

Industry comments on TRIS notification 2025/0311/ES (Spain)

Draft Royal Decree regulating the accessible labelling of consumer products.

1. Object of the TRIS contribution and requirements

On 20 June 2025, Spain notified to the European Commission a Draft Royal Decree regulating the accessible labelling of consumer products (hereafter “the draft Decree”). Below is a description of the requirements proposed by the draft Decree (*based on a non-official translation of the text - the draft Decree and accompanying impact assessment are only available in Spanish at the moment of writing*), which constitute the object of this contribution:

- Article 1 establishes the objective of the draft Decree, which is regulating the accessible labelling of consumer product that have specific relevance for the protection of the safety, integrity and quality of life of people with disabilities. The Annex to the draft Royal Decree provides a list of products categories in scope of the requirements (e.g. different cosmetic products, hazardous substances and mixtures, and food products). Article 2 of the draft Royal Decree specifies that the proposed requirements do not apply to products for industrial or professional use, products sold in bulk or that have no packaging, or which are packaged at the point of sale or upon request of consumers.
- Article 1 also clarifies that the obligations set out in the draft Royal Decree apply to manufacturers, as well as their legal representatives, and to importers, when placing products on the Spanish market. Further, distributors shall not place products on the market until they comply with accessible labelling requirements and shall inform the competent authorities of suspected non-compliance.
- Article 2 of the draft Decree establishes that accessible labelling is understood to be “mentions, indications, marks, drawings or signs related to a good or product that appear on any packaging or label that accompanies or refers to said good or product and that allow people with disabilities, with special attention to those who are visually impaired, to obtain, in a clear and comprehensible manner, truthful, effective and sufficient information on its essential characteristics”. It further specifies that accessible labelling shall make use of the Braille system, a quick response (QR) code or other similar system, with a tactile mark to identify the location of said code or system or of elements linked to cognitive accessibility or accessibility to information and communication, as well as any other element that, through technological means, ensures universal accessibility. While these different accessibility formulas for labelling may be applied simultaneously, it is provided that some mandatory information will have to be at least provided in Spanish.
- Under Article 3, accessible labelling shall incorporate, accompany or, as a last resort, make available, in a clear and comprehensible form, at least the following information on the goods and products made available to consumers:
 - The name of the product and its trademark.
 - The name and full address of the responsible operator in the case of foodstuffs and the name and full address of the producing company in all other cases, as well as contact details.
 - The product category, composition and purpose, where applicable.
 - Quality and quantity.

- The date of production or supply and batch, when required by regulation, recommended period for use or consumption or expiry date
 - Instructions or indications for its correct use or safe consumption, as well as the correct sustainable management of its waste, warnings and foreseeable risks.
 - Information on the information and customer care services, as well as the procedures for lodging complaints and claims.
 - Information on allergens or intolerances and nutritional information.
- For products in scope of the draft Decree, whose packaging surface is of minimum 10x1 cm, Article 3.2 of the draft Decree provides that some specific information must be provided in Braille (e.g. product denomination, a square supported by an angle for certain products, the ingredient or processing aid causing allergies or intolerances or the reference 'a/i' for other specific products).
- Articles 3.3 and 3.4 specify that, where the above information is not provided in Braille, the quick response (QR) code, or other similar system, shall be provided with a tactile mark to identify the location of the code, which shall be in the form of a 90-degree angle formed by two continuous raised lines, each 5-6 mm long. The lines shall have a thickness of 1-2 mm and a height equal to that of the braille used on the rest of the packaging. The code shall always be placed on the inside of the angle corner, and the tactile marking shall not overlap with the code. In the case of products presented with additional outer packaging or secondary packaging beyond the primary unit or primary packaging, the obligation for accessible labeling in Braille and other accessible formats applies only to the packaging in which the product is made available to consumers.
- Consumer goods and products already labelled on the date of entry into force of the draft Royal Decree may continue to be marketed for a period of a maximum of 2 years. After this timespan, packaging previously manufactured that does not comply with the requirements established in the draft decree, must bear a label, ink jet or equivalent system that facilitates the accessibility of the information provided for in the draft Decree.
- The draft Royal Decree is set to enter into force the day following its publication in the Spanish Official Journal (BOE).

We contest the lawfulness of the above-mentioned measures on the following grounds:

- The above-mentioned obligations will create unjustified barriers to intra-EU trade and consequently amount to quantitative restrictions on imports or measures having equivalent effect, which are prohibited by **Article 34 of the Treaty on the Functioning of the European Union (TFEU)**. Both embossing a tactile marker to indicate the location of digital labels and the use of a Braille labelling (requiring translation in Spanish language) entail technical and economic challenges, discriminating operators in Spain and creating barriers for non-Spanish companies to enter the Spanish market.
- Quantitative restrictions can only be justified by one of the public interest grounds set out in **Article 36 TFEU** or by one of the overriding and mandatory requirements developed by case-law in the EU Court of Justice. Such rules must be necessary in order to attain legitimate objectives and be in conformity with the principle of proportionality, which requires that the least restrictive measure be used. The proportionality of measures mandated by the draft Decree can be questioned and Spain has failed to provide adequate justification on the proportionality of the proposed obligations. Even if the intended objective to support visually impaired consumers is noble and would be considered legitimate, the suggested requirements are not proportionate as this objective can be achieved by less restrictive measures. As such, the provisions of the draft Decree will constitute disguised restrictions on trade between Member States, prohibited under Article 36 TFEU.
- The draft Decree is contrary to **Articles 4.2 and 4.3 of the recently entered into force Regulation (EU) 2025/40 on Packaging and Packaging Waste Regulation (PPWR)**, which respectively establishes that:

“Member States shall not prohibit, restrict or impede the placing on the market of packaging that complies with the sustainability, labelling and information requirements laid down in or pursuant to Articles 5 to 12.”

“If Member States choose to maintain or introduce national sustainability requirements, or information requirements additional to those laid down in this Regulation, those requirements shall not conflict with those laid down in this Regulation and the Member States shall not prohibit, restrict or impede the placing on the market of packaging that complies with this Regulation for reasons of non-compliance with those national requirements.”

It should be recalled that Article 114 TFEU is the PPWR legal basis.

- The draft Decree is also incompatible with **Article 38 of Regulation (EU) No 1169/2011** on the Provision of Food Information to Consumers Regulation (FIC Regulation), governing food labelling at EU level and establishing that *“Member States may adopt national measures concerning matters not specifically harmonised by this Regulation provided that they do not prohibit, impede or restrict the free movement of goods that are in conformity with this Regulation.”*
- **Article 5 of Directive (EU) 2015/1535** on the Technical Regulations Information System, which provides for the obligation for Member States to notify to the Commission all draft technical regulations concerning products before they are adopted in national law. This obligation has not been fulfilled in relation to *Law 4/2022, of 25 February, on the protection of consumers and users in situations of social and economic vulnerability*, which is the legal basis for the draft Decree object of this submission.

2. Infringement of TFEU provisions on Single Market and EU legislation

The measures proposed by the Spanish Government infringe the following TFEU provisions on Single Market and applicable EU legislation, notably:

- **Articles 34 TFEU and 36 TFEU**, respectively prohibiting *“quantitative restrictions on imports and all measures having equivalent effect between Member States”*, and prohibitions or restrictions on imports that *“constitute a means of arbitrary discrimination or a disguised restriction on trade between Member States”*. The establishment of a unilateral labelling requirement, not applicable elsewhere in the EU, will discriminate economic actors operating in Spain, requiring them to change artworks that are produced for the entire EU (or for a cluster of countries) to ensure compliance with the Spanish requirements. Since importers will also be required to comply with a national requirement, the imports into Spain of products in scope of the draft Decree will effectively be discouraged. As a result, the draft Decree creates obstacles to intra-EU trade, undermines the principle of mutual recognition, and imposes quantitative restrictions on imports¹.

Quantitative restrictions can only be justified by one of the public interest grounds set out in Article 36 TFEU or by one of the overriding and mandatory requirements developed by case-law in the EU Court of Justice². Such rules must be necessary in order to attain legitimate objectives and be in conformity with the principle of proportionality, which requires that the least restrictive measure be used. The proportionality of measures mandated by the draft Decree, aimed at regulating the accessible labelling of consumer product that have specific relevance for the protection of the safety, integrity and quality of life of people with disabilities, can be

¹ According to established case law, labelling requirements must be regarded as barriers to intra-EU trade in that they directly affect the product and thus trade within the EU. Several CJEU rulings on national labelling requirements confirmed that such measures have an equivalent effect to a quantitative restriction as prohibited under Article 34 of the TFEU, as it was ruled that these requirements impacted or were potentially liable to impact intra-community trade by adding to costs and complicating marketing and distribution. See as a reference, Judgment of December 14, 2004, *Commission of the European Communities v Federal Republic of Germany*, C-463/01, EU:C:2004:797 and judgement of October 14, 2004, *Commission v. Italy*, C-143/03, EU:C:2004:629. A similar rationale has also been employed by the European Commission when starting infringement procedures against the French Triman marking requirements, as well as the Spanish unilateral labelling set out in Royal Decree 1055/2022, see [here](#) and [here](#).

² See, in relation to this, case law codifying the need for the purported risks to be well found, serious and real and supported by evidence: C-270/02; C319/05; C-148/15; C-270/02; C-319/05; C-421/09.

questioned. Indeed, while the draft Decree is accompanied by an impact assessment, the latter clearly mentions from the outset that “[because] *Law 4/2022, of 25 February, on the protection of consumers and users in situations of social and economic vulnerability, urges the government to regulate labelling in Braille alphabet, as well as in other formats that guarantee the universal accessibility of those consumer goods and products of special relevance for the protection of safety, integrity and quality of life, especially for blind and visually impaired people as vulnerable consumers. This Royal Decree complies with the aforementioned additional provision. No other alternatives can be considered [...].*”³ It can therefore be concluded that Spain has failed to provide adequate justification on the need and proportionality of the proposed measures, falling short of evaluating alternative measures. Even if the intended objective to provide accessible information to people with disability would be considered legitimate, the measures are not proportionate as this objective can be achieved by less restrictive measures, such as for instance the use of digital labelling without embossing a tactile marker. The implementation of solutions fully based on digital technologies such as QR codes, [NaviLens codes](#) or other technologies with no tactile markers are being widely used by businesses, as well as by consumers, allowing companies to export to different markets and quickly adapt to the specificities of local customers - including those related to accessibility - without having to graphically or structurally alter the label⁴. This approach aims to overcome language and technical barriers, offering a flexible and inclusive digital solution which cannot be provided by the use of tactile markers or the Braille system⁵. Indeed, the latter is known or used by a low percentage of visually impaired people⁶ and is a system that is expressed in different languages, so unsuitable to companies and consumers operating in the Single Market.

Further on proportionality, the draft Decree does not provide any transition period for economic operators to adapt to the proposed requirements. Although a 2-year sell-off period is foreseen for products already labelled, it requires all other products to be compliant the day after publication of the final Decree in the BOE. This means that, to ensure compliance, businesses effectively need to start applying today the requirements of a law that is not yet adopted and is still subject to change. This adds to the costs already incurred by operators marketing packaging in Spain, who have been obliged to rework their artworks following the entry into force of unilateral sorting instructions under Royal Decree 1055/2022, on which an infringement procedure is ongoing.

- **Articles 4.2 and 4.3 of the PPWR**, respectively mandating that “*Member States shall not prohibit, restrict or impede the placing on the market of packaging that complies with the sustainability, labelling and information requirements laid down in or pursuant to Articles 5 to 12.*” and that “*If Member States choose to maintain or introduce national sustainability requirements, or information requirements additional to those laid down in this Regulation [...] the Member States shall not prohibit, restrict or impede the placing on the market of packaging that complies with this Regulation for reasons of non-compliance with those national requirements.*”

Article 1.3 of the draft Decree clarifies that the proposed marking obligations apply to manufacturers, as well as their legal representatives, and to importers, when placing products on the Spanish market. It further specifies that distributors shall not place products on the market until they comply with accessible labelling requirements. Considering this, all economic actors operating in Spain, including importers, will no longer be allowed to place on the Spanish market packaging which is fully compliant with the requirement of the PPWR, unless the packaging of the products in scope of the draft Decree will also be labelled in accordance with its requirements. This represents a clear violation of Article 4.2. and 4.3 of PPWR, which is a directly applicable Regulation with an internal market legal basis. Article 114 being the legal basis of the PPWR further limits the

³ This is also confirmed by the text of the draft Decree, foreseeing an ex-post evaluation of its provision, under the paragraph “Disposición final segunda. Evaluación de la norma.”

⁴ These mechanisms lead to web environments whose contents can be viewed and listened to by using standard default functions already installed in current mobile phones such as screen readers. These mobile phone features can be widely used by people with disabilities. In addition, there are also free and freely accessible solutions on the market to provide consumers with practically all the mandatory mentions contained in the labels of consumer products, such as: product name, list of ingredients, net weight, allergens, nutritional information, etc. The barcodes already exist on all products, the consumer is presented with all the details of the product information. Likewise, the screen reader of Smartphones clearly and accurately announces these contents.

⁵ It is interesting to note that Commission itself has indicated in response to a parliamentary question that a request for labelling in Braille did not emerge from the stakeholder consultation preceding the adoption of Regulation (EU) No 1169/2011. In the same response, the Commission also suggests that there are potentially new ways to provide consumers with better information via digital means, see E-000215/2020.

⁶ See, as a reference, data published by the UK Royal National Institute of Blind People, revealing that the use of Braille by blind and partially or severely sight impaired people varies between around 8% and 15% in the UK. See, [here](#).

Only 160 characters can fit 100 cm² (10 x 10 cm). Very few consumer products reach this size. Further to this, it should be considered that Article 10 of the PPWR establishes clear minimisation obligations, to be fulfilled by all packaging in the future as market access requirements.

- **If other EU countries adopt similar measures**, there will be space limitations for how much Braille information can actually fit on packs that may be sold in multiple countries. Therefore, multiple languages would have to fit on the pack. The need to include information on pack as Braille could become a barrier to the Single Market if the pack size doesn't fit the amount of Braille that would be required for countries to be grouped together. This further justifies the need for alternative digital technologies to be used instead.
- Braille and tactile markers are **technically challenging for some packaging formats**, such as flexible formats. There would need to be a full impact assessment to ascertain whether Braille can actually be embossed on all packaging materials and whether the embossing is not flattened during the production cycle. For instance, during label printing in some cases, the labels are wound and rewound onto rolls under tension and applied with a water-based adhesive under tension. The wet conditions, tension and rolling would result in most or all of the braille embossing being flattened.
- Braille would **require entire production lines to be refitted**. Even when it might be possible for some rigid materials, the way that products move through production lines can flatten the embossing so entire production lines would need to be refitted with different equipment requiring significant capital investments and it would increase production costs due to increased complexity.
- The level of complexity is high given that **the implementation processes**, which often go beyond the processing industry and depend on material suppliers, would need to be accompanied by planning, development and execution projects with durations at least 36 months. There are suppliers with potential solutions to project reliefs in primary/secondary packaging, but they are very new technological innovations and without scalability for such a short period of time. It would also mean a disproportionate increase in the costs to undertake these investments. For example: it would be necessary to carry out die changes and mould changes in all production lines that manufacture primary or secondary packaging, which would obviously increase the direct production costs of companies.
- Embossing Braille on packaging with a sticker or by increasing the thickness of packaging conflicts with Article 43 of the PPWR on the Prevention of Packaging Waste as it creates an obligation for producers to use more packaging materials.
- It should also be noted that, if digital labels are used instead of Braille, the draft Spanish decree would require a tactile marker to indicate the digital label. The technical challenges, costs and complexity described above would still be applicable to add a tactile marker to packaging.

Economic impacts

- **The obligation for additional labelling** on all packaged goods marketed in Spain is highly problematic to industry as many companies operating within the internal market use only one type of packaging execution for the EU as a whole or for a group of several neighbouring EU countries. The proposed measures will impede the use of a single packaging execution and consequently requires the redesign of all packaging across the entire internal market destined for Spain or the production of separate variants for the Spanish market. In relation to national labelling requirements already introduced in several Member States, the estimated cost for a change to an artwork (printing) file would amount to approximately €1,500 which include evaluation by a regulatory specialist to ensure veracity of all other mandatory labelling requirements (CLP etc). When a few thousands Stock Keeping Unit (SKUs) are put on the market, this can represent a potential one-off cost of a few million Euros for a single company, even before any ongoing costs for separate production of packaging executions for Spain. The magnitude of the costs for Braille in Spain will be much higher than such costs. This is because Braille requires embossed dots. As an example, for plastic packaging this could require adaptation

of new packaging moulds for all such products; for cardboard packaging, it would necessitate the use of a moulded roller. Another alternative is the use of an embossed transparent label. In all cases, this is significantly more expensive than printing costs alone. Increases in costs for such adaptations as communicated by members of an impacted industry association in Spain are in the range of 5% to 15% per product with feasible lead times up to 36 months and always greater than what foreseen by the Spanish measure, which will apply with no transition period.

- The costs for artwork change derived from the draft Decree would **add to those economic operators already assumed to comply with Article 13 of Royal Decree 1055/2022**, establishing unilateral sorting instructions in Spain as of 1 January 2025. Further to that, the draft Decree requirements will have an implementation period out of step with the measures introduced by the PPWR, introducing harmonised labelling and sustainability requirements for all packaging, making the whole process even more complex and costly, forcing the packaging of products to be redesigned again, without the opportunity to amortise costs already assumed.
- Higher production costs or the cost derived from stickering products during the 2-year sell-off period foreseen under the draft Decree will potentially result in **higher prices for Spanish consumers** if those costs are passed on.

4. Conclusions

Pursuant to the EU provisions recalled above, Spain should abstain from imposing unilateral requirements which will create barriers to trade and disproportionate cost, considering that the legitimate objective of providing accessible information to people with disability can be pursued with less restrictive measures. Based on the findings from our contribution, we submit the following requests to the Commission:

- to adopt a detailed opinion concluding that the draft Decree imposing unilateral packaging labelling and design requirements (braille or a tactile marker for digital labels) for products sold in Spain and lacking any transition period for businesses to adapt after publication will create barriers to the free movement of goods in Europe and should not be adopted since it contravenes TFUE Single Market provisions and EU legislation.

Cosignatories



Aluminium Closures Group



AESGP - Association of the European Self-Care Industry



AHPI - Association of Hellenic Plastics Industries



AIM - European Brands Association



A.I.S.E - International Association for Soaps, Detergents and Maintenance Products



CEFLEX - A Circular Economy for Flexible Packaging



CEPE - European Council of the Paint, Printing Ink and Artists' Colours Industry



CITPA - The International Confederation of Paper and Board Converters in Europe



Cosmetics Europe



Der Grüne Punkt



EAFA - European Aluminium Foil Association



ECMA - The European Carton Makers Association



EDANA - The Voice of the Nonwovens Industry



EDRA - European DIY Retail Association



ELIPSO - Les entreprises de l'emballage plastique et souple



ENVALORA - Spanish Collective Extended Producer Responsibility System for industrial and commercial packaging in various sectors



EPPA - European Paper Packaging Alliance



EUMEPS - European Manufacturers of Expanded Polystyrene



EuPC - European Plastics Converters



EuroCommerce



EuropeanAluminium



EUROPEN - The European Organisation for Packaging and the Environment



EVA - European Vending & Coffee Service Association



EXPRA - Extended Producer Responsibility Alliance



FDE - FoodDrinkEurope



FEBEA - La Fédération des Entreprises de la Beauté



FEFCO - The European Federation of Corrugated Board Manufacturers



FEPA - Federation of European Producers of Abrasives



FEVE - The European Container Glass Federation



FPE - Flexible Packaging Europe



INCPEN - The Industry Council for Packaging & the Environment



Independent Retail Europe



MPE - Metal Packaging Europe



NATRUE - The International Natural and Organic Cosmetic Association



PAKKAUS - The Finnish Packaging Association



Pro Carton - European Association of Carton and Cartonboard manufacturers



PRO Europe - Packaging Recovery Organisation Europe



PROMARCA - Asociación Española de Empresas de Productos de Marca



PROsPA - Producer Responsibility Organisations Packaging Alliance



RUCODEM - Romanian Union of Cosmetics and Detergents Manufacturers



SCS - Styrenics Circular Solutions