

**Bird & Bird**

New environmental  
labelling: implementation  
requirement extended  
until 1 July 2022



# New environmental labelling: implementation requirement extended until 1 July 2022

Italian Legislative Decree No. 116 of 3 September 2020 ("D.Lgs. 116/2020"), implementing (EU) Directive 2018/851 on waste and EU Directive 2018/852 on packaging and packaging waste, amended *inter alia* Article 219, para 5, of the Italian Legislative Decree No. 152 of 3 April 2006 (the "Italian Environmental Code"), which provides for certain environmental labelling requirements and obligations for packaging.

New eco-labeling requirements will be mandatory from **1 July 2022**.

The Italian Decree Law No. 228 of 30 December 2021 ("DL 228/2021") extended the period of suspension of the obligation of environmental labelling (initially until 31 December 2021) to 30 June 2022, with the possibility for companies to sell products without the new environmental labelling requirements while stocks last, provided they have already been put on the market or labelled as of 1 July 2022.

Consequently, packaging - even if empty - which has been labelled (i.e. already printed, or for which a label has already been produced/applied) before 1 July 2022, or packaging which has been purchased by the packaging users from their suppliers before the same deadline, may continue to be marketed.

The DL 228/2021 has also provided for the issue of a non-regulatory decree by the Minister for Ecological Transition, containing technical guidelines on the correct labelling of packaging.

Pending the guidelines being issued, we summarize below the main conditions for the correct implementation of the labelling requirements by your company.

## 1. All packaging must be appropriately labelled

Labelling should comply with applicable UNI technical standards and European Commission decisions, to facilitate the collection, reuse, recovery, and recycling of packaging, and to provide consumers with proper information on the destination of packaging.

Moreover, for the purposes of identifying and classifying packaging, producers are also required to indicate the nature of the packaging materials used, based on the European Commission Decision 129/1997.

The new labelling requirements apply to all packaging placed on the Italian market, with the following distinction:

- the obligation to indicate the nature of the packaging materials used applies to all packaging, irrespective of whether offered to consumers or only intended for the B2B channel;
- the obligation to indicate information on the destination of packaging applies to all packaging offered to consumers (as part of a pre-packaged product or alone) but does not apply to any packaging which is only intended for the B2B channel.

## 2. Information on the destination of packaging

Information on the destination of packaging helps the correct disposal of the packaging at the end of its life cycle by consumers.

In this respect, the Italian legislation does not provide for binding modalities, but requires that packaging is “**appropriately labelled**”.

However, we suggest taking into consideration the guidelines set out by the Italian Packaging Consortium (CONAI) which recommend indicating on single-component packaging:

- the wording “Collection [indicating the main material family by weight]”; or
- the main material family by weight, accompanied by the wording “separate collection”, inviting the consumer to check the rules provided by the relevant Municipality.

If the packaging consists of components of different materials that can be separated manually, each of these components should indicate information on its destination. Where this is not possible, for example due to a lack of space, the relevant information can be indicated on the main body or on the presentation packaging.

If the packaging consists of a main body and other ancillary components that cannot be separated manually (e.g., adhesive labels or non-separable closures), the collection instructions for the main body material must be indicated.

## 3. Information on the nature of packaging materials used

Producers<sup>1</sup> must indicate the nature of the packaging materials used by indicating the alphanumeric identification provided for by the Decision 97/129/EC on each packaging or on the main body, in accordance with the same criteria mentioned above with reference to the information on the destination.

Even though, according to the law provision, such obligation lies with the producer, it should be considered that the Italian Environmental Code punishes “*anyone putting packaging on the Italian market*” lacking the mandatory labelling requirements.

The physical affixing of the labelling on the packaging must be therefore considered as a shared responsibility of the producer and the user, the latter including the trader, distributor, filler, user of packaging and importer of filled packaging.

For that reason, it is recommended to clarify and regulate the obligations of each party in the supply chain through a written agreement.

## 4. Use of digital channels

The Ministry of Ecological Transition, with a note issued on 17 May 2021, clarified that the use of digital tools in order to fulfill the obligation of environmental labelling of packaging (e.g., App, QR code, digital channels) should be preferred.

Furthermore, where information cannot be conveyed through digital channels it should be made available through the company and/or retailer websites.

It is in any case suggested to provide consumers with clear indications on the packaging (or at the point of sale) on how they can look for mandatory information through digital tools or websites.

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<sup>1</sup> “Producers” mean suppliers of packaging materials, manufacturers, processors and importers of empty packaging and packaging materials.

## 5. Applicable penalties

Putting packaging lacking the mandatory labelling requirements on the Italian market is subject to **administrative fines between Euro 5,200 and 40,000.**

Packaging intended for third countries is instead excluded from the labelling requirements set forth by the new Italian legislation and must comply with the regulations of the country of destination. In all pre-export logistics, such packaging must therefore be accompanied by appropriate documentation certifying its destination, or by transport documents and/or technical data sheets containing composition information.

# Contacts

**Claudia Ricciardi**

Partner

Tel: +390230356000

[claudia.ricciardi@twobirds.com](mailto:claudia.ricciardi@twobirds.com)



**Rita Tardiolo**

Counsel

Tel: +390230356000

[rita.tardiolo@twobirds.com](mailto:rita.tardiolo@twobirds.com)



**Sara Massalongo**

Associate

Tel: +390230356000

[sara.massalongo@twobirds.com](mailto:sara.massalongo@twobirds.com)



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