

Introduction

In the European Green Deal and in the new Circular Economy Action Plan,¹ the European Commission committed itself to develop requirements that will ensure that all packaging in the EU market is reusable or recyclable in an economically viable manner by 2030. The packaging legislation is intended to facilitate the collection, reuse, recovery and recycling of packaging, and, generally, to provide consumers with proper information on the final destination of packaging.

In light of the above, the packaging legislation has recently been amended. These amendments will be effective as of 1 January 2023.

Pursuant to the Italian applicable environmental labelling and packaging laws ("Labelling for Packaging Laws"²) packaging manufacturers are responsible for complying with certain new requirements.

This guide aims to support companies with operational and management guidelines to address these regulatory obligations and provide operational tips for companies and end users. Please note that all packaging³ should be labelled in the form and manner that the relevant company considers most appropriate for achieving the stated goals, complying with legal requirements.

Packaging

Pursuant to the Labelling for Packaging Laws, packaging is defined as "the product, composed of materials of any type, destined to contain certain goods, from raw materials to finished products, to protect them, to allow their handling and their delivery from the producer to the consumer or user, to their presentation, as well as disposable items used for the same purpose".

For sake of completeness, neutral or unmarked packaging⁴ is also considered included in the above definition.

Key Items of Labelling

On the basis of Commission decision 97/129/EC (decision), all packaging must be appropriately labelled in accordance with the procedures laid down in the applicable UNI technical standards.

The purpose is to enable consumers to have proper information on the final destination of packaging, improving the collection, reuse and recovery perspective of such packaging.

The above-mentioned decision provides an identification system by means of alphanumeric codes of the packaging composition material. Producers must indicate the alphanumeric code provided for in the decision on all packaging. Should the decision not provide an appropriate identification material code, the manufactures shall apply UNI (Ente Nazionale Italiano di Unificazione) standards code identification system.⁵

Examples of UNI code are:

- UNI EN ISO 1043-1 for the identification of plastic packaging made from polymers
- UNI EN ISO 10667-1 for the identification and recognition of recycled polymers

The decision also sets forth other information that the packaging manufacturer should provide to consumers regarding the correct destination of packaging;⁶ it provides a sort of *vade mecum* concerning information (i.e. belonging material, collection guidelines) that must be provided about the packaging that facilitates its disposal.

Anticipating section 4 below, it should be noted that such *vade mecum* must be applied only to the consumers⁷ (involved in the business-to-consumer (B2C) market); these do not apply to packaging destined for the commercial channels.

¹ Please note that the European Green Deal is a package of policy initiatives that aim to set the EU on the path to a green transition, with the ultimate goal of reaching climate neutrality by 2050. In this context, the European Commission has adopted the new Circular Economy Action Plan to reduce pressure on natural resources and sustainable growth and jobs. In particular, such plan announces initiatives along the entire life cycle of products. It targets how products are designed, promotes circular economy processes, encourages sustainable consumption and aims to ensure that waste is prevented and the resources used are kept in the EU economy for as long as possible.

² Article 219, paragraph 5 of Legislative Decree no. 152 of September 2006, as amended by Article 3, paragraph 3, letter c) of Legislative Decree no. 116 of 2020.

³ Please see definition of packaging at paragraph 5.

⁴ Please note that neutral or unmarked packaging refers to unprinted/unmarked packaging that does not contain any graphics or affixed symbols or information.

⁵ Please note that UNI is a regulatory national private entity.

⁶ Please note that the final destination of packaging refers to the end of its useful life.

⁷ Please note that, according to the Consumer Code article 3, paragraph 1, letter v) the consumer is a natural person who acts for purposes extraneous to any business, commercial, artisanal or professional activity.

Essential Content of the Labelling

Substantially, the required items to be placed on the label are:

- The alphanumeric code related to the family to which the packaging material belongs
- The collection guidelines

Instead, the optional items that can be marked on the packaging are:

- A check that citizens can do concerning the local municipal guidelines
- The type of packaging
- Reference to UNI standards for any supplementary identification codes not provided for by the decision

The decision distinguishes the required items concerning the packaging destined for the consumer (B2C) from the packaging for professional channels (business to business (B2B), as below.

In particular:

- In the B2C context, the mandatory items are the following:
 - For the single-component packaging destined for the consumer:
 - Alphanumeric code of the composition material under the decision
 - Collection instructions
 - A check that citizens can do concerning the local municipal guidelines
- For packaging consisting of several components that cannot be separated by hand:
 - Indicate the alphanumeric code of the composition material under the decision on the main body material
 - Collection guidelines
 - Indicate the alphanumeric code of the composition material on the components that cannot be separated manually
 - A checklist that citizens can do concerning the local municipal guidelines
- For packaging components that can be separated by hand:
 - Indicate the alphanumeric code of the composition material under the decision on each of the packaging components
 - Collection guidelines
 - A check that citizens can do concerning the local municipal guidelines
- In the B2B context, the following item is mandatory:
 - The alphanumeric code of the composition material under the decision

As mentioned above, labels on packaging for professional channels (B2B) are not required to provide information on the final destination of the packaging.

In addition, for packaging destined to the Italian market, the Labelling for Packaging Laws suggest using the colour coding set forth by in the UNI 11686 standard. This standard defines the colours (i.e. blue for paper, green for glass, turquoise for metals, yellow for plastic and grey for undifferentiated waste) in the different materials and the visual identification elements to be shown on bins. Certainly, the adoption of specific colour codes makes it easier for the final consumer to recognise the correct bin and aids when they must perform separate waste collection outside their own hometown.

Obligated Parties

The responsibility for providing the required information on the packaging is jointly assumed by all players in the packaging production chain up to the end customer.

In light of the above, it is customary for all players who are involved in the packaging production to formalise an agreement between themselves, through which the moment at which subject takes on this responsibility is defined and made explicit. Clearly, labelling packaging is a shared activity between the packaging supplier and user.

Therefore, the packaging manufacturer⁸ is responsible for complying with the packaging labelling and marketing requirements. The packaging manufacturer is the initial party obliged to provide the information about the composition of the packaging that is conveyed throughout the supply chain because only the packaging manufacturer knows exactly the composition of the packaging.

Environmental Labelling of Packaging

Article 11 of the Law Decree no. 228 of 30 December 2021 (*Milleproroghe* Decree), converted with amendments by Law no. 15 (in SO no. 8, relating to the Official Gazette 02/28/2022) provides :

- The possibility for operators in the sector to commercialise products⁹ without the new environmental labelling requirements already placed on the market (in such case, the date of the document of purchase of products by the customer shall be considered) or already provided with a label¹⁰ on 1 January 2023, while stocks last
- The suspension of the obligation of environmental labelling of packaging until 31 December 2022

Packaging stocks that are held in other countries can be marketed only if the packaging is purchased before 31 December 2022. As above, please note that the date of the document of purchase of products by the customer shall be considered.

To summarise, the environmental labelling packaging requirements must be implemented as of 1 January 2023. There is no grace period after 1 January 2023.

⁸ Please note that, pursuant to the Labelling for Packaging Law, the manufacture is defined as the packaging material suppliers, manufacturers, processors and importers of empty packaging and packaging materials.

⁹ Please note that the term "products" refers to the packaging, and not to the packaged products.

¹⁰ Such as packaging that has already been printed, or for which the label has already been produced/applied.

The law permits the sale of packaging with the requirements in force as of today before such date while stocks last, as well as to sell neutral or unmarked packaging containing relevant documentation of the mandatory information to be communicated to customers.

Please note that the relevant information also can be provided digitally (e.g. QR code, apps, website) as specified in the section below.

Digital Channels

According to the process of technological innovation and simplification, the use of digital instruments, such as apps, QR codes and websites as alternatives to physically affixing the information on the packaging is allowed in order to fulfil the obligation of environmental labelling of packaging. There are advantages to using digital channels:

- Make easier the transmission of mandatory information in commercial and industrial circuits
- Consent to convey the composition material of the packaging
- Consent to manage the packaging correctly at the ends of its useful life
- Permit to give immediate answers to citizens
- Guarantee correct information in all Italian municipalities

Should digital channels be used, instructions for accessing them must be made known to all end users and, generally, to all citizens.

Specifically, in order to make the required labelling information available, it is possible to use a digital channel that refers to a page expressly dedicated to conveying the contents of such labelling relevant to the specific packaging, as long as access to this information is simple, precise and easy to interpret. It is advisable to show and differentiate as much as possible each specific type of packaging under consideration on these channels to make it easier for the final consumer to find and consult the information about each specific type of packaging.

Author



Daniela Sabelli

Partner, Corporate
T +39 02 7274 2001
E daniela.sabelli@squirepb.com



Gianluca Valietti

Corporate
T +39 02 7274 2001
E gianluca.valietti@squirepb.com