

Our position

Cross-sectoral common principles relating to the Single Use Plastics Directive

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AmCham EU speaks for American companies committed to Europe on trade, investment and competitiveness issues. It aims to ensure a growth-orientated business and investment climate in Europe. AmCham EU facilitates the resolution of transatlantic issues that impact business and plays a role in creating better understanding of EU and US positions on business matters. Aggregate US investment in Europe totalled more than €2 trillion in 2018, directly supports more than 4.8 million jobs in Europe, and generates billions of euros annually in income, trade and research and development.

Introduction

The American Chamber of Commerce to the European Union (AmCham EU) supports the European Commission's commitment to transform Europe into a more circular and resource-efficient economy. The European Strategy for Plastics laid down in January 2018 is a great opportunity for industry to develop global leadership in new technologies and materials, while embracing new business models. Plastics are widely used across all value chains, as they meet the demands of modern societies and contribute to the sustainability of products due to their innovative properties and competitive costs. However, plastics should not end up in the wrong places and certainly not in the environment. Issues related to littering and the environment must therefore be addressed, if the material is to achieve its full potential in a circular economy.

In this context, the Directive (EU) 2019/904 of the European Parliament and of the Council of 5 June 2019 on the reduction of the impact of certain plastic products on the environment, or the 'Single Use Plastics Directive' aims to reduce marine litter. The Directive entered into force on 5 June 2019, and most measures should be implemented by July 2021. The European Commission is currently working to prepare guidance documents and implementation actions with the support of consultants. AmCham EU supports these efforts and is ready to contribute to achieving a clear, actionable and harmonised outcome.

Scope and calculation of costs under article 8 of SUP on extended producer responsibility (EPR)

Ramboll and other consultants have been contracted by the Commission to conduct WP6 (ie, the development of guidelines on litter clean-up costs). This included a stakeholder workshop held on 25 February 2020 which exposed stakeholders to the initial assumptions and preliminary findings of Ramboll.

Within this context AmCham EU supports the following points;

Scope of litter clean-up

- The scope of litter clean-up costs attributable to the obligated industry must be entirely consistent with the legislative provisions within Article 8 of EU/2019/904 (Single Use Plastics Directive).
- Any activities that incur costs under Article 8 of EU/2019/904 must be organised and entirely consistent with the 'Minimum Requirements' for EPR schemes as established in Article 8a of the Waste Framework Directive (2008/98/EC) as revised by EU/2018/851. These include clear definition of roles/responsibilities of all actors, proper reporting and auditing, equal treatment of producers, cost-effectiveness, transparency, accountability, net-cost etc.
- The corollary is that any costs incurred under activities not consistent with Article 8a (as revised by EU/2018/851) cannot be passed on to producers.

Costs of litter clean-up

- As regards the allocation of costs, we note that various potential metrics have been identified as the potential basis for allocation. These include percentage weight, percentage volume and item number. All such metrics are reductive and are derived once litter clean-up is complete. As such, granularity of the actual activity and the real cost will be lost. Weight is also potentially problematic if the amount of absorbed water or dirt is not corrected for.

- An inaccurate accounting method based on such simplistic metrics risks a cross-subsidy from one obligated sector to another. This might apply where data is not consistently available for all SUP items within the scope of the Directive. This cannot be allowed to happen. As such, apportioning cost needs to be transparently related to real-costs and measured by an activity-based-counting (ABC) across the whole litter clean-up, transportation and treatment process and not based solely on a final reductive measure.
- Any methodology for apportioning costs also needs to be harmonised across all obligated sectors to likewise avoid a cross-subsidy.
- Any calculation of litter clean-up costs needs to reflect actual incidence of 'leakage' to the public (marine) environment rather than be solely based on the amount of product placed on the market. This latter measure can be used to subsequently apportion costs, but only based on actual 'leakage' in public observed.
- The calculation and attribution of costs also need to incentivise producers to reduce 'leakage' and the amount of material associated with leakage in public.

Marking and awareness-raising measures

Article 7 and Article 10 of EU/2019/904 (Single Use Plastics Directive) respectively set out obligations for product 'marking requirements' and consumer 'awareness-raising measures'. Within this context AmCham EU supports the following points;

- Measures should be readily understood, actionable and capable of eliciting a change in consumer behaviour.
- Any requirements must be measurable in terms of 'effectiveness' in order to be able to gauge utility once implemented and to permit subsequent revision.
- Both marking and consumer awareness measures need to be subject to a test of 'proportionality'.
- Campaigns to raise awareness among consumers should consider possible synergies across product categories for more effective communication. The execution of measures might therefore be delegated to a common body.
- Any (physical) product marking requirements must be fully harmonised across the European Union thereby establishing a level playing field for the Single Market and ensuring consumers receive consistent information. Divergent or disparate national measures should therefore be not permitted.
- The use of pictograms would facilitate the marking on products that are widely distributed across multiple Member States.
- Requirements for placement of product marking requirements should allow producers appropriate levels of flexibility to reflect the technical specificities of packaging variants (SKUs).
- Producers should be given sufficient lead time to apply new marking requirements on their product packaging without causing unintended waste of obsolete packaging materials and loss of finished goods. This requires the Implementing Act under article 7(2) of Directive EU/2019/904 to become available as per the defined date (3 July 2020) with no further delay. In case of a delayed adoption of the Implementing Act under article 7(2), a change of the Directive in article 17(1) with regard to the entry into force of marking requirements under article 7 is required.