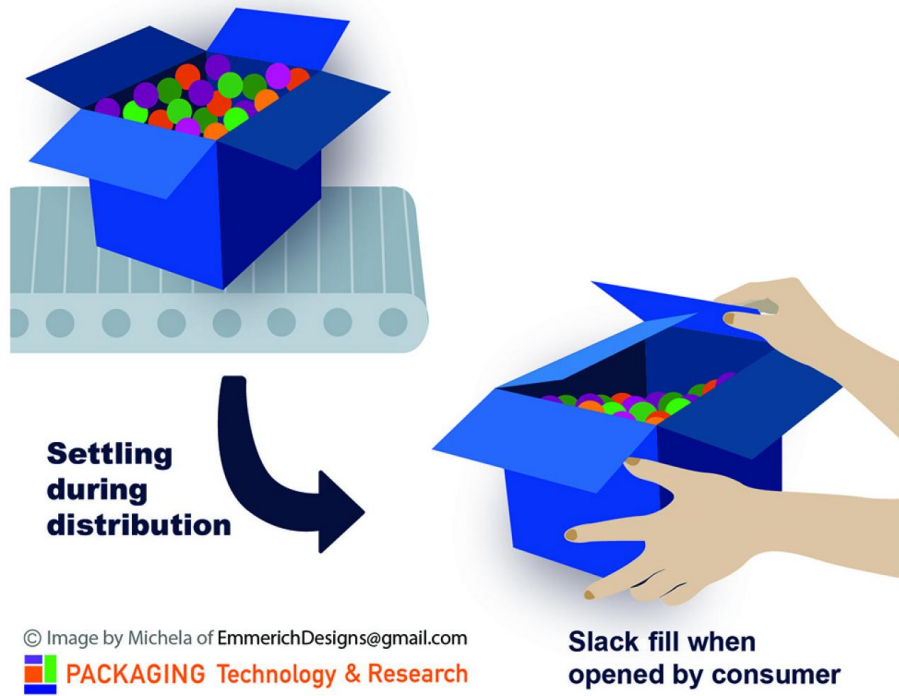


# PACKAGING DIGEST

## LABELING/CLAIMS



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## 5 Ways to Be Proactive on Slack Fill

*Options to remain compliant to new slack-fill regulations for food and nonfood packaged products start with a packaging audit.*

Claire Sand | Aug 17, 2021

Slack fill has new relevance since California regulations have revised exemptions and widened the scope from food to nonfood categories. The rationale behind the need for slack-fill regulations is that they protect consumers and disable using package size as unfair competition. This reasoning can be seen in the titles of the slack-fill regulations:

- “Misleading containers” for FDA (21 CFR Part 100.100 )
- “Fair Packaging and Labeling Act” for California (12606 for non-food and 12606.2 for food )

These regulations assure that all competitors have the same set of rules in terms of slack fill. As the wave of anti-packaging continues to crest, consumers highlight what they see is “empty space” within packaging is abundant on social media. As a result, legal actions in food and nonfood categories are escalating.

As with many things, a proactive approach to slack fill is best as found in these five (sorry, no room for more!) slack-fill solutions:

## **1. Perform a slack-fill audit of your packaging.**

A slack-fill audit provides a baseline for how your packaging aligns with existing and projected regulations and provides direction toward what packaging components and aspects of your package design need to be addressed. An independent slack-fill audit is often conducted with a legal team and a packaging expert. It includes a justification and explanation for each specific packaging component, the composite package, and their individual and combined impact on perceived “empty space” and how they render the “empty space” not or non-exempt from the regulations. Consumer research on a package in light slack-fill exemption is sometimes warranted.

## **2. Communicate the functions of packaging.**

Communication to consumers when a package slack fill is functional is becoming essential. Most packaging professionals have been involved in reducing the amount of packaging as part of cost reduction or sustainability initiatives at some point in their careers. These initiatives involve optimizing packaging for consumer use (enabling handling, dispensing), manufacturing constraints, product protection (distribution, pilfering, safety), and labeling. These optimizations have resulted in less packaging that is more sustainable, costs less, and aligns with slack-fill regulations. These same optimizations can be screened to determine what and how slack fill needs to be explained to consumers and are also documented in the audit.



### 3. Tell consumers how full the package is.

A consumer viewable line showing the product level within the package address any product settling within the package.

This addresses that slack fill is often interpreted by consumers as non-functional but can be legally functional slack fill. "Slack fill is the difference between the actual capacity of a container and the volume of product contained therein." This is easily grasped for liquids, such as milk, that conform to the inner shape of any package and slack fill is seen as a lack of milk in the bottleneck area. However, often product does not conform to the exact shape of the package. Let's consider the example of small spheres within a large and opaque, cubical carton as seen in the feature image above.

First, slack fill is the gap between the spheres within the carton. Second, despite spheres being filled as high as possible within the cube-shaped package during filling, settling during distribution reduces the space between these spheres and lowers the total product height in the package.

Importantly, nonfunctional slack fill may occur if these spheres are not filled (exemptions allow for fill to be constrained by production processes) to fill the carton. When consumers open the package after the product has settled, they see slack fill as the remaining gaps between the spheres as well

as the “headspace” above the height of all the spheres. Even though both these instances of slack fill may be functional, clearly communicating to consumers that this “empty space” may exist by depicting a product fill line addresses the California legislation.

#### **4. Adopt clear or clear sections of packaging that show product fill level.**

The phrase, “...that does not allow the consumer to fully view its contents shall be considered to be filled as to be misleading if it contains non-functional slack fill” is found in both the FDA and California regulations. Thus, showing the actual height of product through the package clearly communicates quantity to consumers as well as provides an exemption.

#### **5. Consider reusable packaging.**

Reusable packaging is exempt if the package is part of the “presentation of the food and has value that is significant in proportion to the product's value and independent of its function to hold the food.” Further, the reuse of packaging within a small geographic area has been shown to decrease the environmental impact of packaging.

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