



POSITION PAPER

March 2023

EXECUTIVE SUMMARY

We call for an evidence-based PPWR to deliver on circular economy objectives.

There is a lack of clear definitions on HORECA, takeaway and food retail in the current PPWR proposal, which will lead to legal and business uncertainty for vending companies.

There should be a consideration of unattended nature as well as the variety of machines representing the sector. In certain circumstances - such as sensitive, medical or public environments such as train stations - a single use cup is not only preferable but can be required. These environments make up 20% of the vending machine locations. In addition, there is a clear health and safety risk which should be taken into consideration, particularly during pandemics. However, the re-use and recycling targets could be fulfilled in workplaces.

We call for the Regulation to ensure any exemptions are made at the EU level, and not left to the discretion of member states. Something we believe could bring further uncertainty and potential single market barriers.

Finally we have concerns that some proposed measures in the PPWR revision could unnecessarily or unintentionally disrupt established business models or channels, which can already lead to quality recycled materials. We believe that the freedom of material choice should remain a significant consideration and as such we do not believe that single serve units should be required to be compostable.

THE VENDING INDUSTRY IS POWERED BY INNOVATION AND COMMITTED TO SUSTAINABLE PRACTICES

There are 4.4 million vending machines in Europe, 65% of which are hot drinks machines. Table top coffee machines allow the consumer to place his own beverage cup while the most recent generation of freestanding hot drinks machines typically have sensors which can detect and dispense into reusable cups, enabling consumers to reduce their use of single-use cups. Where single-use cups are dispensed, vending operators ensure the presence of a waste collection point.

The vending industry is a frontrunner in reducing the impact of single-use cups. "Rivending" in Italy is one of the industry-driven initiatives which aim to streamline the collection and recycling of single use cups used in the vending industry. Through this project 13,000 tonnes of CO2 is saved per year. This goes in line with the recycling technologies and processes Italy has massively invested in over the last years.

A EUROPEAN INDUSTRY PROVIDING MANUFACTURING JOBS, DRIVEN BY SME'S

In Europe, the industry employs more than 85,000 individuals directly. 98% of the 10,000 vending operators - who maintain and stock the machines on a daily basis - are SMEs and family businesses.

300 million Europeans rely on the sector at least once a week for refreshments on-the-go, with vending machines dispensing 95 million food and beverage items every day - all in a sales area of less than 2m². Europe-wide the industry revenue is over €16 billion.

CONCERNS WITH PROPOSED PPWR

Article 3

Lack of clarity in definitions whether the vending industry is included as part of 'HORECA' or 'takeaway'

"Article 3 (30) 'HORECA sector' means Accommodation and Food Service Activities according to NACE Rev. 2 – Statistical classification of economic activities."

Under the proposed Regulation, NACE Rev.2 excludes vending from the HORECA sector.

Vending can neither be considered takeaway because it entails immediate on-site consumption. The Regulation does not define what is considered takeaway.

- **Vending cannot be considered either HORECA, nor takeaway, as it's a distinct and unattended segment.**

Annex V

Implications on the unattended business model, if vending is considered part of HORECA

Annex V (3): Single use plastic, single use composite packaging or other single use packaging

"Single use packaging for foods and beverages filled and consumed within the premises in the HORECA sector, which include all eating area inside and outside a place of business, covered with tables and stools, standing areas, and eating areas offered to the end users jointly by several economic operators or third party for the purpose of food and drinks consumption

Illustrative example: cups"

In the workplace environment, where 80% of vending machines are located, beverages are typically consumed within the building, and in many cases could include tables and chairs offered to end users close by the machine – similar to a HORECA situation. While hot drinks vending machines can typically allow the consumer to decide on whether to choose a reusable or a single use cup, this is not always the case - and in fact a single use cup may even be required. Examples include machines located in medical environments other sensitive sites, and perhaps also in public locations which happen to have a small seating area.

Annex V (4): Single use packaging for condiments, preserves, sauces, coffee creamer, sugar, and seasoning in HORECA sector

"Single use packaging in the HORECA sector, containing individual portions or servings, used for condiments, preserves, sauces, coffee creamer, sugar and seasoning, except such packaging provided together with take-away ready-prepared food intended for immediate consumption without the need of any further preparation

Illustrative example: sachets"

Banning of sugar sachets and coffee creamer pods would bring significant business issues for the unattended vending industry. A sugar shaker could in all practical senses not be provided to consumers in every circumstance as an alternative to sachets, and coffee creamer could simply not be provided in an alternative format. In an unattended environment, various issues include the inability to refill the sugar shaker when required, risk of theft, contamination and other hygiene-related issues that spilt sugar or creamer could bring.

- **In order to ensure the viability of the unattended vending model and a safe consumption, cups and sachets should not be banned in our sector.**

Article 22

Exemption for micro companies is not clearly outlined, which brings business uncertainty and leaves too much flexibility to Member States

"Member States may exempt economic operators from point 3 of Annex V if they comply with the definition of micro-company in accordance with rules set out in the Commission Recommendation 2003/361, as applicable on XX, and where it is not technically feasible not to use packaging or to obtain access to infrastructure that is necessary for the functioning of a reuse system."

According to the definition of a micro company, the vast majority of the 10,000 vending operators in Europe would be exempted from reuse targets as they are considered micro businesses. However the Regulation does not provide legal certainty that these exemptions will be implemented by member states.

- **In order to provide legal and business certainty, the exemption for micro companies must be made in the Regulation itself, and not left to Member States.**
- **Exemption for micro companies needs made to avoid huge administrative burden.**
- **The proposed Regulation will create barriers to the EU single market.**

PROPOSED AMENDMENTS

Amendment XXX

Proposal for a regulation
Chapter I General provisions
Article 3 – paragraph 1 – point 30 a (new) Definitions

<i>Text proposed by Commission</i>	<i>Amendment</i> 'take-away' means items purchased at attended points of sale , including cold or hot beverages filled into a container at the point of sale and ready-prepared food, intended for immediate consumption without the need for any further preparation, and typically consumed from the receptacle;
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Justification

The lack of definition of 'take-away' under the original European Commission proposal leads to legal uncertainty and ambiguity in the provisions on re-use and refill targets under Article 26. In order to ensure full clarity in the legislative text, it is necessary to add a definition of the term 'take-away'.

Amendment XXX

Proposal for a regulation
Chapter I General provisions
Article 3 – paragraph 1 – point 30 b (new) Definitions

<i>Text proposed by the Commission</i>	<i>Amendment</i> 'attended point of sale' means a point of sale, whereby the sale of goods takes place through intervention from employees or staff.
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Justification

Providing a definition for 'attended point of sale' is fundamental to ensuring legal clarity within the text. Attended and unattended points of sale have unique characteristics, which require a tailored consideration of the applicability of some provisions.

Amendment XXX

Proposal for a regulation
Chapter I General provisions
Article 3 – paragraph 1 – point 30 c (new) Definitions

<i>Text proposed by the Commission</i>	<i>Amendment</i> 'unattended point of sale' means a point of sale, whereby the sale of goods takes place without intervention from employees or staff.
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Justification

Providing a definition for 'unattended point of sale' is fundamental to ensuring legal clarity within the text. Attended and unattended points of sale have unique characteristics, which require a tailored consideration of the applicability of some provisions.

Amendment XXX

Proposal for a regulation

Chapter IV Obligations of economic operators other than the obligations in Chapters V and VII

Article 22 – paragraph 3 Restriction on the use of certain packaging formats

Text proposed by the Commission	Amendment
<i>Member States may exempt economic operators from point 3 of Annex V if they comply with the definition of micro-company in accordance with rules set out in the Commission Recommendation 2003/361, as applicable on [OP: Please insert the date = the date of entry into force of this Regulation], and where it is not technically feasible not to use packaging or to obtain access to infrastructure that is necessary for the functioning of a reuse system</i>	<i>Member States shall exempt economic operators from point 3 of Annex V if they comply with the definition of micro-company in accordance with rules set out in the Commission Recommendation 2003/361, as applicable on [OP: Please insert the date = the date of entry into force of this Regulation], and where it is not technically feasible not to use packaging or to obtain access to infrastructure that is necessary for the functioning of a reuse system</i>

Justification

In order to avoid the creation of unnecessary barriers to the functioning of the single market, the exemption of economic operators that comply with the definition of micro-company in accordance with rules set out in the Commission Recommendation 2003/361 should be harmonised on the EU level. In addition, the exemption of SMEs should not be left to the discretion of Member States, as this will lead to legal uncertainty.

Amendment XXX

Proposal for a regulation

Annex V – paragraph 3 – Restricted use

Text proposed by the Commission	Amendment
<i>Single use packaging for foods and beverages filled and consumed within the premises in the HORECA sector, which include all eating area inside and outside a place of business, covered with tables and stools, standing areas, and eating areas offered to the end users jointly by several economic operators or third party for the purpose of food and drinks consumption</i>	<i>Single use packaging for foods and beverages filled and consumed within the premises of attended points of sale within the HORECA sector, which include all eating area inside and outside a place of business, covered with tables and stools, standing areas, and eating areas offered to the end users jointly by several economic operators or third party for the purpose of food and drinks consumption</i>

Justification

The use of specific single-use packaging, in particular in sensitive areas, such as medical and unattended environments, may be preferred. This amendment ensures that the restriction applies only at attended points of sale in the HORECA sector, and not in unattended environments where reusable alternatives may not always be practical.

Amendment XXX

Proposal for a regulation

Annex V – paragraph 4 – Restricted use

Text proposed by the Commission	Amendment
<i>Single use packaging in the HORECA sector, containing individual portions or servings, used for condiments, preserves, sauces, coffee creamer, sugar and seasoning, except such packaging provided together with takeaway ready-prepared food intended for immediate consumption without the need of any further preparation</i>	<i>Single use packaging in attended points of sale within the HORECA sector, containing individual portions or servings, used for condiments, preserves, sauces, coffee creamer, sugar and seasoning, except such packaging provided together with takeaway ready-prepared food intended for immediate consumption without the need of any further preparation.</i>

Justification

The use of specific single-use packaging, in particular in sensitive areas, such as medical and unattended environments, may be preferred. This amendment ensures that the restriction applies only at attended points of sale in the HORECA sector, and not in unattended environments where reusable alternatives may not always be practical.

Proposal for a regulation

Chapter IV Obligations of economic operators other than the obligations in Chapters V and VII

Article 26 – paragraph 2 Re-use and refill targets

<p><i>Text proposed by the Commission</i></p> <p><i>The final distributor making available on the market within the territory of a Member State in sales packaging cold or hot beverages filled into a container at the point of sale for take-away shall ensure that:</i></p> <p><i>(a) from 1 January 2030, 20 % of those beverages are made available in reusable packaging within a system for re-use or by enabling refill;</i></p> <p><i>(b) from 1 January 2040, 80 % of those beverages are made available in reusable packaging within a system for re-use or by enabling refill.</i></p>	<p><i>Amendment</i></p> <p><i>A final distributor that is conducting its business activity within an attended point of sale in the HORECA sector and that is making available on the market within the territory of a Member State in sales packaging cold or hot beverages filled into a container at the point of sale for take-away shall ensure that:</i></p> <p><i>(a) from 1 January 2030, 20 % of those beverages are made available in reusable packaging within a system for re-use or by enabling refill;</i></p> <p><i>(b) from 1 January 2040, 80 % of those beverages are made available in reusable packaging within a system for re-use or by enabling refill.</i></p>
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Justification

To ensure legal certainty and consistency in the text, it is necessary to specify that the provisions refer to economic operators conducting business activity within the HORECA sector, referring to Accommodation and Food Service Activities according to NACE Rev. 2 – Statistical classification of economic activities, as defined in Article 3 (30) of this proposal. This amendment ensures the text is fully consistent with the NACE Rev. 2 definition of the HORECA sector by applying to attended points of sale.