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## FoodDrinkEurope comments to the European Commission DG Growth TRIS notification 2017/245/HR

FoodDrinkEurope represents the interests of Europe's food and drink industry<sup>1</sup>. Our members work to continuously improve resource efficiency throughout their operations and across the entire value chain. The Food and Drink industry's contributions to a circular economy<sup>2</sup> and sustainable growth are therefore supporting the European Commission's desire to move towards a more resource efficient economy.

Hereby FoodDrinkEurope would like to comment on the TRIS notification 2017/245/HR. The Croatian ordinance (NN No 94/13) on packaging and packaging waste poses problems to the free circulation of imported goods in the Croatian Market therefore disrupting the EU internal market. This is mainly for two reasons.

Article 9.3 and 9.4 of the proposed legislation requests that a producer shall obtain a certificate of heavy metal concentration levels in the packaging material for each packaging material it uses for packing of products and it shall present it certificate to the competent inspection authority upon request. We question the compatibility with the EU legislation of this mandatory requirement on as it is not consistent with Croatia's obligations towards the EU to permit the free circulation of goods that are legally on sale in other Member States and hence breaches article 18 of the Packaging and Packaging Waste Directive 94/62/EC on "Freedom to place on the Market" which stipulates that "Member States shall not impede the placing on the market of their territory of packaging which satisfies the provisions of this Directive". The requirement for prior approval is not consistent with Croatia's EU obligations to permit the free circulation of goods legally on sale in other EU Member States. The requirement to provide undertakings to one national authority is a significant barrier to the free movement in the internal market as such practices could be replicated in several member states, having importers to comply with different obligations in function of the country they are exporting to.

Article 13 of the proposed legislation requests that producer shall affix the recycling marking at its own expense on packaging of products that it places on the market within the Republic of Croatia. It also requires that a producer placing on the market beverages packed in packaging that is covered by the returnable fee system shall mark such packaging and requests that a producer placing on the market returnable (multiple-use) packaging shall mark such packaging and with the returnable packaging sign. The requirement to display these additional logos puts an additional operative and financial burden on exporters as market-specific labels for Croatia are needed. This creates an obstacle to the free movement of goods and amounts to a technical barrier to intra-EU trade.

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<sup>1</sup> <http://www.fooddrinkeurope.eu/>

<sup>2</sup> [http://www.fooddrinkeurope.eu/uploads/static\\_pages\\_documents/FoodDrinkEurope\\_contribution\\_to\\_the\\_circular\\_economy.pdf](http://www.fooddrinkeurope.eu/uploads/static_pages_documents/FoodDrinkEurope_contribution_to_the_circular_economy.pdf)

For the reasons laid out above, we understand that the measure breaches the Internal Market legal base of the Packaging and Packaging Waste Directive.

**We therefore encourage the Commission and Member States to submit Detailed Opinions under the TRIS procedure to urge Croatia to eliminate these rules that are in breach with the Single Market.**

*FoodDrinkEurope represents Europe's food and drink industry, Europe's largest manufacturing sector in terms of turnover, employment and value added. FoodDrinkEurope works with European and international institutions, in order to contribute to the development of a legislative and economic framework addressing the competitiveness of industry, food quality and safety, consumer protection and respect for the environment. FoodDrinkEurope's membership consists of 25 national federations, including 2 observers, 27 European sector associations and 21 major food and drink companies. For more information on FoodDrinkEurope and its activities, please visit: [www.fooddrinkeurope.eu](http://www.fooddrinkeurope.eu)*