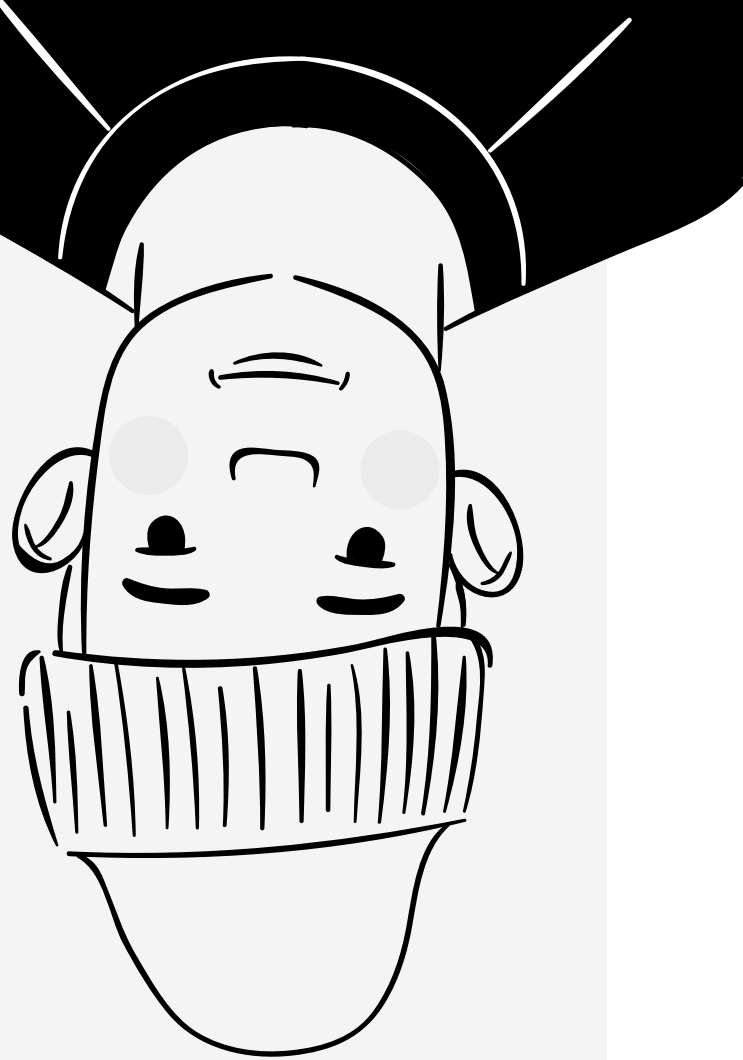


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LEGISLATION





Why do we need policy?

The United Nations' 17 SDGs, UNEP, COP27, the 2015 Paris Agreement, or the Kyoto Protocol; we hear about these frequently in the media and, at best for day-to-day businesses, they seem distant, out of reach, and way above my pay grade.

There's a perception created that puts these out of touch with real people - those facing the realities of delivering products in the commercial and competitive marketplace.

Policies and frameworks, they have been around for quite some time existing – to many of us – way off in the distance and outside of our daily parameters. But that's a false reality.

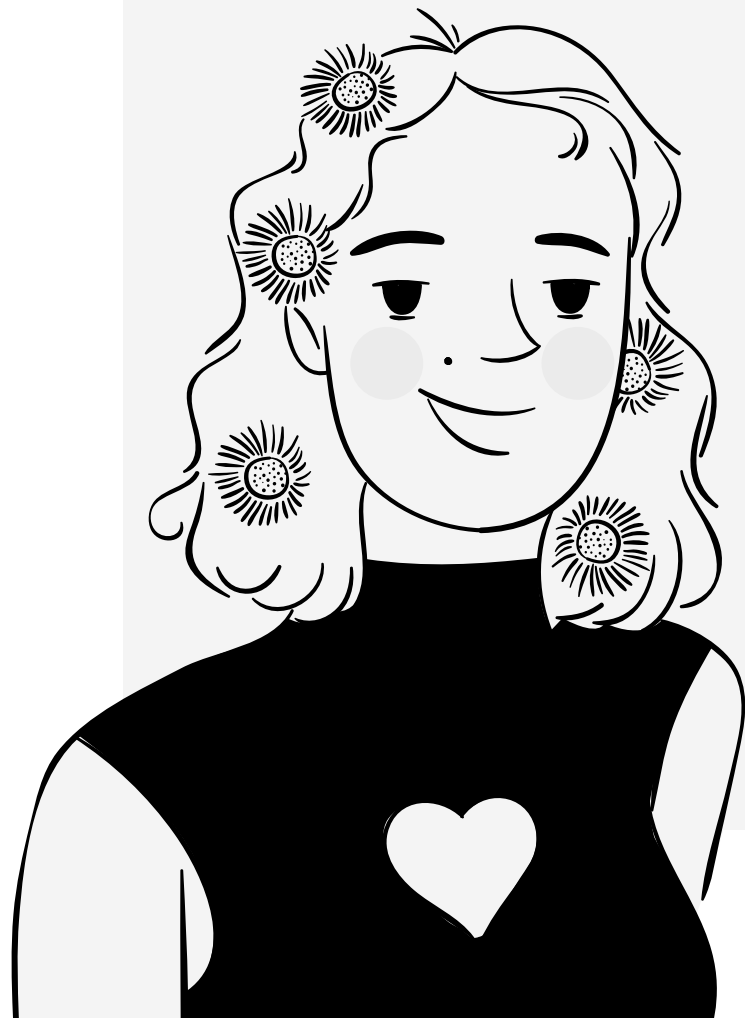
The weight of evidence backing the harmful effect humankind is having on the world is increasing and these somewhat ethereal collective actions by national representatives are now becoming much more down to earth.

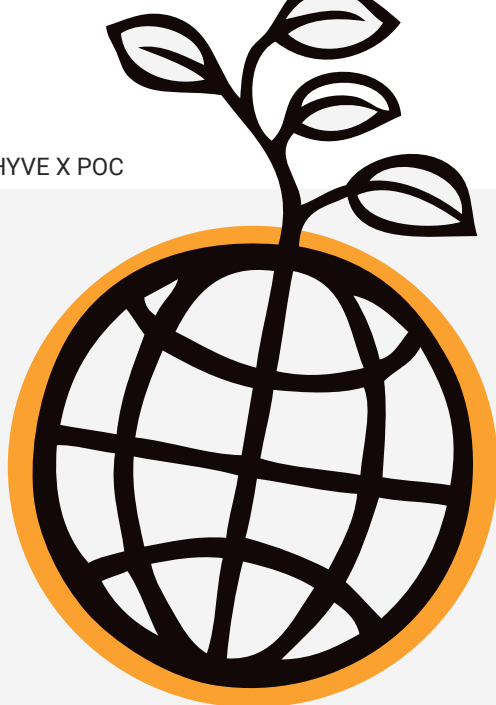
To slow the acceleration of harm human activity causes and to begin redressing the balance and bring the environment back from the tipping point, many governments around the world are making changes to the way their nations operate. Policy is that instrument of change and – in the context of the environmental crisis dawning upon us now – only strong policy will have the power to effect the big change needed.

Did you know?

Only 9% of all global plastics are currently recycled. Shocking findings from Greenpeace's Big Plastic Count 2022 found that UK homes produce 96.6 billion pieces of plastic packaging waste each year. Only 12% of that is recycled here.

The rest is exported to other countries to deal with (17%), buried in landfill (25%) or burnt in incinerators (45%).





So, what's to be done about this?

The deliberate consequence of all these efforts by the UN, NGOs, and international summits is to gain alignment on a course of action to reduce greenhouse gas (GHGs) emissions to limit global warming to 1.5°C by 2030. With just seven years to go, it's obvious that time is a critical factor.

NGOs play a pivotal role in influencing international organisations - such as the UN - in helping provide evidence, data, and guidance on how to tackle this key issue. NGOs such as Greenpeace, WWF, and The Ellen MacArthur Foundation have been at the forefront of this for many years. The IPPC at COP27 reported that the temperature rise today is 1.2°C, but is unevenly spread around the world, with some areas experiencing up to 3°C (the Arctic, for example) and others experiencing less (like southern hemisphere oceans). The report also outlines what we must do to bring this temperature rise back down, and a time frame to do it in.

[VIEW REPORT](#)

If we continue on our current trajectory (of emitting green house gasses through burning fossil fuels) we will exceed the 1.5°C limit in seven to eight years.

That really isn't much time at all. To put this in context the next President of the United States, if in for a second term, will be managing the consequences of this.

What we must do to have a chance of keeping the global warming below the 1.5°C is globally cut our emissions by half, every decade until 2050.

How we do this is surprisingly simple but exceptionally challenging:

We must reduce our greenhouse gas emissions dramatically. In 2050 we need to be emitting less than 12.5% of what we're emitting now. There is no time to waste.

We must protect the natural environment on land and at sea. It absorbs GHGs and acts as our buffer for climate change. Today and in the future.

However, it is imperative that trade and commerce can function in this dramatically changing and challenging world.

The global economy needs to ramp up activities that manage carbon, encourage decarbonisation, and reshape industry such that alternative power, food, agriculture, construction, and transport systems can be used to meet these targets.

We have the power and responsibility to drive this change, but we need to work collectively to ensure changes we make are coherent and make the necessary impact.



Policy

The European Green Deal



Governments around the world are implementing policy changes in their respective countries. But they lack harmony. Timings, scope of change, and support of activities needed vary dramatically from nation to nation.

The European Green Deal aims to make Europe the first climate neutral continent in the world by 2050.

The EU has chosen to take a leadership role and, through its size and federated organisation of its member states, is able to apply a comprehensive and broad policy approach. These are EU-wide, overarching elements to which all member states must sign up. These include reduction targets, EU-wide standards, metrics, and measures.

Each member state also knows the detailed implementation of the policies weighs heavily with them individually. In adopting this position, many precedents are set that will influence both policy and trade around the world.

The European Green Deal of December 2019 is a wide-ranging set of interventions with the goal

of making Europe the first climate neutral continent in the world by 2050, with challenging goals set for 2030. It targets all sectors of the EU economy covering transport, energy, building, protecting nature, creating new clean technology markets, and boosting global climate action.

The EU wishes to “set the bar” for change globally by developing the structures for a robust and resilient economy based on circular economic principles.

To do so, it has adopted a set of proposals for new policies to reduce net GHG emissions by a minimum of 55% by 2030 (vs 1990).

A key example of impact can be found in packaging. 40% of virgin plastic and 50% of virgin paper is destined for packaging in the EU, and the consumption is growing.



In March 2020, the Circular Economic Action Plan (CEAP) was adopted. It's become a key building block of the European Green Deal, designed to make sustainable products the norm in the EU.

It focuses its action on sectors that use the most resources and where potential for circularity is highest. These include:

- ICT, batteries and vehicles
- Packaging, plastics, and textiles
- Construction and buildings
- Food

Since its implementation, a number of proposals, policies, agreements, plans, strategies, pacts, and rules have been published in line with the need to reduce the negative environmental impact sectors like aviation, agriculture, industry, transport, energy, chemicals, and innovation.

Of particular interest are the proposals for consumer packaged goods - an area constantly in the public eye.

In November 2022, a new proposal for tighter packaging and packaging waste regulation was released.

It sets out the principles of reducing unnecessary packaging, stepping up packaging re-use, and stimulating the use of recycled materials.

Its objective is to reduce the negative impacts of packaging, packaging waste, and improve the internal market in recycled materials.

It aims to hit EU targets of reducing packaging waste per capita (EU as a whole and each member state) by 15% by 2040

It wants to mandate reuse and refill targets and phase out unnecessary packaging.

This is a bold statement. It will include further mandated criteria for: Design for Recyclability, Recycling Assessment, Deposit Return Schemes, harmonised labelling for packaging and collection, ambitious targets for recycled content in plastic packaging, and clarity on compostable and biodegradable plastics use.

So, what next?

There are a number of key points the EU Green Deal raises when considering its impact on the vast majority of businesses and organisations who are directly affected by this.

"The implementation of the Green Deal within the EU has federated standards and goals, but the implementation of the policies and the eventual fiscal and non-fiscal reporting is the purview of each member state. It's inevitable there will be cost, time, and complexity issues to be managed as the systems transition to the new mandated ones. Each member state will face their own hurdles in doing so.

It's noted that existing systems have influenced the design and layout of the new proposal which hopes to help the transition. What we can expect is a steady stream of amends, updates, further details on the whole proposal such that a final legislation is in force by 2030. The EU is encouraging 'citizens, public authorities and businesses to use this framework in their policy, investment or purchasing decisions'."

Mike Swain
Ambassador of Packaging,
Products of Change



Critical reception

The proposal has not been received well by the member states. Much of the feedback has been around:



The very challenging targets and the impact that will have on all sectors, particularly in additional financial burden in fees and taxes.



The very complex nature of the structures within the proposal that will have an impact on the resources and capability needed to manage compliance.

Mike Swain

Ambassador of Packaging,
Products of Change

"What is also lacking is any kind of operational detail that can be applied to changes in packaging and packaged goods, in their design, sourcing, use, collection and eventual reprocessing. A lot of what has been mentioned in the proposal suggests that the majority of the mandated criteria are very much interdependent and will need to be written in both a coherent and a pragmatic way."

This is needed to allow all operators and stakeholders to make informed decisions as early as possible, to identify and begin to implement changes where they can. What the EU has suggested is there will be much more detail on these mandated areas available by the end of 2028. What is of concern to the industry, especially the industries that take time to change their packaging, is the limited time between the end of 2028 when clarity is available and the implementation of the legislation in 2030, at best a period of two years to effect all the necessary changes to ensure freedom to operate in the EU.

"Based on what has been released to date and understanding of the underlying principles for the mandated criteria like packaging design and material choice, recycling capabilities, DRS operations, etc., businesses can at least plan and prepare for the changes, allowing them to be able to implement the final changes post the detailed information being released," says Mike.



The EU, and by extension those countries that trade with the EU, e.g. UK, China, US, Taiwan, will **need to align their exported packaged goods with European policies to be able to trade with the EU.**



To be able to operate commercially with imported packaged goods, the country of origin will have to comply to European Union mandated criteria for the packaging design.

It's that, or face - at best - increased fees and taxes for importing and handling their packaging in the EU; or - at worst - possible exclusion of that product in the European Union

Plastic Tax

Plastic packaging, and packaging that contains plastic, are covered in specific articles of the proposal.

The existing directive (EU) 2019/904 is intended to be replaced but the emphasis of the directive still continues, with the banning of certain single use plastic packaging and items, such as oxo-degradable plastics, but much more detail is inferred on the mechanisms and how this will be managed. It also goes further at the EU level in defining what is known as a 'Plastic Tax', a mechanism designed to encourage the use of recycled content in plastic packaging, and to make plastic packaging more recyclable. A 'plastic tax' of sorts was introduced by the EU in January 2021 as part of the COVID recovery plan in the 2021-2027 budget, however, it is in fact not a tax but a contribution, from each member state to the EU, based on a national contribution that is proportional to the quantity of plastic packaging waste that is not recycled in each member state, all of whom have agreed to the contribution.

It is up to each member state to define, within their state, how this contribution is funded. Some choose to simply pay it directly from the country's 'purse' regardless of internal capabilities or taxing mechanisms, while others have introduced legislation and ways to recover this cost from those responsible for the plastic packaging.



The new proposal covers the 'plastic tax' and incorporates it into the wider picture on plastic use in packaging and other products. How this will develop is not laid out, however, given the financial contribution to the EU that the 'plastic tax' is providing (c. €8 billion), the consensus is that this will continue from now until 2030 at least.

The new proposal lays out how recycled content can and will be defined and the requirements to 'prove' the recycled content of plastic packaging that is put on the market. The charging mechanisms and the proportion of post consumer recycled content that drives them will also be revised and the proportion will increase over time and these levels will be mandated levels that have to be included in certain plastic packaging.

Some plastic packaging has been excluded from this direct mechanism (e.g. Pharma and potentially sensitive products like baby food packaging). The details of this are expected to be made much clearer by 2028, in time for the implementation in 2030 of the new directives.

The EU, in The European Green Deal, committed in December 2019 to review non-financial reporting (NFR), knowing that this would be a foundation for sustainable (financial and environmental) investment. Ensuring a framework for reporting information on environmental protection, social responsibility and treatment of employees, respect for human rights, anti-corruption and bribery, and diversity on company boards was essential to this. The review also extended this scope to ensure changes

in behavioural patterns in the finance sector, discourage greenwashing and promote responsible and sustainable investments. As of October 2022 all parts of the initiative are in place, most importantly the New Corporate Sustainability Reporting Directive (CSRD) from April 2021. The scope of the CSRD has expanded to all listed companies including SME's and clarifies obligations to report according to:

- i) Information necessary to understand how sustainability matters affect them.
- ii) information necessary to understand the impact they have on people and the environment.

The EU CSRD is also based on international standards and, as such, should facilitate a more consistent reporting. In this context it should also aid international trade with the EU, particularly with the UK as much of the framework was adopted prior to Brexit.

This lays a sound foundation on which the Circular Economic Action Plan can be built.

As the transition progresses, we can expect further detail around things like Greenwashing to be aligned with the CEAP.



Wrapping this up

The transition from what was the familiar linear economy to the circular economy will be challenging across a broad number of elements.

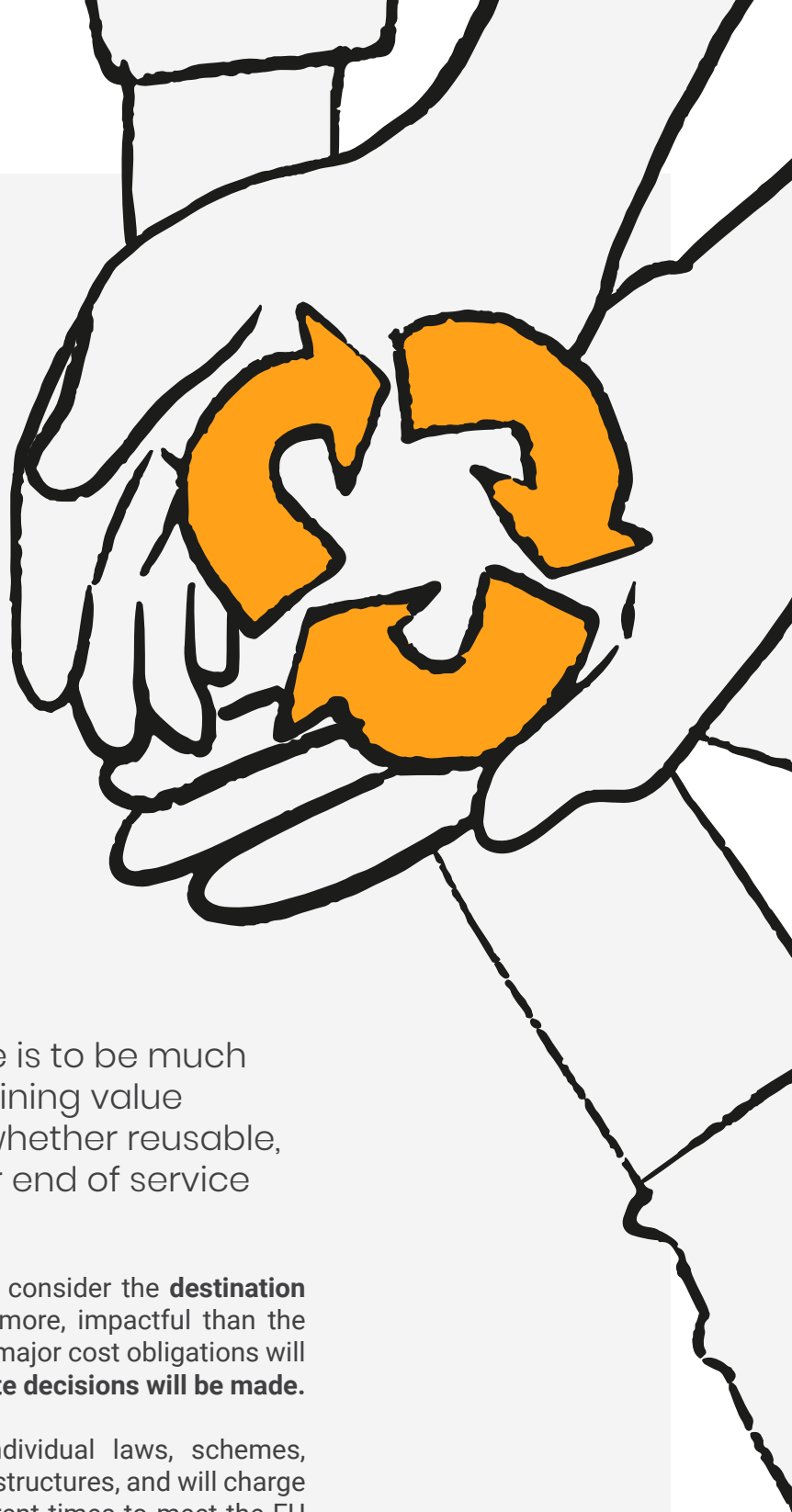
Policy is being updated and expanded with increasing frequency. The depth and breadth of policy is becoming wider and deeper, and much more complex with the number of factors that need to be addressed when designing and specifying packaging and packaged goods.

Many of these factors will be mandatory instead of optional (e.g. impending DfR criteria), and will have a more dramatic impact on costs (including taxes/fees) and freedom to operate. The process of designing and specifying will need to become much more complex and sophisticated, as will the people doing it, to ensure compliance.

Much effort is being put into clarifying and mandating two key areas (by the EU and other governing bodies) on how we design packaging in the future:

- i) The processes associated with sourcing, making, and using products.
- ii) The requirements for recovering/capturing and reprocessing the materials.





The ultimate aim of these is to be much more focused on maintaining value throughout the system, whether reusable, recyclable or some other end of service life scenario.

It is now increasingly important to consider the **destination market** as at least equally, if not more, impactful than the **source market** as this is where the major cost obligations will be exercised and **freedom to operate decisions will be made**.

Each member state will have individual laws, schemes, capabilities, infrastructure, and fee structures, and will charge different rates and change at different times to meet the EU mandated targets.

Export markets (outside EU, e.g. UK and US) will have different levels of developed circular economic systems with potentially less alignment to EU systems. The rate of change (or relative volatility) of requirement will be significant as the policies are rolled out in in each member state up to - and including - 2030 and beyond.



Manufacturers, brand owners, suppliers, importers, and agents, will be required to pay for the development of the circular economy. It will become increasingly difficult to navigate the do's and don'ts of packaging and packaged product design as:-

- The need to be kept up-to-date with changes will be pivotal**
- Each obligated organisation's requirements will be very unique to them and it is their responsibility to report them.**
- The EU is leading the world on circular economic development and its implementation. Adoption outside the EU will be challenging to navigate.**

References:

GLOBAL WARMING OF 1.5 °C

UN ARTICLE

EXPLAINER

1 POINT 5

EU GREEN DEAL

CIRCULAR ECONOMY ACTION PLAN

EUROPEAN COMMISSION

PACKAGING AND PACKAGING WASTE

CITEO FRANCE

DER GRÜNE PUNKT

PLASTIC TAX

RECOVERY PLAN

DIRECTIVES

SUSTAINABLE FINANCE PACKAGE

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL





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