

“Pack Sizes in the EU”- Executive Summary

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The working paper “Pack Sizes in the EU” is the Commission services’ analysis of the different issues raised in the course of the follow-up to the exercise concerning Simpler Legislation for the Internal Market in pre-packaging (SLIM-IV). It is part of the Commission’s pilot project concerning [Business Impact Assessment](#).

The paper concentrates on a policy concerning sizes, and is therefore separate from the issue of metrological requirements, which will be the subject of a future document.

The working paper examines whether there is an “overriding need” of a public nature for legislating mandatory ranges of sizes Union-wide. The effect of fixing a mandatory range of sizes for a product is to allow a few quantities and to exclude all others.

Justifications put forward in the past have included barriers to trade and misleading of consumers. There is some doubt whether they are convincing in the current context of unit price labelling requirements (price per kg/litre of Directive 98/6/EC) and of case law on Article 28 of the Treaty. Furthermore, fixing ranges may facilitate tacit collusion, which the Commission considers detrimental to competition.

Developments in packaging indicate that mandatory sizes may impede innovation and hamper competitiveness. In sectors where ranges have been fixed, the trend of supplying smaller quantities, reflecting smaller households and more individual life styles, seems to have been followed reluctantly or not at all.

Fixed ranges may, however, solve the market failure caused by the buying power of large retailers. At the same time, however, it may create a new market failure, when producers are empowered to effectively limit consumer choice to only one size. It may over-protect the consumer who is “reasonably well informed and reasonably observant and circumspect”.

On the basis of the considerations outlined in this report, it may be concluded that:

- *there is no public need for regulation of mandatory sizes, in general,*
- *Member States should follow suit and similarly deregulate across the board,*
- *any exceptions requiring legislation need to be minimal and duly justified.*

One exception might be inflexible packaging material in a sector where market concentration is low, for example for glass bottles of wine. The mandatory size would be limited to glass bottles in the one most commonly sold size, surrounded by an exclusion zone within which no other sizes are allowed. All other sizes would be free, as would be all sizes of non-glass containers.

The Commission invites all interested parties to come forward and set out their views on the issues raised in the working paper.