee that the product has not been pre-opened (anti-tampering), offering additional guarantee for consumer health and safety. • While all the packaging functions mentioned above are covered by Annex IV, the contradictory and misleading wording of row 5b may generate diverging interpretations by companies, enforcing authorities, and other interested parties. | | | |