

Please note: This English version is a convenience translation – the German version shall prevail

## Guidelines

for using the system participation requirement catalogue

(Last updated: July 2022)

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## 1 General

### 1.1 Subject and aim of the guideline

This guideline refers to the current version of the system participation requirement catalogue (the 'catalogue').

The guideline's aim is to explain and simplify the use of the catalogue, while also setting out the legal framework.

### 1.2 Version, publication date

The guideline was last updated on 1 July 2022.

The guideline was published for the first time on the [www.verpackungsregister.org](http://www.verpackungsregister.org) website on 28 December 2018 and most recently published in this version.

The catalogue was also published for the first time on 28 December 2018 on the [www.verpackungsregister.org](http://www.verpackungsregister.org) website. Where product sheets were still being prepared, the results and updates were published incrementally on the [www.verpackungsregister.org](http://www.verpackungsregister.org) website until 4 April 2019. The catalogue is evaluated on an ongoing basis and the latest versions are published.

### 1.3 Validity, potential updates

The current versions of the guideline and catalogue should be used. They can be downloaded under 'Product group sheet files' from the [www.verpackungsregister.org](http://www.verpackungsregister.org) website. The catalogue comprises a table of contents and product group sheets that can be downloaded as a whole or individually.

A database that can be used to view the catalogue content using different user-friendly filter functions can also be accessed on the website.

### 1.4 Legal framework

#### 1.4.1 Why is the ZSVR commenting on the system participation requirement?

The Stiftung Zentrale Stelle Verpackungsregister (Foundation Central Agency Packaging Register – **ZSVR**) has the statutory duty of deciding the system participation requirement classification of packaging upon application (section 26 (1) no. 23 of the Verpackungsgesetz (Packaging Act – **VerpackG**). Its decisions about an article of packaging's system participation requirement are binding.

#### 1.4.2 What packaging is subject to system participation?

Pursuant to section 3 (8) VerpackG, packaging subject to system participation is **retail or grouped packaging** filled with goods that typically accumulates as waste with a **private final consumer** after use.

- ◆ **Retail packaging** is packaging that typically is offered to the final consumer as a sales unit comprising goods and packaging (section 3 (1) no. 1 VerpackG). Retail packaging explicitly includes service packaging and shipment packaging. Shipment packaging used by mail order companies or online retailers is therefore subject to system participation (cf. 6.2 on shipment packaging).
- ◆ **Grouped packaging** is packaging that contains a specific number of sales units and is typically offered to the final consumer together with these units, or that is used for stocking retail shelves, in which case it is not subject to system participation (section 3 (1) no. 2 VerpackG).
- ◆ A **final consumer** in this context is someone who does not go on to commercially place the goods on the German market in the form delivered to them (section 3 (10) VerpackG), i.e. they consume or process the goods. Retail companies are therefore regularly not considered final consumers (cf. 7.1 on transport packaging).
- ◆ **Private final consumers** comprise private households and so-called comparable sources of waste generation (section 3 (11) VerpackG). The reason why the Verpackungsgesetz defines comparable sources of waste generation as belonging to private final consumers is the type or volume of packaging waste accumulating there. Section 3 (11) VerpackG lists comparable sources of waste generation without volume criterion, such as restaurants, hotels and service stations. This means that packaging like cleaning agent packaging that typically accumulates as waste at hotels, cafeterias or administrative offices, medication packaging that regularly accumulates at hospitals, or sweets or service packaging that accumulates in cinemas or sports stadiums are subject to system participation. Agricultural holdings and craft enterprises whose plastic, metal and composite packaging and/or paper/paper-board/cardboard can be collected at the intervals that are normally associated with private households and in waste bins that do not exceed 1,100 litres (so-called 'volume criterion') count as comparable sources of waste generation. Packaging waste that accumulates with holdings and enterprises above this volume criterion cannot be collected at the intervals normally associated with private households and in waste bins that do not exceed 1,100 litres, which is why these holding and enterprises are not comparable with private households; they may be large commercial or industrial sources of waste generation.

By contrast, (large) commercial packaging and transport packaging is not subject to system participation because it does not typically accumulate as waste with private final consumers. For the same reason, grouped packaging used to stock retail shelves is also not subject to system participation. The segment in which this packaging that is not subject to system participation accumulates is sometimes called 'industrial'. Reusable packaging, single-use beverage packaging subject to deposit, export packaging for which evidence can be produced that it is not handed over to private final consumers in the jurisdiction of the Verpackungsgesetz and retail packaging for hazardous contents are exempt from the system participation requirement pursuant to section 12 VerpackG.

### 1.4.3 Why is there a guideline and a system participation requirement catalogue?

For individual producers within the meaning of section 3 (14) VerpackG and initial distributors, in practice it is often nearly impossible to correctly classify packaging, depending on the packaged products and distribution channels.

As was already the case under the Verpackungsverordnung (Packaging Ordinance – VerpackV, namely section 6 (1) VerpackV), and now under section 3 (8) VerpackG, the packaging requirement for a producer's retail packaging depends on whether the packaging typically accumulates as waste with a private final consumer or a comparable source of waste generation after use.

For producers, it has been and remains unclear in many cases under the Verpackungsgesetz where the packaging they place on the German market typically accumulates as waste in this regard. If producers distribute their products via an intermediary, they will not know who the customers are.

The products that accumulate at comparable sources of waste generation are often similar to those that are sold to (large) commercial and industrial entities in terms of packaging type. A producer cannot know whether the craft enterprises or agricultural holdings where the producer's packaging could potentially accumulate as waste continue to count as comparable sources of waste generation or instead no longer qualify because they are using larger waste containers.

In order to prepare for the many anticipated classification decisions and make it possible for producers to classify their products without such a decision, the ZSVR publishes norm-interpreting administrative regulations. These administrative regulations contain indications of how the ZSVR would decide (anticipated administrative practice) an application concerning the classification of an article of packaging as being subject to system participation. For ease of use, the administrative regulations are published in the form of this guideline and the **system participation requirement catalogue**. They enable producers to assess how their packaging would be classified.

The guideline and the catalogue therefore provide initial distributors with information about classifying their packaging. As part of this process, individual initial distributors remain responsible for correctly categorising their packaging and ensuring that packaging subject to system participation participates fully in a system.

At the same time, the catalogue creates a level playing field because comparable packaging for comparable products is equally subject to system participation.

#### **1.4.4 What is in the catalogue?**

Generally, the catalogue classifies retail or grouped packaging as being subject to system participation or not exclusively in relation to where it typically accumulates, in the form of product groups. In particular, the catalogue therefore provides initial distributors with information about the delineation between (large) commercial packaging, i.e. packaging that typically does not accumulate as waste with private final consumers. There is also information about shipment packaging and the delineation between grouped packaging that is, and is not, subject to system participation (cf. 1.4.2 on the difference from grouped packaging).

The basis for considering the typical place packaging accumulates is a view of the overall market ('typically') and not the destiny of individual articles of packaging from an individual producer. Beyond this overall market assessment, there is no room for a differing classification decision by an initial distributor or a system on the basis of an individual expert opinion or an individual case where accumulation was different.

The catalogue further requires that a producer determines, as a preliminary question, whether the particular object being considered even constitutes packaging within the meaning of section 3 (1) VerpackG in conjunction with annex 1 VerpackG to which none of the exceptions in section 12

VerpackG apply. As such, the catalogue does not consider whether the packaging could be reusable packaging or single-use beverage packaging subject to deposit, export packaging, or whether the contents are hazardous contents pursuant to section 3 (7) in conjunction with annex 2 VerpackG.

The catalogue contains only **examples**, and not an exhaustive list of all packaging subject to system participation. One cannot conclude from the fact that a specific article of packaging is not listed in the catalogue that that packaging is not subject to system participation. As set out in 1.4.3 above, individual initial distributors remain responsible for correctly categorising their packaging and ensuring that packaging subject to system participation participates fully in a system.

#### 1.4.5 What should be done if you are still unsure?

Should a specific article of packaging not be listed in the catalogue, the guidance under 8.6 ('Conclusive assessments for cases not covered') should be applied.

If a lack of certainty persists in relation to one's own classification of a specific article of packaging, an application can be made to the ZSVR to determine whether the packaging should be classified as being subject to system participation. For this purpose, the ZSVR has made application forms and a fact sheet available on [www.verpackungsregister.org](http://www.verpackungsregister.org) that you can use to find out what information is needed to make the determination.

If the specific article of packaging can be classified in the catalogue, no application to determine the system participation requirement is needed.

### 1.5 Target group

The guideline and the catalogue are directed at natural and legal persons that are involved with implementing the legal obligations of the Verpackungsgesetz.

In particular, the catalogue is aimed at the following target groups:

- ◆ Producers of packaging subject to system participation, also known as 'initial distributors' (section 3 (9), (14) VerpackG)
- ◆ Distributors of packaging subject to system participation (section 3 (12) VerpackG)
- ◆ Authorised representative (section 3 (14 a) VerpackG)
- ◆ Electronic marketplaces (section 3 (14 b) VerpackG)
- ◆ Fulfilment service providers (section 3 (14 c) VerpackG)
- ◆ Systems (section 3 (16) VerpackG)
- ◆ Sector-specific solution operators (section 8 (1) VerpackG)
- ◆ Auditors of declarations of completeness and system auditors (section 27 (2), section 3 (17) VerpackG)

### 1.6 Contact information, inquiries

Do you have questions or comments about applying the system participation requirement catalogue?

If so, please write us at the following email address:

**[katalog\[at\]verpackungsregister.org](mailto:katalog[at]verpackungsregister.org)**

In your email, please provide your full contact details and, if applicable, the complete address of your company or organisation.

We thank you for your understanding that

- ◆ inquiries by telephone will not be answered;
- ◆ anonymous questions will not be answered;
- ◆ questions not accompanied by complete contact details will not be answered;
- ◆ answering questions may take some time;
- ◆ press inquiries sent to this contact address will not be answered. Please direct these exclusively to [presse\[at\]verpackungsregister.org](mailto:presse[at]verpackungsregister.org).
- ◆ classification applications must contain certain information (cf. also 1.4.5).



## 2 Approach in developing the catalogue

### 2.1 What does 'typically' mean?

Whether retail or grouped packaging is subject to system participation or not depends on a forward-looking assumption (ex ante analysis) about whether the packaging **typically** accumulates as waste with private final consumers. This concept dates back to the Verpackungsverordnung.

The term 'typically' is an undefined legal term that must be construed according to general interpretation principles.

The **wording** of the term 'typically' means, in the first instance, that the accumulation of relevant packaging with private final consumers as waste, i.e. in private households or comparable sources of waste generation, must be common and/or characteristic for that packaging. If the packaging **predominately, in the majority of cases, normally, usually, commonly, or characteristically** accumulates with private final consumers, this is considered to be 'typical'.

Whether accumulation with private final consumers is considered characteristic must be considered within the context of prevailing practice. Objective criteria must be taken into account in this respect, such as the contents of the packaging (who usually consumes/uses the packaged goods/product?) and the design of the packaging, including its size and other properties (e.g. content quantity, material, weight) as well as the typical distribution channel (e.g. retail shop, wholesaler).

The **explanatory memorandum** (German Bundestag printed paper 18/11274, pages 81, 83 et seq.) expressly prescribes this approach to interpreting the term 'typically'. According to this, the **content and design of the packaging** should be used to assess the later source of waste generation; previous experience with comparable packaging and products may be considered as well.

In explaining 'typically' as a characteristic, the explanatory memorandum highlights the case where packaging 'in the majority of cases' accumulates with private final consumers in an ex ante analysis. This means a **quantitative analysis** is desirable. In this case, as expressly highlighted in the memorandum, all identical packaging is subject to participation. It is therefore prohibited to divide identical packaging into packaging that is subject to system participation and a (large) commercial volume (German Bundestag printed paper 18/11274, page 83 et seq.). This represents a departure from the practice in the past of dividing volumes of identical packaging into private and (large) commercial final consumption, often on the basis of questionable individual expert opinions.

A different treatment of packaging that is otherwise the same for industrial sources of waste generation and private final consumers can result in a further distinction being made within a product group, in particular when the different treatment that results is based on legal requirements (for example, due to food law or occupational health and safety provisions). Due to legally prescribed differences in the designation, sources of waste generation typically differ.

It would be diametrically opposed to the **spirit and purpose of the law** if packaging that accumulates in relevant volumes with private final consumers was not subject to system participation. After all, the Verpackungsgesetz was created to stabilise the divided collection and the recovery through the systems' waste management structures.

## 2.2 What were the requirements governing the first version of the system participation requirement catalogue?

The ZSVR developed the system participation requirement catalogue on the basis of the existing interpretation of the characteristic 'typically'. In this process, it relied on an analysis of the packaging market that was conducted by the GVM Gesellschaft für Verpackungsmarktforschung mbH (GVM) at the ZSVR's instruction. The analysis was based on the following key requirements, which were reviewed and validated by the ZSVR on an ongoing basis using the GVM's findings.

- ◆ The catalogue structure should be product-based. The catalogue should be developed taking into account the aims of appropriateness, conclusiveness and feasibility, as well as the following specifications:
  - ◆ aggregate product groups to reduce the complexity resulting from the wide variety (main criterion: packaging contents), generally using the product nomenclature from the existing 'market volume packaging' database of the GVM, unless it was determined in agreement with the ZSVR that doing so would not lead to appropriate outcomes;
  - ◆ make the list of products as comprehensive as possible;
  - ◆ rely on the existing common market definitions of products and product categories;
  - ◆ where possible, develop positive and negative lists using common market definitions and product categories;
  - ◆ analyse the reflection of the volume criterion in the definition of comparable sources of waste generation.
- ◆ In making further distinctions in how the packaging is presented in individual catalogue sheets, the following criteria were to be used as a basis:
  - ◆ character and functionality of the products (e.g. portability);
  - ◆ an initial disregard of any hazardous contents due to the complexity of an analysis pursuant to section 3 (7) in conjunction with annex 2 VerpackG;
  - ◆ who uses the product;
  - ◆ packaging material, which ultimately is used in particular to further describe the packaging and find where it should be listed in the catalogue.
- ◆ As part of this, the distinguishing characteristics should be as uniform as possible, including with regard to the subsequent determination of the system participation requirement based on quantity.
- ◆ The specific classification within the catalogue sheets as packaging that is, or is not, subject to system participation should then be made based on the criterion of quantity as the 'size' of the packaging is emphasised in the explanatory memorandum (primarily for foodstuffs packaging). Where the quantity analysis did not lead to a conclusive finding, other criteria needed to be applied according to prevailing practice, in particular

- ◆ packaging design;
  - ◆ packaging material;
  - ◆ functional aspects relating to the material or design of the packaging, or where it accumulates;
  - ◆ other product characteristics as applicable.
- ◆ Furthermore, the starting point when checking the source of waste generation for grouped packaging should be the typical source of waste generation for the retail packaging.
- ◆ In deciding the specific classification, the following requirements and objectives also needed to be considered:
- ◆ conclusiveness of the classification looking at the packaging (sight check);
  - ◆ anticipation of avoidance/circumventing behaviour;
  - ◆ identification of conflicting goals and the appropriate handling of conflicting goals based on the proposals by the GVM in agreement with the ZSVR.
- ◆ To finish, a comparison needed to be made between the market volumes subject to system participation with the catalogue in use and the participation volumes so far (without the catalogue), for the purposes of quantitative plausibility testing.
- ◆ The provisional results were reviewed after the consultation process was completed under consideration of the submissions made during the consultation. Changes and/or further distinctions were made based on supplementary analyses, in particular to product categories and specific classifications.

## 3 Catalogue structure

### 3.1 Document overview

The following documents are available for download:

- ◆ guideline for using the system participation requirement catalogue (July 2022 edition)
- ◆ catalogue table of contents, with a breakdown into 37 product groups and 506 products (last updated: July 2022)
- ◆ system participation requirement catalogue, which contains the following overviews for each product:
  - definition sheet with reasons
  - brief system participation requirement summary
  - detailed system participation requirement overview

The catalogue can be accessed as a PDF (either broken down into individual product groups or as a complete document). A database that can be used to view the catalogue content using different user-friendly filter functions can also be accessed on the website.

### 3.2 Catalogue elements

In particular, the following information is provided for catalogue users:

#### 3.2.1 Product descriptions

The catalogue is divided into product groups, which are further divided into product sheets for individual products.

An initial distributor must check what catalogue products their packaging corresponds to. The catalogue provides information about how to classify products available on the German market as conclusively as possible within the catalogue's product categories. The definition sheets include explanations and product descriptions. In some cases, the name of the product is self-explanatory, making a definition superfluous. The definitions are supplemented with a positive list and a negative list ('Product in detail' and 'Not classified here'). These lists make it simpler for users to determine whether a given product sheet applies to their products or not.

#### 3.2.2 Delineation criteria

Delineation criteria are a central element of the catalogue.

Using delineation criteria as a basis, it is possible to clearly classify which packaging is subject to system participation and which is not.

In general, there are three types of delineation criteria.

##### **Quantities:**

Packaging up to and including a specific quantity is subject to system participation because those quantities typically accumulate with private final consumers; packaging above this delineation criterion is not.

#### **Product-related delineation criteria:**

Packaging for products that fulfil the named criterion is subject to system participation. Packaging for products that do not fulfil the named criterion is not subject to system participation.

*Example: Packaging for drills up to 750 watts is subject to system participation because it typically accumulates with private final consumers.*

In many cases, **product-related delineation criteria** are incorporated into the structure of the product.

*Example: Packaging for luggage racks for motor vehicles typically accumulates with private final consumers and is therefore subject to system participation; packaging for motor vehicle accumulators is not.*

#### **Packaging material delineation criteria:**

Packaging in the specifically **described form and design** typically accumulates with private final consumers and is therefore subject to system participation, other packaging is not.

*Example: Printing paper packaged in rolls is not subject to system participation because it typically does not accumulate with private final consumers; paper packaged as sheets up to DIN A3 is subject to system participation.*

*Example: Fruit preserves for industrial processors are also placed on the German market without complying with labelling requirements under food law. These unlabelled preserves are designed differently from those that typically accumulate with private final consumers.*

In many cases, the criteria named are combined with one another.

### **3.2.3 List of examples**

The information on the delineation criteria is supported by an overview of the packaging types and quantities sold in Germany. The nature of this overview is solely descriptive and makes no claim to completeness. The overview assists the ZSVR in assessing the plausibility of the classification decisions it needs to make.

### **3.3. Product-based catalogue structure**

Product group and product sheet names are based on retail product categories as well as on terms commonly used in the market; they may therefore differ from the terms used in academia. The product order that is the result of this structure is value-neutral.

## 4 Scope of application of the catalogue

### 4.1 Packaging status

Use of the catalogue requires that the packaging status pursuant to section 3 (1) VerpackG in conjunction with annex 1 VerpackG has been determined. The catalogue itself determines whether packaging is classified as being subject to system participation exclusively in relation to the typical source of waste generation for an article of retail or grouped packaging. The catalogue is based on the assumption that the producer has already determined that the relevant packaging constitutes retail packaging (this includes service packaging and shipment packaging) or grouped packaging filled with goods. In particular, the catalogue therefore provides initial distributors information about the distinction between (large) commercial packaging, and packaging that typically does not accumulate as waste with private final consumers.

The catalogue accordingly cannot be used to determine the preliminary matter of whether something is treated as packaging within the meaning of the Verpackungsgesetz or if it should be deemed retail or grouped packaging.

*Example: The game box for a board game should not be classified as packaging for the purposes of the Verpackungsgesetz because the game box is a permanent and durable case for the game, and the intended purpose of the game is to be used and not consumed (in the sense of being used up). The catalogue does not state that the game box is subject to system participation none the less. Instead it only makes a classification for types of game boxes that qualify as packaging.*

*Example: The box for a toy car or a bottle of bubble solution have all the characteristics of packaging. Firstly, the box for the toy car does not serve as a permanent and durable case, and instead is removed and disposed of before the toy car is used. Secondly, the bottle of bubble solution is a toy, the intended use of which lies in using the bubble solution typically followed by disposal. As such, the catalogue does not make any statement that, for example, boxes for all kinds of games/toys are subject to system participation.*

### 4.2 Packaging not listed in the catalogue

#### 4.2.1 Reusable packaging

Reusable packaging is defined in section 3 (3) VerpackG.

Reusable packaging is exempt from the system participation requirement pursuant to section 12 (2) no. 1 VerpackG.

As such, reusable packaging is not listed in the catalogue. Because the ZSVR is also responsible for classifying packaging as reusable packaging (section 26 (1) no. 24 VerpackG), it reserves other potential information about that classification. For applications to determine whether an article of packaging constitutes reusable packaging, please use the application form available at <https://www.verpackungsregister.org/en/foundation-authority/application-procedure>. Please read the accompanying fact sheet carefully beforehand, also available at <https://www.verpackungsregister.org/en/foundation-authority/application-procedure>.

#### **4.2.2 Single-use beverage packaging subject to deposit**

Single-use beverage packaging subject to deposit is exempt from the system participation requirement pursuant to section 12 (2) no. 2 VerpackG.

It is nonetheless listed in certain places in the catalogue because the system participation requirement for bundle wrap films and other types of multi-piece packaging (cf. 8.2) can be more clearly illustrated with reference to the single-use beverage packaging subject to deposit that contain them.

Because the ZSVR is also responsible for classifying beverage packaging as being subject to deposit within the meaning of section 31 VerpackG (section 26 (1) no. 25 VerpackG), it reserves other potential information about that classification.

For applications to determine whether an article of packaging constitutes single-use beverage packaging subject to deposit, please use the application form available at <https://www.verpackungsregister.org/en/foundation-authority/application-procedure>. Please read the accompanying fact sheet carefully beforehand, also available at <https://www.verpackungsregister.org/stiftung-behoerde/antragsverfahren>.

#### **4.2.3 Packaging for hazardous contents**

Retail packaging for hazardous contents is defined in greater detail in annex 2 to section 3 (7) VerpackG. It is exempt from the system participation requirement pursuant to section 12 (2) no. 3 VerpackG.

The distinction between retail packaging for hazardous contents and retail packaging for non-hazardous contents is complex.

Because of this, packaging that can contain hazardous contents is listed in the catalogue. The catalogue handles hazardous contents in the following way:

- If the individual products in a catalogue sheet are classified as hazardous contents without exception, then all of the retail packaging is classified as not being subject to system participation.
- If the individual products in a catalogue sheet are either partially or are very likely to be classified as hazardous contents, then the need to undertake a preliminary investigation is noted in the 'Reasons' and/or 'Additional information' section.

Where retail packaging for contents that are not hazardous within the meaning of annex 2 to section 3 (7) VerpackG is concerned, the classifications made in the catalogue should be followed. For applications to determine whether an article of packaging constitutes packaging that is not subject to system participation because it contains hazardous contents, please use the application form available at <https://www.verpackungsregister.org/en/foundation-authority/application-procedure>. Please read the accompanying fact sheet carefully beforehand, also available at <https://www.verpackungsregister.org/en/foundation-authority/application-procedure>.

Please note that producers who fill retail packaging with hazardous contents within the meaning of section 3 (7) VerpackG are required pursuant to section 15 (1) VerpackG to accept the return of used empty packaging (of the same kind, form and size that they place on the market) at the location where the actual handover took place or in its immediate vicinity free of charge, and to fulfil the other requirements of the Verpackungsgesetz.

#### **4.3 Packaging pursuant to section 3 (1) VerpackG**

Section 3 (1) VerpackG distinguishes between retail packaging, service packaging, shipment packaging, grouped packaging and transport packaging.

Retail packaging and grouped packaging are listed in detail in the catalogue. In contrast, shipment packaging is substantially grouped together because it can be readily distinguished by looking at the distributor (mail order company, cf. 6.1) and the source of waste generation (cf. 6.2). A detailed list in the catalogue would therefore not help to better illustrate the system participation requirement.

Transport packaging is only occasionally referenced in the catalogue and is assessed in the guideline. Transport packaging is generally not subject to system participation (cf. 7.1). As such, a detailed description in the product group sheets would be superfluous.

Single-use palettes typically (in the majority of cases) do not accumulate with private final consumers. Accordingly, they are not subject to system participation, and this type of packaging is not listed in the catalogue.

This only applies to the single-use palette itself and does not extend to the goods on the palette.

However, the catalogue does contain some information about the delineation between shipment and grouped packaging that is subject to system participation in comparison to transport and grouped packaging that is not subject to system participation.

*Example: For fruit preserves that are placed on the German market for industrial processors without complying with food law labelling requirements, the individual preserve tin is not the typical sales unit, but rather multiple tins of preserves are packaged using bundling wrap film or boxes. This is a case of transport packaging.*

Service packaging is only discussed in this guideline and not in the catalogue itself, because it is subject to system participation as a retail packaging that generally accumulates with private final consumers (cf. also 5).



## 5 Service packaging

### 5.1 Definition

Service packaging is '[...] packaging which is not filled until it reaches the final distributor in order [...] to facilitate or support the handing over of goods to the final consumer [...]' (section 3 (1) no. 1 (a) VerpackG) and it is a type of retail packaging.

A characteristic of service packaging is that generally it will usually be filled at around the same time that it is placed on the German market, i.e. handed over to the final consumer. The legislator's memorandum to section 3 (1) VerpackG clearly states, however, that packaging is still deemed service packaging if it is filled in the vicinity of the point of sale, and not directly at it, e.g. in a separate production or work room adjacent to the sales area. The criterion of 'nearby vicinity' is fulfilled if the filling and handing over to the final consumer takes place at the same premises of the final distributor, or up to a few hundred metres from there.

For packaging to be classified as service packaging, it does not matter when it was filled. It may be filled before the actual handover to the customer. Service packaging also includes packaging for products that are pre-packed in retail shops and offered in display fridges or chiller cabinets, e.g. sausage salad or marmalade freshly filled in an area near the sales counter.

Service packaging includes the following types of packaging (non-exhaustive list of examples):

- ◆ cups for hot beverages, including lids;
- ◆ cups for cold beverages;
- ◆ vending machine cups;
- ◆ cups for ice cream, milk shakes, spirits, including lids;
- ◆ containers and cups for foodstuffs, e.g. soups, smoothies, cereals, popcorn;
- ◆ tubs for soups, combination plates, including lids or aluminium closures;
- ◆ salad bowls, combination meal bowls, including lids or aluminium closures;
- ◆ trays and bowls, e.g. for cakes, sausages, salads, chips;
- ◆ combination meal and snack boxes, e.g. lunch boxes, noodle boxes, pizza boxes;
- ◆ bags, wrapping, sheets, conical bags, e.g. sandwich bags, thermal bags, wraps, chip bags;
- ◆ aluminium films and other plastic wraps, when used accordingly;
- ◆ produce roll bags, bags, conical bags and wrappings given out in the course of fruit and vegetable retail – in direct sales, weekly markets or in the fruit and vegetable areas of grocery stores;
- ◆ bags, sheets, wrappings given out at fresh food counters in stores, artisanal food production businesses or fine food retailers;
- ◆ wrappings, sacks and bags given out by laundrettes and dry cleaners;
- ◆ bags, sheets and wrappings for replacement parts and accessories of any kind, e.g. screws or buttons;
- ◆ pharmacist bags;
- ◆ carrier bags of all kinds;
- ◆ gift packaging (wrapping paper, gift bags/boxes) to wrap goods of any kind;
- ◆ netting, flower wrapping, flower foils, wrappings given out by florists, gardening centres or given out with Christmas trees;
- ◆ other packaging, including cake doilies, cake toppers, manchettes, carriers.

The special characteristic of service packaging is that a producer can request that the upstream distributor assume responsibility for the packaging's system participation requirement instead of the initial distributor (section 7 (2) VerpackG).

Packaging for service packaging is contained in the '22-000 household' product group.

## **5.2 System participation requirement**

Service packaging generally accumulates with private final consumers. All service packaging is classified as being subject to system participation accordingly. Because of this fact, no such listing is included in the catalogue (cf. 4.3 above).

## 6 Shipment packaging

### 6.1 Definition

Shipment packaging is '*[...] packaging which is not filled until it reaches the final distributor in order [...] to facilitate or support the shipping of goods to the final consumer [...]*' (section 3 (1) no. 1 (b) VerpackG). It is a type of retail packaging.

The explanatory memorandum sets out that the term 'shipment packaging' denotes, in the first instance, packaging in which mail order companies ship goods. The characteristics of being a mail order company can be described as follows:

Objects are sold commercially, i.e. as goods, across a geographic distance between the outbound store and the recipient, to a private or commercial final consumer, and additional shipment packaging is generally, although not always, used in the process.

Shipment packaging also includes packaging that is used by online shops to ship their products.

### 6.2 requirement determined

Shipment packaging is always described towards the end of a product category.

All of the components of the shipment packaging are subject to system participation:

- ◆ shipping box;
- ◆ shipping bag;
- ◆ shipping envelope;
- ◆ interior fittings like padding material, reinforcements, anti-skid materials and other filler material;
- ◆ straps, adhesive strips.

In terms of an article of packaging's classification as shipment packaging subject to system participation, a two-step process should be followed:

The first step is to distinguish it from transport packaging (cf. also 7 for more information). This delineation depends on whether the packaging is meant to facilitate the shipment of goods to a final consumer who will not go on to sell the delivered goods/packaging in the form received. If this is the case, it is shipment packaging, which is a sub-type of retail packaging. However, if the packaging is designated to transport goods/retail packaging to a retailer/distributor who is not deemed a final consumer within the meaning of the Verpackungsgesetz (also described as 'retail' in the catalogue), then it constitutes transport packaging.

If this initial distinguishing process results in shipment packaging, the system participation requirement question is resolved in the second stage of the test, depending on the typical source of waste generation. Accordingly, the following distinction should be made:

- ◆ If the retail packaging for a product is classifiable as being subject to system participation, then the shipment packaging is always subject to system participation as well.
- ◆ If the retail packaging of a product is not classifiable as being subject to system participation (because it does not typically accumulate with private final consumers), then the shipment packaging is usually still subject to system participation, although not without exception. In particular, it can generally be assumed that shipment packaging used by mail order

companies and online retailers is subject to system participation. Only in exceptional circumstances is the shipment packaging not subject to system participation.

*Example: The shipment packaging for a bicycle is subject to system participation. It is ultimately possible and not uncommon for a bicycle to be purchased online and then delivered to the consumer at home. Looking at the market as a whole, the shipment packaging for a bicycle generally accumulates with private final consumers. The retail packaging for a bicycle, by contrast, is not subject to system participation. Looking at the market as a whole, the protective film on a bicycle predominately accumulates with retailers.*

*Example: For motorcycles, neither the shipment packaging nor the retail packaging is subject to system participation. Firstly, that may have to do with the fact that it is uncommon for private final consumers to order a motorcycle online. In addition, the packaging is predominately found at retailers or motorcycle workshops. The latter predominantly fall above the volume criterion of 1,100 litres at a rate generally associated with private households and are therefore not comparable sources of waste generation.*

## 7 Transport packaging

### 7.1 Definition

Section 3 (1) no. 3 VerpackG defines transport packaging as products which *'facilitate the handling and transport of goods in a manner whereby direct contact and damage during transport are avoided and which are typically not intended to be passed on to the final consumer transport packaging)*'.

Transport packaging typically does not accumulate with final consumers and instead remains with retailers; it is therefore not the same as shipment packaging, which typically accumulates with consumers. Retailers means the party that goes on to sell the goods delivered to them (individually, as the case may be), but does not process it.

### 7.2 Examples for transport packaging

Transport packaging is usually grouped into the terms 'transport boxes, transport films'. A variety of different packaging materials can fall under these terms that are used in transport packaging:

- ◆ folding boxes to combine multiple sales units into one transport unit;
- ◆ shelf-ready boxes that serve just to transport and present the goods;
- ◆ shelf trays with or without covering film or intermediate layer;
- ◆ display packaging that serves only to transport and present the individual goods (e.g. to display promotional goods);
- ◆ intermediate layers in folding boxes, holster boxes or on pallettes;
- ◆ compartments in folding boxes or holster boxes;
- ◆ shrink wrap to bundle multiple sales units into one transport unit;
- ◆ shrink hood on pallettes;
- ◆ stretch films for palette loading safety;
- ◆ straps;
- ◆ single-use pallettes.

### 7.3 Transport packaging in contrast to retail and grouped packaging

Transport packaging does not include any packaging for sales units listed in the catalogue's different product data sheets as 'retail packaging and grouped packaging'.

Accordingly, transport packaging does not include, for example:

- ◆ bundle wrap films to create a sales unit (e.g. 10 .33-litre bottles in a carry pack);
- ◆ boxes to create a sales unit (e.g. 240 condensed milk packages in a folding box);

- ◆ multi-unit packaging as a sales unit (e.g. 10 coffee capsules in a folding box);
- ◆ assortment packaging as a sales unit (e.g. a craft assortment with separately packaged units in a box);
- ◆ packaging for sales units of electrical devices, furniture and similar consumer goods (listed in the catalogue under retail packaging because it concerns a sales unit);
- ◆ packaging for sales units of installation goods, such as basins, radiators, etc. (listed in the catalogue under retail packaging because it concerns a sales unit).

## 8 Applying the catalogue

### 8.1 Applying the delineation criteria

#### 8.1.1 Applying the delineation criteria

An essential part of the system participation requirement catalogue is the classification of packaging as being subject to system participation based on product-related **delineation criteria**. A main delineation criterion is the quantity (cf. also 8.1.2). For other product-related delineation criteria, cf. 3.2.2 above.

#### 8.1.2 Quantities

Quantities are primarily indicated for products that have their nominal quantity given in grammes, kilogrammes, millilitres or litres, or in pieces. Nominal quantities are the quantities that are indicated on packaging and do not describe the actual quantities contained within the packaging or, for example, the drained net weight.

The delineation criterion of quantity marks the point up to which a sales unit of a particular product is subject to system participation. That means that the quantities must always be applied to the sales unit of a given product (cf. also 8.2 and 8.5).

After analysing the common packaging sizes on the market, a quantity value was included in the catalogue that, as far as the ZSVR is aware, is not actually available on the German market in that exact amount. This was intended to prevent specific articles of packaging falling exactly on the border between two quantities, making classification easier for catalogue users.

**Example:** Fresh pasta is distributed to restaurants, commercial kitchens, etc., in quantities up to and including 15kg. In line with the principles set out above, the delineation criterion was set as 18kg.

Quantities are usually given in kilogrammes (or gramme) or litres (or millilitre), but may also be stated in pieces.

Where a producer does not place products on the German market using the units indicated, the following should be observed: The producer converts the particular quantity, using the specific density of the unit indicated in the catalogue and then classifies the packaging.

**Example:** *A producer states the quantities of 'ketchup, mustard, mayonnaise' that are placed on the German market in kilogrammes or litres, depending on the product shape and quantity. Producer A places ketchup in 15-litre packages on the German market. The delineation criterion listed in the catalogue is 22kg. The producer now needs to convert the 15 litres using the specific density of ketchup (approx. 1.14 kg/l): 15 litres x 1.14 kg/l = 17.1kg. The packaging is therefore subject to system participation. If the quantity were 20 litres (= 22.8kg at 1.14 kg/l), the packaging would not be subject to system participation.*

For individual products in the catalogue, information about the specific density of the contents is provided under the heading 'Additional information'.

## 8.2 Sales units

The definition of sales unit in section 3 (1) no. 1 VerpackG is predicated on whether the packaged products are *'typically offered to the final consumer as a sales unit comprising goods and packaging (retail packaging) [...]'*.

In the column 'Quantity/volume/unit/example list', the catalogue sets out typical sales units. Here it should be noted that the assessment is always made from the final consumer's point of view. A final consumer is someone who does not go on to sell the goods in the form delivered to them. They consume/process the goods or use them appropriately.

An indicator for a sales unit that is offered in this form may be that it is included in an order or product range list, catalogue or selection in online shops.

A sales unit may be an individual article of packaging or multi-piece packaging/assortment packaging.

- ◆ **Multi-piece packaging** is a form of retail packaging that contains multiple items of the same type of packaged product that are not individually marked with a barcode, product identification (e.g. producer) or price.
- ◆ **Assortment packaging** is a form of retail packaging that contains multiple components of a product that also are not individually marked with a barcode, product identification (e.g. producer) or price.

Both multi-piece packaging and assortment packaging are always one sales unit.

*Example: An article of multi-piece packaging has 10 individually packaged chocolate bars in a box.*

*Example: An article of assortment packaging is a box with multiple bags inside of it as packaging for components of a ready meal.*

If the producer distributes a product in different sales units, the system participation requirement must be considered for each type of sales unit separately.

The catalogue lists sales units by always basing the classification on typical sales units, even if this is not always expressly stated. In important individual cases, explicit reference is made to the character of the sales unit, e.g. with qualifications such as 'packaging box', 'bundle wrap film' or 'multi-piece packaging'.

If multiple articles of packaging are grouped together in a bundle wrap film or box, the 'complete package' becomes the sales unit if it is offered in this complete form (cf. the indicators set out above). If the total quantity is beneath the delineation criterion, then the 'complete package' is subject to system participation as a sales unit. If the total quantity is above the quantity limit, then the 'complete package' is not subject to system participation as a sales unit.



### 8.3 Unlabelled primary packaging

For industrial processors, packaging is also placed on the German market that at the outset does not meet the legal requirements for being handed over to private final consumers and therefore typically does not accumulate with them; for example, fruit preserves, vegetable preserves, fish preserves or frozen products without labelling for handover to private final consumers. Foodstuffs are particularly affected by this. For clarity, for example, a note to this effect was added to the catalogue sheet for meat under the heading 'Additional information'.

This sort of atypically designed packaging, for example packaging that bears only a stamp and does not have adequate foodstuff labelling, is not subject to system participation regardless of quantity because it does not typically accumulate with private final consumers as a result of legal requirements.

### 8.4 Examples of applying delineation criteria to sales units

*Example: Multi-piece packaging is placed on the German market as, for example, 240-piece boxes (e.g. 7.5g per package of condensed milk or 1.8kg per box). The box and the individual packages of condensed milk are subject to system participation if the delineation criterion listed in the catalogue is given as 1.8kg or more.*

*Multi-piece packaging is also handed over in units of, for example, 10 pieces with 7.5g per package of condensed milk in film bags to households and restaurants. In this case as well, the film bag is subject to system participation just as the individual package of condensed milk is, because the 10-piece packaging is the sales unit and the sales unit is beneath the stated delineation criterion of 1.8kg.*

*Finally there is the case that the multi-piece packaging in units of 10 pieces with 7.5g per package of condensed milk (cf. above) is combined into a sales unit of 100 pieces with a bundle wrap film. The sales unit of 100 pieces in the multi-piece packaging is above the delineation criterion of 1.8kg and is therefore not subject to system participation. The bundle wrap film is transport packaging.*

*Example: Beverage bottles are handed over in, for example, bundle wrap films or bottle carriers, for example 6 bottles of 1.5 litres. The bottles are also sold individually. Despite this fact, the 6-piece unit is the sales unit because the bottles are typically handed over in the bundle wrap film and/or bottle carrier, and the film and/or carrier typically accumulate with private final consumers. The bundle wrap film and the bottle carrier are therefore subject to system participation (even if the beverage packaging itself would not be because it is single-use beverage packaging subject to deposit).*

*Example: A frozen product is placed on the German market in a corrugated board folding box as a typical sales unit with multiple plastic bags. If, for example, 4 bags of 5kg each are packaged in a folding box and the delineation criterion stated in the catalogue is 22kg, the inner bags and folding box are subject to system participation. If the delineation criterion stated in the catalogue is 18kg, then neither the folding box nor the bag are subject to system participation.*

*When the catalogue was being developed, the delineation criterion was primarily determined by the fact that certain products typically are placed on the German market in this form for restaurants and commercial kitchens in order to ensure that they can be stacked in boxes in cold storage. The individual articles of packaging in the corrugated folding box could in this case not be sold individually in a retail store because looked at individually they do not meet legal labelling requirements.*

*Example: A large number of 2,650ml fruit preserve tins are sold on a palette. There are shelf trays containing six tins each on the palette. The palette packaging, including the stretch film and straps and the holster boxes constitute transport packaging and are therefore not subject to system participation (cf. 8.6). The individual tin constitutes the sales unit. The delineation criterion according to the catalogue is 22 litres and each of the tins is therefore subject to system participation.*

### **8.5 Closures, interior fittings, packaging aids, etc.**

If the sales unit is subject to system participation, then the same applies for all of the sales unit components, e.g.:

- ◆ closures;
- ◆ labels;
- ◆ sleeves;
- ◆ dosaging aids (where featured in the packaging);
- ◆ packaging aids of any kinds (e.g. clip closures);
- ◆ inner bags;
- ◆ other interior fittings (e.g. dividers).

### **8.6 Conclusive assessments for cases not covered**

It is unavoidable that individual products or types of packaging cannot be classified or cannot be clearly and fully classified within the products in the catalogue.

There may be different reasons for this:

1. The product is not included or is not explicitly named in the catalogue.
2. The product packaging was not included or explicitly named in the catalogue.

In these cases, it may be possible to draw conclusions about unlisted products and packaging from listed products and packaging. The same applies to accessories of products listed in the catalogue.

Examples are as follows:

*Example: In the product category '02-080-0080 thickener, thickening agents', thickening agents made of guar gum are not explicitly named. A producer of guar gum powder can still classify its packaging there. Guar gum powder falls under thickening agents, even if it is not explicitly listed.*

*In the product category '02-110-0040 cereal flakes, cereal grains', 500g paper bags are listed as being subject to system participation. A producer places 500g bags on the German market that are allocated to 'other composite packaging'.*

*Example: In the product category '02-020-0080 meat and sausage preserves', plastic bowls are explicitly listed. The initial distributor, however, places packaging on the German market that is described as boxes by the packaging manufacturer. This packaging can be classified with the bowls because it is a very similar type of packaging.*

In unclear cases, an application can be made to the ZSVR to classify an article of packaging as being subject to system participation or not.

A fact sheet and application forms with further details are available at <https://www.verpackungsregister.org/en/foundation-authority/application-procedure>.

## 8.7 Examples for applying the catalogue

### 8.7.1 Example 1: Cooking oil

PG-Nr.	Produktgruppe	P-Nr.	Produkt
02-130	Fette & Öle	02-130-0010	Speiseöl
<b>Produktbeschreibung</b>			
Öle auf pflanzlicher Basis für den menschlichen Verzehr, auch Speiseöle mit Zusätzen			
<b>Produkt im Detail</b>		<b>hier nicht zugeordnet</b>	
Olivenöl		02-130-0030	Speisefette, Margarine
Rapsöl, Leinöl, Hanföl		02-130-0030	Flüssigmargarine
Sesamol, Weizenkeimöl		14-000-0030	Hautpflegemittel (z.B. Babyöl)
Sonnenblumenöl, Sojaöl			Pflanzliche Industrieöle (z.B. Palmöl) (nicht im Katalog)
Traubenkernöl, Kürbiskernöl			
Walnussöl, Erdnussöl			
Frittieröle aller Art			
Sonstige Öle für die menschliche Ernährung			
<b>Begründung</b>			
Verkaufsverpackungen und Umverpackungen von Speiseöl bis zu einer Füllgröße von einschließlich 14 Litern sind systembeteiligungspflichtig, weil sie typischerweise in Privathaushalten und vergleichbaren Anfallstellen (im Sinne von § 3 Abs. 11 VerpackG) wie Gastronomiebetrieben, Kantinen und Großküchen anfallen. Zu den vergleichbaren Anfallstellen gehören auch Betriebe des Lebensmittelhandwerks, deren Verpackungsabfälle in haushaltstypischem Rhythmus in Umleerbehältern bis zu 1.100 Litern abgeholt werden können (Mengenkriterium). Die vergleichbaren Anfallstellen verwenden neben haushaltstypischen Füllgrößen (z.B. 1 l) vor allem Großflaschen (z.B. 3 l), Kanister (insbesondere 10 l) und Bag-in-Box Verpackungen bis 12,5 Liter.			
Verkaufsverpackungen und Umverpackungen von Speiseöl mit einer Füllgröße über 14 Litern sind nicht systembeteiligungspflichtig, weil sie typischerweise bei großgewerblichen Anfallstellen anfallen. Dazu zählen insbesondere Fässer, IBCs, Kanister und Kannen.			
Versandverpackungen aller Art von Speiseöl fallen typischerweise in privaten Haushalten und vergleichbaren Anfallstellen an und sind damit systembeteiligungspflichtig.			
<b>Besonderheiten</b>			

This covers all plant-based cooking oil, with and without additives.

P-Nr.	Produkt	Packstoff	Ausprägung/Form	Abgrenzungskriterium	Systembeteiligungs- pflichtig	
					Ja	Nein
<b>Verkaufsverpackungen</b>						
02-130-0010	Speiseöl	Aluminium	Dosen, Flaschen	≤ 14 l	X	
02-130-0010	Speiseöl	Glas	Flaschen	≤ 14 l	X	
02-130-0010	Speiseöl	Kunststoff	Flaschen, Kanister, Fässer	≤ 14 l	X	
02-130-0010	Speiseöl	Kunststoff	Flaschen, Kanister, Fässer, IBCs	> 14 l		X
02-130-0010	Speiseöl	Metalle	Kanister, Fässer	≤ 14 l	X	
02-130-0010	Speiseöl	Metalle	Kanister, Fässer	> 14 l		X
02-130-0010	Speiseöl	PPK, Sonstige Verbundverpackungen	Bag-in-Box	≤ 14 l	X	
02-130-0010	Speiseöl	PPK, Sonstige Verbundverpackungen	Bag-in-Box	> 14 l		X
02-130-0010	Speiseöl	Weißblech	Dosen, Kanister, Kannen	≤ 14 l	X	
02-130-0010	Speiseöl	Weißblech	Kanister, Kannen	> 14 l		X
02-130-0010	Speiseöl	Aller Art	Aller Art	≤ 14 l	X	
02-130-0010	Speiseöl	Aller Art	Aller Art	> 14 l		X
<b>Versandverpackungen (Verkaufsverpackungen) und Umverpackungen</b>						
02-130-0010	Speiseöl	Kunststoff	Versandverpackungen	Aller Art	X	
02-130-0010	Speiseöl	PPK	Versandverpackungen	Aller Art	X	
02-130-0010	Speiseöl	Kunststoff	Umhüllungen, Mehrstückverpackungen	≤ 14 l	X	
02-130-0010	Speiseöl	Kunststoff	Umhüllungen, Mehrstückverpackungen	> 14 l		X
02-130-0010	Speiseöl	PPK	Faltschachteln, Umkartons	≤ 14 l	X	
02-130-0010	Speiseöl	PPK	Faltschachteln, Umkartons	> 14 l		X

A producer classifies all packaging up to and including 14 litres as packaging subject to system participation. Canisters, bag-in-boxes, casks, etc., above 14 litres are not subject to system participation.

The shipment packaging for the 'plant-based cooking oil with or without additives' products listed above is fully subject to system participation.

Cooking oil transport packaging is not explicitly listed in the catalogue. Other things likely in this context include, for example, transport boxes and transport films, as well as all palette packaging such as shrink film, stretch film, intermediate layers, hoods and straps. They are not subject to system participation because they are removed in retail shops in the majority of cases.

## 8.7.2 Example 2: Dishwashers

PG-Nr.	Produktgruppe	P-Nr.	Produkt
28-010	Weißer Ware	28-010-0010	Geschirrspülmaschinen
<b>Produktbeschreibung</b>			
Gerät zur maschinellen Reinigung von schmutzigem Geschirr, Töpfen, Gläsern, Besteck, Küchenutensilien			
<b>Produkt im Detail</b>		<b>hier nicht zugeordnet</b>	
Tischgeschirrspülmaschinen		28-010-0030	Kühlschränke, Gefriertruhen
Geschirrspülmaschinen (Einbaugeräte)		28-010-0050	Waschmaschinen, Wäschetrockner
Geschirrspülmaschinen (Standgeräte)		28-010-0110	Sonstige Elektrogroßgeräte Küche, Mobilgeräte
Geschirrspülmaschinen für das Gewerbe, Haubengeschirrspülmaschinen		28-010-0115	Sonstige Elektrogroßgeräte Küche, Montagegeräte
Sonstige Geschirrspülmaschinen			
<b>Begründung</b>			
Verkaufsverpackungen und Versandverpackungen von Geschirrspülmaschinen sind nicht systembeteiligungspflichtig, weil sie typischerweise bei Handwerksbetrieben anfallen, deren Verpackungsabfälle nicht in haushaltstypischem Rhythmus in Umleerbehältern bis zu 1.100 Litern abgeholt werden können. Im Übrigen verbleiben Verpackungen von Geschirrspülmaschinen auch im Handel.			
Zum Teil fallen Verpackungen von Geschirrspülmaschinen zwar auch in Privathaushalten und vergleichbaren Anfallstellen (im Sinne von § 3 Abs. 11 VerpackG) an. Jedoch überwiegt in Summe der Anteil an Verpackungen, der entweder bei Handwerksbetrieben oberhalb des Mengenkriteriums anfällt oder im Handel verbleibt.			
<b>Besonderheiten</b>			
Paletten übernehmen bei diesem Produkt oft die Funktion der Primärverpackung. Sie fallen typischerweise nicht in privaten Haushalten oder vergleichbaren Anfallstellen an und sind nicht systembeteiligungspflichtig.			
In vielen Fällen wird auch im Versandhandel in der Originalverpackung versendet.			

All retail and shipment packaging for dishwashers is not subject to system participation, according to the catalogue.

P-Nr.	Produkt	Packstoff	Ausprägung/Form	Abgrenzungskriterium	Systembeteiligungspflichtig	
					Ja	Nein
<b>Verkaufsverpackungen</b>						
28-010-0010	Geschirrspülmaschinen	Kunststoff	Beutel, Einschläge, Formteile, Hauben	Aller Art		X
28-010-0010	Geschirrspülmaschinen	Kunststoff	Umreifungen	Aller Art		X
28-010-0010	Geschirrspülmaschinen	Metall	Umreifungen	Aller Art		X
28-010-0010	Geschirrspülmaschinen	Naturmaterial	Latten, Verschläge	Aller Art		X
28-010-0010	Geschirrspülmaschinen	PPK	Schachteln, Versteifungen, Hauben, Einschläge	Aller Art		X
28-010-0010	Geschirrspülmaschinen	Aller Art	Polstermaterial, Kantenschutz	Aller Art		X
28-010-0010	Geschirrspülmaschinen	Aller Art	Aller Art	Aller Art		X
<b>Versandverpackungen (Verkaufsverpackungen) und Umverpackungen</b>						
28-010-0010	Geschirrspülmaschinen	Kunststoff	Versandverpackungen	Aller Art		X
28-010-0010	Geschirrspülmaschinen	PPK	Versandverpackungen	Aller Art		X



## 9 Frequently asked questions

### As a producer, can I even identify the system participation requirement of my packaging?

For producers it has been and remains in many cases impossible to identify where the packaging they place on the German market typically accumulates as waste (the so-called 'accumulation principle'). Often producers are only able to make even a prediction about whether the packaging accumulates with private households when either the type of product (e.g. a toaster is regularly bought by private households) or the distribution channel (e.g. direct sales to grocery stores, which regularly sells to private households) make it possible to draw a conclusion about the matter. If the producer sells products, by contrast, that are used by both commercial and private buyers and comparable sources of waste generation, or if the producer distributes using intermediary retailers, it is no longer possible to make a reliable prediction.

For '**comparable sources of waste generation**', it is nearly impossible for producers to make a classification in most cases:

- ◆ The packaging type for the products sold in this context is often similar to those sold in industrial contexts.
- ◆ In addition, distribution is usually via intermediary retailers. Intermediary retailers want – and are allowed (including for antitrust law reasons) – to not disclose their clients to suppliers for the purpose of determining the source of waste generation.
- ◆ For comparable sources of waste generation with '**volume criterion**', it was quite impossible for producers to classify their packaging, as producers could hardly know what recovery volumes accumulate with this sort of final consumer.

In the past, the producers' lack of certainty when assessing their individual packaging often led to market research opinions being commissioned that were meant to check how large the accumulation of packaging for specific product segments was with private households / comparable sources of waste generation or commercial recipients / industrial enterprises.

### In creating the catalogue, what exactly did the ZSVR do?

Pursuant to section 3 (8) VerpackG, packaging subject to system participation is retail or grouped packaging filled with goods that *typically* accumulates as waste with a private final consumer after use. In the catalogue, the ZSVR makes an abstract generalised assessment by product group and its corresponding articles of packaging in relation to the market overall. Based on the typical source of waste generation in this assessment, the ZSVR uses administrative regulations to define the system participation requirement.

This generalised assessment is the result of the findings of an analysis undertaken by '**GVM**'. GVM had previously conducted their own investigation into where packaging for products typically accumulates in the overall German packaging market and listed these places by product group. They also considered the criterion of volume for sources of waste generation – something an individual producer is not able to do. GVM further assessed the concrete supply relationships for the different sectors / products groups, again taking account of the sources of waste generation and their volumes.

This enables market participants (in particular those competing with one another) to treat identical packaging the same way in terms of its system participation requirement. This is because every producer can use the catalogue to classify the packaging they distribute by product group. Where packaging is listed in the catalogue, it is not necessary for the individual producer to perform a specific individual analysis. That helps international producers as well, for example, to easily identify their system participation requirement.

### **Where is it set out that the ZSVR is allowed to create and publish a system participation requirement catalogue?**

The ZSVR is an authority. It is allowed to issue administrative regulations to perform its duties, in fact, it is even obligated to do so if that is the only way for it to properly perform its duties. It is the ZSVR's duty to decide applications about whether an article of packaging is subject to system participation or not. In doing so, it has to proceed according to the so-called equal treatment principle. That is why it is sensible for it to set out in administrative regulations how it will generally decide in relation to a specific situation. It is permitted to publish these administrative regulations. Doing so helps many producers to check in advance how their applications will likely be decided.

### **What can I do if I think that my product behaves atypically in relation to the ZSVR's determination in the catalogue?**

If a producer demonstrates that their product behaves atypically in relation to the delineation that the ZSVR has chosen on the corresponding product sheet, the producer can make an application to the ZSVR pursuant to section 26 (1) no. 23 VerpackG. In that case, the producer needs to describe the typical accumulation behaviour of the specific product in the market overall. The ZSVR will review this and, if the typical accumulation of the producer's product does in fact differ from the assumption made in the catalogue in relation to the overall market, it will split the relevant product sheet.

### **Is it legally permissible for the ZSVR to check, for the purposes of creating the catalogue, where packaging typically accumulates on the basis of all of the packaging in Germany, and not where my packaging accumulates specifically?**

The generalised assessment of the overall market undertaken by the ZSVR in implementing section 3 (8) VerpackG meets the requirements of the Verpackungsgesetz as well as constitutional and EU legal requirements. The generalised assessment undertaken under the wording, framework, letter and spirit of the Verpackungsgesetz is within the confines of constitutional law, in particular the requirements set out in article 3 GG (Grundgesetz – Basic Law for the Federal Republic of Germany) and related court rulings of the German Federal Constitutional Court. The legislator has the authority to further duly implement the aforementioned generalised assessment, and has entrusted this authority to the ZSVR pursuant to section 26 (1) no. 23 VerpackG. To ensure that the classifications in the catalogue are not based on atypical exceptions, the catalogue and the categorisations it makes are periodically reviewed, most likely on an annual basis. The Verpackungsgesetz underwent a notification procedure in the EU Commission without objection.



### **Why are the quantities listed in the catalogue so much higher than those in the Belgian list?**

In Belgium, the delineation between the 'commercial' and the 'household-related' segment was determined without reference to the source of waste generation. The quantities determined there are meant to define the household-related segment themselves. There is no underlying classification of sources of waste generation to the commercial or household-related segment.

That is different in German packaging law, which defines the household-related segment in reference to section 3 (11) VerpackG. There, comparable sources of waste generation are explicitly classified under the household-related segment.

### **Why are the quantities listed in the catalogue so high? No one consumes quark in 10kg tubs, for example?**

The delineation criteria chosen are not intended to reflect the consumption habits of private households. Instead, comparable sources of waste generation (section 3 (11) VerpackG) play a considerable role alongside private households. They are treated the same way as private households because comparable packaging waste typically accumulates there. This includes restaurants, hotels, canteens, administrative offices, hospitals, cinemas, museums, holiday facilities, leisure parks and sports stadiums. Agricultural holdings and craft enterprises with packaging waste that is collected in waste bins normally associated with households are also included.

### **Why does the catalogue also feature quantities that are not placed on the German market?**

There are different reasons for this:

1. One goal is for producers to classify their packaging without any doubt. Because of this, the chosen delineation criteria do not correspond to the stated quantities actually placed on the market.
2. The packaging placed on the German market, in particular for commercial users, cannot be described to the last detail. That is why ranges are often given. That way it can remain open whether there are actual quantities at the upper end of this range.

## 10 Glossary

**Assortment packaging:** Assortment packaging is a form of retail packaging that contains multiple components of a product that also are not individually marked with a barcode, product identification (e.g. producer) or price.

**Bag-in-box:** Combination packaging that typically consists of an inner bag made of plastic or a composite material and an outer box.

**Beverage carton packaging:** 'Beverage carton packaging' within the meaning of section 16 (2) VerpackG is beverage packaging within the meaning of section 3 (2) VerpackG in the form of composite packaging within the meaning of section 3 (5) VerpackG, whereby the base material is cardboard.

**Big bags:** Flexible bulk container made of plastic fabric with a typical quantity of up to 1,500kg. The designation FIBC (flexible intermediate bulk container) is common internationally. Cf. IBCs.

**Blister packs:** Packaging that allows for clear product display, comprising a plastic foil with pockets and a plane base.

**Bundle wrap films:** Packaging films that serve to unite a number of individual packages together as one sales unit, such as 6 bottles of mineral water of 1.5 litres.

**Display packaging:** Usually box-like packaging that is half open, made of material similar to cardboard, of corrugated board, cardboard or solid board that enables customers to see the goods and take them from the display easily.

**Export packaging:** Export packaging is packaging for which evidence can be produced that it is not handed over to final consumers in Germany.

**Final consumer:** A final consumer is someone who does not go on to commercially place the goods on the German market in the form delivered to them (section 3 (10) VerpackG).

**Flat-pack furniture:** Flat-pack furniture is furniture that is packed in such a way that it can be taken away by customers themselves from the point of sale. Whether furniture constitutes flat-pack furniture may have to be decided on a case-by-case basis. Typical indicators for flat-pack furniture include the following examples: 1. The furniture is small or substantially disassembled. 2. The furniture can be sent via parcel service and does not need to be shipped via a forwarding agent. 3. Once unpacked, the furniture has to be assembled to a significant extent and based on assembly instructions. Not all of these criteria have to be met for an item of furniture to be considered flat-pack furniture.

**Grouped packaging:** Packaging that contains a specific number of sales units and is typically offered to the final consumer together with these units, or that is used for stocking retail shelves (section 3 (1) no. 2 VerpackG).

**GVM:** GVM Gesellschaft für Verpackungsmarktforschung, Mainz.

**IBCs:** Intermediate bulk containers are packaging for liquid and free-flowing materials that typically have a volume between 500 and 3000 litres.

**Initial distributor:** Initial distribution, i.e. placing on the market, is every handover to a third party, in exchange for money or not, within the jurisdiction of the Verpackungsgesetz, with the goal of distribution, consumption or use. Handing over packaging filled under the instruction of a third party to this third party does not constitute the act of placing on the German market if the packaging bears exclusively the name or brand of the third party or both (section 3 (9) VerpackG).

**Initial distributor:** Initial distributor (producer) means the distributor who is the first to place packaging on the market on a commercial basis or any party that imports packaging on a commercial basis into the territory that falls under the jurisdiction of the Verpackungsgesetz (section 3 (14) VerpackG).

**Multi-piece packaging:** Multi-piece packaging is a form of retail packaging that contains multiple items of the same packaged product that are not individually marked with a barcode, product identification (e.g. producer) or price.

**Other composite packaging:** Composite packaging is packaging made from two or more material types that cannot be separated by hand (section 3 (5) VerpackG). The term 'other composite packaging' comprises all composite packaging that is not beverage carton packaging.

**Packaging for hazardous contents:** Cf. 4.2.3.

**Private final consumer:** Private final consumers mean private households and sources of waste generation comparable to them, in terms of the packaging waste that typically accumulates there. In particular, comparable sources of waste generation within the meaning of the first sentence include restaurants, hotels, service stations, canteens, barracks, hospitals, educational institutions, charitable facilities, professional offices, typical cultural sources of waste generation such as cinemas, opera houses and museums, and leisure sources of waste generation such as holiday facilities, leisure parks and sports stadiums. Comparable sources of waste generation within the meaning of the first sentence also include agricultural holdings and craft enterprises where their packaging waste can be collected in a container normally associated with private households that does not exceed a 1,100-litres waste bin per collection group at the intervals that are normally associated with private households (section 3 (11) VerpackG).

**Reusable packaging:** Reusable packaging is packaging that is designed and intended to be used multiple times for the same purpose and whose actual return and reuse is facilitated by suitable logistics, and encouraged by an appropriate incentive system, usually a deposit (section 3 (3) VerpackG). Cf. 4.2.1.

**Sales unit:** Cf. 8.2.

**Service packaging:** Service packaging is '*[...] packaging which is not filled until it reaches the final distributor in order [...] to facilitate or support the handing over of goods to the final consumer [...]*' (section 3 (1) no. 1 (a) VerpackG), and it is a type of retail packaging. Cf. 5.1.

**Shipment packaging:** Shipment packaging is '*[...] packaging which is not filled until it reaches the final distributor in order [...] to facilitate or support the shipping of goods to the final consumer [...]*' (section 3 (1) no. 1 (b) VerpackG) and it is a type of retail packaging. Cf. 6.1.

**Similar sources of waste generation:** Cf. 'Private final consumer'.

**Single-use beverage packaging subject to deposit:** Single-use beverage packaging subject to deposit is defined in section 3 (2) VerpackG (beverage packaging) in conjunction with section 31 (1), (4) VerpackG.

**Single-use plastic bottles for beverages:** Beverage packaging in the shape of a bottle, including lids and closures, with a volume of up to 3.0 litres that also meets the requirements for single-use plastic packaging (section 3 (4 c) VerpackG).

**Transport packaging:** Packaging that facilitates the handling and transport of goods in such a way that direct contact with them and damage in transit are prevented, and which typically is not intended to be passed on to the final consumer (section 3 (1) no. 3 VerpackG).

**VerpackG:** The 'Verpackungsgesetz' ('VerpackG') is the Act on the Placing on the Market, Return and High-quality Recovery of Packaging of 5 July 2017 (BGBl. I 2017, page 2234), in the version currently in force.

**VerpackV:** The 'Verpackungsverordnung' ('VerpackV') is the Ordinance on the Prevention and Recovery of Packaging Waste of 21 August 1998 (BGBl. I, page 2379), last amended by article 11 (10) of the Act of 18 July 2017 (BGBl. I, page 2745), repealed as of 1 January 2019.

**Volume criterion:** Comparable sources of waste generation include craft enterprises and agricultural holdings, where their plastics, metal and composite packaging and/or paper/paperboard/cardboard can be collected at the intervals that are normally associated with private households and in waste bins that do not exceed 1,100 litres per collection group (so-called '**volume criterion**').

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