



**Independent
Retail Europe**

PACKAGING AND PACKAGING WASTE REGULATION

- POSITION PAPER -

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EXECUTIVE SUMMARY

Independent Retail Europe membership supports the stated objectives of the European Green Deal, the Circular Economy Action Plan, as well as the global objectives of the new Packaging and Packaging Waste Regulation (PPWR). We therefore welcome the Commission's objective to gradually harmonise packaging rules across the EU. This will avoid a further proliferation of different packaging and packaging waste systems in the Member States and thus reduce hurdles to the free movement of goods across the Single Market.

Independent Retail Europe membership represents independent SME retailers that have joined in groups to enable for instance, joint purchasing, advertising and investment in private labels, in order to obtain economies of scale, to be able to compete with large integrated chains. These retailers and their wholesale organisations have already implemented various national solutions to improve their waste management system and have experience with different re-use systems due to their unique business model which allows every retailer to choose what works best for his customers and for his business.

As such, independent retailers have the following remarks:

- The proposed PPWR needs to take into account that rules on packaging and waste management are currently still very different across the EU. Existing well-functioning national deposit return systems should continue to co-exist.
- Any rules on re-use and refill need to address all concerns regarding hygiene standards, provide retailers with sufficient legal certainty, and provide for a smooth operation of logistics chains.
- **To avoid a distortion of the playing field between groups of independent retailers and their competitors, integrated chains, groups of independent retailers should also explicitly be allowed to meet the targets for refill and re-use at group level, and not at store level.**
- For reusable packaging, the availability and standardisation will be key.
- For recyclable packaging, the availability of alternatives is essential. Any policy option prohibiting non-recyclable packaging and aiming to increase recycled content in manufactured products must carefully consider the availability of recyclable alternatives, the impact on the market for secondary raw materials and the impact on the environment due to pollution linked to chemical recycling.
- The definition of transport packaging should consider the constraints of SMEs online sales channels.
- It is important to distinguish between e-commerce packaging and transport packaging that is not meant to be discarded in the ordinary household waste.
- A ban on non-reusable packaging for the transport of goods within one Member State would require imported goods to be repacked when entering the EU market. Such an obligation should not lead to an obligation to unnecessarily repackage imported goods.
- Requirements on labelling must always allow sufficient time to sell-off of products that have already been placed on the market.
- The obligations of distributors need to be aligned with the previously amended General Product Safety Regulation

COMMENTS OF INDEPENDENT RETAIL EUROPE ON THE PACKAGING AND PACKAGING WASTE REGULATION

General remarks on the necessity to recognise national approaches

It is important to note that the rules on packaging, waste management and deposit return systems are currently very different across the EU. **Actors in the EU will therefore have to adapt in many different ways to the circular waste system that is being proposed at EU level.**

There are important differences in the organisation of waste management systems. The success of each waste management system (i.e. the reduction of waste, rate of re-use, recycling) is dependent on the particular system that is prevalent in that country. There are different ways to obtain good results, which needs to find recognition in the legislation. In Belgium for example, the near perfect collection rate of bottles and containers has permitted to achieve very good recycling rates, whereas in Germany good results have been achieved through the collection of bottles and cans through reverse vending machines.

We invite the European legislators to work on a European legislative framework that does **not rule out existing national solutions whilst respecting the importance of the Internal Market**. Companies have already made the required investments and should be allowed to obtain return on these investments, and not be required to reinvest once more to comply with EU law.

Members also highlighted, that there are already legal definitions at national level determining what can be considered “reusable” and what not. These **national definitions should be taken into consideration**. The definitions in Article 3.22 need to carefully consider any possible consequences for national rules on packaging.

It is of utmost importance, that all actors along the chain are given sufficient time to implement and adapt to the new rules. Certain changes may require more time than others.

- The proposed PPWR needs to take into account that rules on packaging and waste management are currently very different across the EU and require retailers to start from different positions.
- Businesses have already invested in order to comply with national approaches to waste management. If national systems are efficient in achieving European objectives, companies should not be required to make additional investments in order to comply with an EU harmonised system of waste management.
- In any case, operators should be given sufficient time to implement and adapt to new rules.

1. Re-use and refill obligations

Retailers sell ready-prepared food, hot and cold take-away beverages, as well as alcoholic and non-alcoholic bottled beverages. They would therefore have to comply with the re-use and refill targets set

out in Article 26. Whilst in many countries there are already different systems in place for reusable packaging for bottled cold beverages, often through Deposit Return Systems (DRS), we are less aware of existing refill/re-use initiatives for hot beverages or prepared food at retail level.

In what concerns re-use and refill obligations, our members are concerned about the feasibility of the proposed solutions. Any increase in re-use targets will lead to new logistical challenges.

Re-use and refill schemes require further consideration before their implementation to avoid major disruptions in logistics chains and unnecessary costs for retailers and consumers. For all those products for which the Regulation sets out re-use and refill targets, it will be **paramount to have sufficient, standardised packaging to allow for a workable, sustainable, cost-efficient open/closed loop deposit, return, cleaning, filling and re-distribution system for reusable/refillable packaging.**

The reporting obligations set out in Article 28 regarding the refill and re-use targets are likely to lead to another considerable administrative burden for operators. Members report that similar reporting schemes are already in place in some Member States. Where that is the case, there should be no additional administrative burden. In Member States where no such schemes are in place, retailers will not have access to the required data at the point of sale level. **This will require a costly change of IT-systems that should go with sufficiently long transition periods.**

Moreover, the Commission suggests adopting delegated acts (Art.26.16) to set re-use and refill targets for additional product groups, exemptions for economic operators, and exemptions for specific packaging formats. For economic operators, **legal certainty is crucial.** Potentially higher targets or targets for additional product groups will have a serious impact on our members' business decisions and strategies, since deposit-return systems and other systems for re-use and refill require important long-term investments. **Frequent changes to re-use targets undermines investment security. We call upon the EU Commission to set out clear, long-term targets in the proposed Regulation itself.**

- ➔ Reporting obligations on re-use targets should not lead to any additional administrative burden in countries where such a reporting system already exists.
- ➔ For security of investment, the Regulation should set out clear long term targets.

a. Concerns regarding refill stations and bring your own containers

To comply with the refill targets, consumers could bring their own container to the store, refill it, weigh it and buy the quantities they wish. Enabling consumers to refill their own containers in store will likely lead to legal uncertainty with regard to responsibility in case of hygiene issues. We acknowledge Article 25.1(c), which appears to put the responsibility for the cleanliness of his container with the consumer, and the requirements laid down by the Commission in Part C of Annex VI for refill stations, point d, requiring the end distributor to ensure compliance with the applicable hygiene standards. However, our members consider that letting consumers bring their own containers, even when informing them about potential risks, is insufficient to prevent potential food contaminations. Even when it would be made clear that the consumer would be responsible for the cleanliness of his own container, in a

possible case of litigation due to (possibly fatal) food contamination, retailers will have difficulties to prove that the contamination ensued from a consumer's food container. Notwithstanding the fact that they also do not wish to be potentially put into a position of having to defend themselves against victims of possibly fatal food contamination. **The distributor should under no circumstances be responsible for the hygiene of the customers' recipient. Retailers should be able to refuse that consumers bring their own containers and to provide reusable/professionally reused containers instead.**

→ Retailers have concerns regarding hygiene standards with bring-your-own containers and call for more legal certainty for cases when food contamination is due to a consumer's recipient.

b. Considerations regarding deposit return systems for new product groups as well as bottles and cans

A good solution to comply with the re-use and refill targets could be a system that would require consumers to use containers put at their disposal at the point of sale. The consumer would bring the container back at a later stage. This is similar to a classical deposit return system as already successfully implemented in several Member States for bottles and cans.

Deposit and return systems seem therefore more realistic in terms of hygiene for refillable containers, but deposit and return systems in general also raise certain logistical concerns. The involvement of a third party is the only way to ensure that the packaging is cleansed properly and therefore to guarantee the respect of food safety requirements. Any efficient return system requires a verification process to ensure that some sort of deposit has been paid, storing and collection logistics, infrastructure to return the packaging, cleaning infrastructure as well as reverse logistics procedures for cleaned and empty packaging containers.

An EU-wide open loop system for re-use would imply that the consumer would be able to buy the product in one place, and return the container in a different location, which is not necessarily the same operator from whom he bought it. Standardised packaging for reusable containers will enable lean logistical processes of collecting, cleaning and redistributing the reusable food containers. Without EU wide standards, these processes will be burdensome, costly and hamper the implementation as different containers will be difficult to collect, transport, clean and store. Furthermore, open loop systems are convenient for consumers who wish to bring back their container in the store of their choice in the city of their choice. Any EU open loop deposit return system should be inspired by systems that currently exist in certain Member States. For example, the GDB¹ deposit pool for water or beer bottles in Germany. Several companies (pooling their forces in the cooperative structure of the GDB) use GDB bottles and crates. Consumers can return the bottles in any store that adheres to the system and the empty bottles are usually transported to the nearest mineral spring and do not have to be returned to the original bottling company. This shortens transport distances and streamlines logistics chains. Similar systems could be conceivable for beer bottles as well as for containers that are refillable by the consumer.

¹ Genossenschaft deutscher Brunnen, <https://www.gdb.de/mehrweg/mehrwegsystem/>

A closed loop system would not require standardised containers, but would require consumers to return a particular food container to a particular store. A certain type of container could only be used for a particular type of product. Closed loop systems are not very attractive nor convenient for consumers, since returning the containers at any food retail store is more inconvenient. Consumers might not return container who then might get “lost”. **Importantly, closed loop systems are also likely to lead to a lock-in effect where consumers would not easily change stores, which is very undesirable from a competition perspective.** It would be possible that third party providers handle the collection, cleaning and reverse logistics of different closed loop systems. This, however, will come with higher costs than an open loop system as different procedures for the different systems would need to be implemented. For above-mentioned reasons, **a wide-scale rollout of closed loop systems is likely to be problematic.**

In any case, as a consequence of any deposit return system, retailers will have to reserve more space in their stores and on their premises to accommodate more return systems for more containers/packaging. So far, this exists in most countries only for glass bottles and already takes up a considerable amount of space in store/storage. Additional return systems will be particularly problematic for small stores that have no space to spare for such return logistics. **Collecting more reusable containers for a wider product range and installing refill stations would oblige small retailers to give up valuable shelf space, directly impacting the diversity of their product range, hence their turnover.** Furthermore, this would require many more rotations by trucks, to be able to handle the return logistics to the place of cleansing, also for hygiene reasons, as deposited containers are generally not clean. The availability of such trucks, the added noise and the possibility to handle the return logistics on a frequent basis in villages or inner cities is likely to prove to be very complicated. Especially the deposit and return system (DRS), foreseen in Article 44 will require space. **Since the DRS will take the space in the retailers’ stores and entail handling costs, they should be entitled to a charge a handling fee to compensate for cost.** A DRS will also be challenging with a view to a lack of system operators and logistics for collecting and cleaning the bottles.

- ➔ Closed loop systems will not be accepted by consumers, since a container would need to be returned to a particular point of sale and will have a lock-in effect.
- ➔ A wide roll-out of closed loop systems will be significantly more burdensome from a logistical perspective, and more costly than an open loop system.
- ➔ The involvement of a third party is the only way to ensure that re-use packaging is cleansed properly and therefore to guarantee the respect of food safety requirements.
- ➔ It will be paramount to have sufficient and standardised packaging for all products for which the Regulation sets out re-use and refill targets.
- ➔ Deposit return systems take up too much store/storage space in small retail stores.
- ➔ Retailers should receive a handling fee for the collection of reusable containers.

c. Re-use and refill targets will be challenging for groups of independent retailers

Since the proposed Regulation would apply to individual companies, it will distort the level playing field between integrated retailers and groups of independent retailers. Groups of independent

retailers are cooperative groups of independent SME retail stores that have joined together to benefit from scale effects, primarily in purchasing, but also for other services such as marketing, store concepts, development of private label, etc. This enables them to compete with large integrated competitors with a centralised ownership. The members of the group usually operate under one brand name. Integrated retailers are one legal entity whereas in groups of independent retailers, the groups and each individual retailer are all distinct legal entities. This difference would result in a logistical and economic advantage for integrated retailers as regards the flexibility of the application of targets such as for example for re-use and refill.

It is sensible for companies to be able to fulfil their obligations, where this is most feasible and most economically and competitively advantageous for them. It would thus be more logical, to install reverse vending machines or refill stations in larger supermarkets that can accommodate for them, rather than in small inner city stores, for which this would represent a significant loss of their supermarket surface. Since the Regulation sets targets at company level, integrated retailers would be able to decide to have higher targets in some stores than in others. Whilst integrated retailers could compensate the refill and re-use targets of one store with another store under the proposed Regulation, independent retailers on the other hand would not be able to do this, because each SME retailer is a legally independent company, thus each store would need to meet the targets independently.

The provisions on re-use and refill targets as proposed thus rule out the aggregation of re-use targets at group level for groups of independent retailers and create a market distortion. The costs for re-use options would be lower for an integrated retailer than for an independent retailer, as integrated chains will have more flexibility in the implementation. Moreover, it would undermine the core benefit of working in a decentralised cooperative business model: increasing competitiveness to be able to compete with chain stores. **Groups of independent retailers should therefore be able to fulfil the obligations as a group, giving them more flexibility to implement targets at store level, in order to reduce the burden for SME retailers and create a level playing field with integrated chains. Therefore, the proposed regulation should allow groups to aggregate their targets at group level.**

Provided that groups of independent retailers can aggregate the re-use and refill targets at group level, **the business model of independent retailers can boost innovative solutions for re-use and refill.** Customers in certain areas are more or less likely to accept innovative re-use and refill models. Members highlight, for example, that re-use models work particularly well in small student cities. Retailers should be able to offer customers no re-use options in areas where this is either not possible or where there is less customer acceptance, and compensate this by offering more innovative re-use schemes in different stores and different areas. Since independent retailers operate their business independently, they would easily adapt to their local customers' needs.

➔ **To maintain a level playing field between integrated retailers and groups of independent retailers, the latter should be allowed to apply re-use and refill targets at group level.**

d. Specific remarks on EU wide deposit return systems

Certain containers should be exempted from deposit return systems. Collecting, cleaning and redistributing containers that are too small, will be very costly. We suggest to exclude all containers below 0,1 litres from any EU deposit return system.

An EU wide deposit return system will significantly affect retailers' logistics and store concepts. The currently proposed transition periods are insufficient to adapt. Article 44.9 introduces an EU wide harmonised deposit return system by 2029. Article 11.1 requires packaging of a deposit return system to bear a harmonised label as from 42 months after the entry into force of the Regulation. Whereby the harmonised label for deposit return systems will be set out in EU Commission implementing acts only 18 months after the entry into force of the Regulation (Article 11.5). This will leave retailers and manufacturers only 24 months to implement the new deposit return systems. Possibly manufacturers will not implement the new harmonised label simultaneously, which will require retailers to provide reverse infrastructure for two different deposit return systems. Since efficient and well-functioning deposit return systems have been in place in several Member States for 20 years, the requirement to adapt to an entirely new system is very likely to lead to complications in the implementation. We call upon legislators to ensure that existing well-functioning national systems will be able to co-exist under the proposed Regulation.

Members have raised furthermore concerns regarding the proposed labelling obligations. Any requirement on new labelling schemes needs to take into account the sell-off of products that have already been placed on the market. It should always be possible to sell-off of products that have already been placed on the market, and sufficient time should be allowed to do so. A lack of such a provision would lead to destruction of unsold goods, which would be contrary to the objectives of the Green Deal and in addition lead to a significant economic loss.

- We call upon legislators to ensure that existing well-functioning national systems will be able to co-exist with newly introduced systems under the proposed Regulation.
- An EU wide harmonised deposit return system will have a big impact on return logistics at the point of sale.
- The transition period should take into account that retailers will only be able to adapt to a new deposit return system after the harmonised label has been set out in the EU Commission's implementing act. The current transition period is therefore insufficient.

2. Market restrictions for non-recyclable types of packaging

Certain market restrictions for non-recyclable types of packaging can be useful but need to be based on sound scientific evidence. **The impact of every market restriction should be properly assessed and the environmental benefits of any market restriction should be weighed against the practical consequences of a restriction of use.** For instance, certain single use plastic items fulfil an important role in food durability or food safety. Market restrictions for certain types of packaging should not lead to a higher amount of food waste or to other unintended negative environmental impacts creating new carbon emissions.

Packaging fulfils a wide variety of functions. **The bans on certain types of packaging envisaged in Annex V of the proposed Regulation should be viewed critically**, in particular the proposed ban on films for bundling individual products and on packaging for fruits and vegetables weighing less than 1,5kg, as there are currently no equivalent or better alternatives. Our members would favour a voluntary, incentivising approach. Retailers will know best which products can be sold without risking increased amounts of food waste or breakage. This would indeed undermine the overall objective of the proposal and the Green Deal in general. Any ban on certain types of packaging should carefully consider the possible side effects. Article 22 should also take into account that restricting the use of certain packaging will interfere with existing logistic processes. **The transition period of 12 months is insufficient. We rather recommend a transition period of 36 months for market restrictions of certain types of packaging.**

The proposed Regulation introduces a de facto ban of non-recyclable packaging (Art.6.1). This makes it necessary to create recycling processes for packaging that is currently not recyclable but is widely used, e.g. PET trays. In this context, **the approval of recycling processes at EFSA represent a major bottleneck.** Without approved recycling processes for certain materials that are not yet recyclable and that can currently not be replaced by a suitable and recyclable alternative, businesses will face major difficulties in packaging their goods.

A lack of approved recycling processes for mechanical recycling will lead to a shift towards PET (creating shortages for PET) or will boost chemical recycling processes. Both will have negative environmental impacts.

Introducing minimum recycled content obligations can be useful to reintroduce more recycled plastic materials into products. However, it is important to proceed incrementally with the increase of these rules. Today, many companies including manufacturers and retailers are already voluntarily introducing more recycled materials into their packaging and products. However, with so many actors aiming to introduce recycled content into the market at once, this has created significant pressures on the secondary raw materials market. Recycling quotas for food packaging made of PET will lead to an increased use of secondary raw materials. Therefore, the introduction of obligations could lead to high market pressure, create shortages and lead to higher prices for packaging and, hence, for consumers.

Furthermore, recycled plastic materials can only undergo a certain amount of loops under the mechanical recycling approach before becoming unsafe to use. The use of chemical recycling could solve this but is controversial because of its high energy consumption. Chemical recycling will result in an increase of emissions and pollutants that must be landfilled and will also cause a significant increase in costs.

Any policy option that bans non-recyclable packaging and aims at increasing recycled content should carefully consider the availability of recyclable alternatives, the impact on the market for secondary raw materials and the impact of environmental pollution caused by chemical recycling.

The proposal will require lightweight plastic carrier bags for fruits and vegetables to be made from compostable plastics (Article 8). Members propose a different approach. **The obligation to be made**

from compostable materials should only apply to packaging that is most likely to be discarded directly in nature. Packaging that is most likely to be discarded in household waste, like lightweight plastic carrier bags for fruits and vegetables, should therefore rather be made from materials suitable for recycling. Our members propose a similar approach for coffee caps, as these are often already part of an existing deposit return system, or are much more likely to be discarded in household waste than in nature. Deposit-return systems for coffee caps should be further incentivised.

- The proposed de facto ban on films for bundling individual products is problematic as there are currently no alternatives.
- A lack of approved recycling processes for mechanical recycling will lead to a shift towards PET (creating shortages for PET) or will boost chemical recycling processes. Both will have negative environmental impacts.
- Recycling quotas for food packaging made of PET will create significant pressure on the secondary raw materials market, which will lead to higher prices for operators and consumers.
- EFSA must very urgently approve new recycling processes to enable the implementation of the proposed Regulation.
- Lightweight plastic bags for fruit and veg and coffee caps should rather be made from recyclable materials than from compostable materials.

3. Transport packaging

Transport packaging formats are manifold: pallets, foldable boxes, crates, rigid and flexible bulk containers as well as drums. Many retailers around Europe deploy certain reusable transport packaging. Carton and single use plastic packaging alternatives have the advantage of being very versatile, compact, lightweight and, in the case of plastic, waterproof, therefore were able to fulfil many purposes in the appropriate transport and storage of products. Switching to only reusable packaging will not only require a material change, but also requires a rethinking of logistics in transport, in storage and in store.

The definition of transport packaging (Art. 3.4) has been changed with a view to also include e-commerce packaging. The proposal further suggests that 90% of products should be made available in reusable transport packaging (Art. 26.1).

This target is overly ambitious, especially if it includes e-commerce packaging. This will be particularly hard to implement for SMEs who depend on their online sales channel in order to be competitive with large operators. We therefore propose to lower the target for reusable transport packaging. Transport packaging should not be defined as “handling *a number of* sales units”. This definition is first of all unclear, as it gives the impression that this is only meant to apply to more than one sales units, whereas one (1) is also a number. If the intention is that it should also apply to single units, then we suggest *any* number of sales units. However, in our opinion, **not the content but the material and purpose of the packaging should be decisive for its identification as transport packaging.**

It is furthermore important to distinguish between e-commerce packaging and other transport packaging that is not meant to be discarded in the ordinary household waste and is thus excluded from underlying financing and extended producer responsibilities (EPR) schemes.

The re-use of transport packaging will entail further handling processes on top of recollecting the packaging at the retailers' premises and returning it to the suppliers' premises. These additional handling processes will lead to further costs. **We strongly support sector solutions to provide for a high degree of flexibility and take into account the specificities of products, suppliers and retailers.**

The proposed targets for the re-use targets of pallet wrappings and straps (Art.26.9) are too ambitious. Our members deplore the lack of a viable alternatives to wrapping and straps. Reusable transport belts can certainly be used, but are by no means cost efficient yet.

Reusable alternatives to current transport packaging must be economically viable, easy to implement and take account of the current logistic chains. **A possible obligation for economic operators transporting goods within the same Member State to only operate their logistics chains with reusable transport packaging (Art. 26.13) will lead to major disruptions in our members' logistics chains.** Imported goods will be transported from different warehouses before reaching the final point of sale. During this process, the goods are usually not unpacked as this would entail additional cost and risk. This obligation would require importers to repackage all goods the moment they enter a Member State. Repackaging will require further handling processes and additional (reusable) packaging and entail additional risks (breakage/spoilage) for operators. Continued use of the single-use packaging of imported goods as long as possible in the logistics chain is the most sustainable option! An obligation of reusable packaging for the transport within one Member State should not lead to an obligation to repackage goods where it is not necessary. **Article 26.13 should be amended in a way that any unnecessary repackaging of goods is avoided.**

Obligations related to excessive packaging (Article 21) require that the **empty space ratio is maximum 40 %**. We would welcome further clarification on whether this provision should be applied to every single individual packaging or whether this target could be applied at company level. Applying this target to every single item will be rather challenging, in particular for e-commerce. Some items are simply too small to be shipped in parcels that have less than 40% empty space (key ring). Some products require safety packaging (TV screens). The empty space ratio should therefore be applied at company (group) level.

Given that the proposal does not indicate a target date, the above-cited obligation would enter into force immediately. **Members, however, would at least need three years to adapt their supply chains since in most cases no viable alternative packaging is available.**

- ➔ Not the content but the material and purpose of the packaging should be decisive for its identification as transport packaging.
- ➔ Transport packaging that is not meant to be discarded in the household waste should be excluded from financing and EPR systems.
- ➔ -Flexibility in transport packaging is crucial

- An obligation of reusable packaging for the transport within one Member State should not lead to an obligation to repackage goods where it is not necessary.
- Members will need three years to adapt their supply chains to the new rules on transport packaging.

4. The obligations of distributors

Obligations and responsibilities of each economic operator should be proportionate to its role in the supply chain. Manufacturers placing a product on the market should also be responsible for the packaging of the product when it is placed on the market. The responsibility and the costs for a smooth logistical circle of re-use and refill containers should not be shifted from the manufacturer to the retailer. Retailers have a large variety of products in their product range, they cannot be responsible for the well-functioning of every single of their suppliers' deposit return systems. We do acknowledge retailers' role as a facilitator and system participant in that process. The costs of collecting and cleaning the containers, should however be entirely borne by the manufacturer. This could be implemented by a means of a handling fee for the retailer. **Such a clarification is paramount for a clear division of obligations and legal certainty for operators. We would therefore highly welcome an addition to Article 13 as well as Article 23 regarding the obligations of the product manufacturer vis à vis the retailer with regard to his packaging that falls under the re-use and refill obligations.**

For reason of consistency of the EU acquis and legal certainty, the obligations of distributors (Art. 17) have to be aligned with the provisions set out in the new General Product Safety Regulation (GPSR). Where the compliance of a product or packaging is concerned, a retailer is totally dependent on the information provided by the manufacturers. A retailer can check the completeness of the required documents but is lacking the technical expertise to check the technical correctness of the information. The PPWR should be aligned with the GPSR in that distributors should hereby be able to rely on the information in their possession, that has been provided by the manufacturer. It is not clear what is meant when the distributor has "reason to believe" that a product is incompliant in Article 17.3 and 17.4. Here, the GPSR (Art. 11) offers a much clearer formulation that should be used as a model in this proposal.

Furthermore, **Article 17.1 should be removed**, as the formulation of "due care" is not clear, and opens a door to diverging interpretations. Article 17 (3) (second sentence) already clearly defines what the obligations of the distributor are (equivalent to Article 11 (2) of the GPSR). Maintaining Article 17.1 therefore introduces a legal uncertainty as to what the obligations of retailers consist of. **The text should be fully aligned with the GPSR.**

- The obligations of distributors need to be fully aligned with the recently adopted General Product Safety Regulation.
- Retailers must be able to rely on the information in their possession, provided by the manufacturer, when assessing the packaging of a product.
- The obligation to act with due care (Article 17.1) should be deleted.

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*Established in 1963, **Independent Retail Europe** (formerly UGAL – the Union of groups of independent retailers of Europe) is the European association that acts as an umbrella organisation for groups of independent retailers in the food and non-food sectors.*

Independent Retail Europe represents retail groups characterised by the provision of a support network to independent SME retail entrepreneurs; joint purchasing of goods and services to attain efficiencies and economies of scale, as well as respect for the independent character of the individual retailer. Our members are groups of independent retailers, associations representing them as well as wider service organisations built to support independent retailers.

Independent Retail Europe represents 23 groups and their over 417.800 independent retailers, who manage more than 753.500 sales outlets, with a combined retail turnover of more than 1,320 billion euros and generating a combined wholesale turnover of 513 billion euros. This represents a total employment of more than 6.500.000 persons.

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