



UNESDA – NMWE - AIJN

Comments on Notification 2021/644/F

France – Decree on consumer information on the environmental qualities and characteristics of waste-generating products

We are writing to you regarding the [draft French Decree on consumer information on the environmental qualities and characteristics of waste-generating products](#).

UNESDA-Soft Drinks Europe (soft drinks), NMWE (natural mineral water) and AIJN (juice) are highly committed to accelerating the transition to a circular economy, including by improving the environmental characteristics of beverage packaging.

UNESDA and NMWE, in particular, have their Packaging Vision towards 2030 whereby they are making several far-reaching commitments, going well beyond EU law, including on recyclability and recycled content of our beverage packaging.

AIJN, on its side, is developing the Sustainable Juice Industry Roadmap towards 2030 to articulate the EU fruit juice industry's commitment to environmentally conscious, sustainable production, including packaging.

We are therefore very supportive of initiatives aiming at improving the sustainability and circularity of products. However, to be efficient, such initiatives should always be backed by clear and harmonised rules and definitions in order to ensure the proper functioning of the EU's internal market.

It is our opinion that the French draft Decree 2021/644/F, as currently notified under the TRIS procedure, may constitute a restriction of the free movement of goods within the European Union and has the potential to create market distortions.

Please see below a list of our concerns regarding the content of this Decree.

1. Many proposed measures overlap with ongoing EU legislative work, with the risk of creating unharmonized and confusing rules and definitions

The French draft Decree includes a series of provisions that are currently discussed and will soon be regulated at EU level. The text indeed includes provisions on the labelling of biodegradable/compostable packaging, the labelling of reusable packaging, and information on recycled content levels. It also defines recyclability. All those elements are currently being discussed or defined by the European Commission:

- The European Green Deal and the EU Circular Economy Action Plan foresee a new policy framework where the EU will address the sourcing, labelling and use of bio-based plastics, and the use of biodegradable and compostable plastics. [A Roadmap](#) was published in October 2021 with an indicative timing for the proposal in Q2 2022.



- The question of re-use is expected to be addressed in the review of the Packaging and Packaging Waste Directive, also foreseen for 2022. In this context, the European Commission is also working on its own definition of “recyclability”.
- The [single-use plastics directive](#) set mandatory recycled content targets for beverage packaging. The consultant Eunomia is currently helping the European Commission to develop a general method for the calculation, verification and reporting of recycled content in bottles under the directive.

By introducing these requirements and definitions at national level, the French Decree risks to introduce divergences on key areas of packaging sustainability legislation, create barriers to the free movement of goods and hamper the stability that businesses need to invest in circular packaging solutions.

2. The possibility left to the Environment Minister to define additional modalities of physical or dematerialized display does not provide legal certainty and could introduce severe market distortions

To remain competitive, businesses (small and large) need certainty, clarity and stability. However, this Decree leaves many uncertainties that would leave beverage companies in the dark about the rules by which they need to abide. The first consequence would be that investments and efforts in circularity of packaging would be reduced instead of being encouraged.

The draft Decree states, under Art. R. 541-222, that *“Additional means of display, whether physical or paperless, that are visible at the time of the purchase, may be defined by order of the Minister responsible for the environment”*.

This possibility left to the Minister of the Environment to define additional modalities of physical or dematerialized display does not allow our companies to obtain the security and legal visibility they need. Such additional arrangements could have significant consequences for our businesses.

Making it compulsory to display information on packaging rather than publishing it electronically would not only entail additional costs for economic operators but may also have counterproductive effects (increased packaging size) and introduce market distortions.

We would like to remind that the freedom of goods prohibits measures capable of hindering, directly or indirectly, actually or potentially intra-community trade. The European Commission has noted (see “Beverage packaging, deposit systems and free movement of goods” (2009/C 107/10)) that national beverage packaging systems may divide the internal market as manufacturers are required to adapt their packaging to different requirements, which leads to additional costs.

Furthermore, such a provision lacks consistency with the rest of the text, which requires for the environmental information to be communicated to consumers electronically through a dedicated web page with an application programming interface.



To conclude, we would like to stress the need for the European Commission to urgently address all national initiatives disrupting the efforts made to harmonise the legislative framework to advance packaging sustainability across all Member States, and to take action when these initiatives threaten the Single Market.

[About UNESDA Soft Drinks Europe](#)

Established in 1958 UNESDA Soft Drinks Europe is a Brussels-based association representing the European soft drinks industry. Its membership includes both companies and national associations from across Europe producing drinks including still drinks, squashes, carbonates, powders, iced teas, iced coffees, syrups, energy drinks and sports drinks.

www.unesda.eu

[About Natural Mineral Waters Europe \(NMWE\)](#)

Natural Mineral Waters Europe represents almost 550 natural mineral and spring water producers in Europe, most of them small- and medium sized companies. NMWE is dedicated to promoting the unique qualities of natural mineral and spring waters as well as sustainable use of water resources and circular economy.

www.naturalmineralwaterseurope.org

[About the European Fruit Juice Association \(AIJN\)](#)

AIJN is the representative association of the fruit juice industry in the EU. It defends the interests of the juice industry including the entire value chain and promotes the sector by engaging with the EU Institutions and other relevant stakeholders.

www.aijn.eu