

**PROPOSAL FOR A DIRECTIVE  
ON THE REDUCTION OF THE IMPACT OF CERTAIN PLASTIC  
PRODUCTS ON THE ENVIRONMENT  
- COMMENTS OF INDEPENDENT RETAIL EUROPE -**

**11 JULY 2018**



## EXECUTIVE SUMMARY

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Please find herewith our comments on the *Proposal for a Directive on the reduction of the impact of certain plastic products on the environment* (hereafter called “the draft Directive”). Unless stated otherwise, please note that all articles mentioned refer to this draft Directive.

Independent Retail Europe agrees on the need to reduce waste and littering, inter alia of single use plastics. Indeed, all actors should play their role in achieving this goal, which is why our members have already many respective measures in place.

We believe that restricting the placing of the market of the products covered in Part B of the ANNEX (cotton bud sticks, plastic cutlery, plates, straws, beverage stirrers and sticks to be attached to balloons) could be a possibility and certainly raises awareness among consumers. However it would not solve the actual problem of incorrect waste disposal.

We welcome that the Commission recognises that this should be an international effort. Considering that 80% of plastic litter in the oceans comes from five countries in the world, notably China, India, Indonesia, Malaysia and Vietnam, EU wide measures can only be part of the solution.

We are, however, concerned that some of the proposal’s provisions will be difficult implement in practice for our members. This will make it hard to achieve the overall goal of reducing marine plastic litter. It should also be kept in mind that the reduction of plastic packaging should not compromise food safety.

This position paper focuses on these three topics:

1. **Consumption reduction (Art. 4)**
2. **Extended producer responsibility (Art. 8)**
3. **Separate collection (Art. 9)**

## COMMENTS OF INDEPENDENT RETAIL EUROPE IN DETAIL

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### 1. Consumption reduction (Article 4)

The draft Directive stipulates that “*Member States shall take the necessary measures to achieve a significant reduction in the consumption of single-use plastic products...[such as]...food containers used to contain food that is intended for immediate consumption*”. While the environmental reasons behind this provision are important, Independent Retail Europe is concerned about its practicability.

Responding to the rising consumer demand in this area, the convenience food sector is growing. This includes dedicated “to go” store models as well as convenience sections in traditional super markets. Therefore, this provision does not only apply to fast food restaurants but also our sector.

Plastic packaging materials in the market have been proven to be safe food contact materials. With the reduction of plastic packaging, the choice of safe food contact materials will become reduced.

We also regard it as important to avoid that certain Member States will extend these measures – intended for fast food and convenience packaging – to any kind of food packaging, such as wraps for fresh meat and fish. For these products, plastic packaging is not only valuable as a safe food contact material but also because it helps to conserve the food and keep it safe for consumption longer. This ultimately helps to prevent food being wasted.

The objective to reduce this type of plastic food packaging therefore creates the need to extend the list of food packaging materials considered as safe in *Regulation (EC) No 1935/2004 on materials and articles intended to come into contact with food*. We therefore support the current revision of Regulation 1935/2004. A reduction of plastic packaging should also not compromise food safety! Additionally, a provision should be added to prevent Member States from gold plating and extending the provision to all food plastic packaging, especially as long as there is no suitable alternative. Studies, for instance by EFSA, have shown that alternative safe food contact materials – including those from recycled plastics – are much more expensive than plastic packaging. This means, a reduction of plastics will ultimately lead to a rise in food prices for consumers.

- ➔ **Reducing plastic packaging should not compromise food safety.**
- ➔ Member States should not be allowed to gold plate and extend the provision to all plastic food packaging.

## 2. Extended producer responsibility (EPR) (Article 8)

Our sector's experience with different EPR schemes across EU countries shows that these schemes **can be a useful instrument to meet waste management targets, provided they are properly designed and their impact on the sectors has been properly assessed and – where possible – mitigated.** They can also provide incentives to opt for products that are easier to recycle and that are made of materials or components that can feed secondary raw material markets. However, constant extension of the scope of products and responsibilities of the producers increases their cost and their workload, risking to ultimately diminishing the efficiency of these schemes.

It also risks putting too high a burden on the retail sector, particularly on small retailers who already are under high competitive pressure in the omni-channel market. It should be kept in mind that there is a difference between actual manufacturers of products and “producers” as defined in Article 4 (10), i.e. “*any natural and legal person that...places on the market single-use products*”, which includes retailers who import products. Whereas product manufacturers can choose to switch to different materials or products that do not contain plastics, retailers can only sell what producers put on the market (with the exception to own-brand products). While our larger members might have some leverage on their suppliers, this power is overall rather limited. Often industry offers no alternative for e.g. food packaging.

Furthermore, different manufacturers produce and use different materials whereas retailers have to cope with the return and separation of all of these materials (glass, plastic, PET, paper, carton,

aluminium). It would therefore be reasonable that Member States offer funding for small retailers to help them with their obligations related to EPR.

Moreover, the draft Directive extends the definition of “extended producer responsibility”, which was only recently updated in the revised Waste Framework Directive (2018/851/EU). The newly proposed draft Directive should use the same definition as in the Waste Framework Directive. Any discrepancy from that definition, even if only for the products falling under the scope of the draft Directive, will create legal uncertainty. The EPR provision in the newly proposed draft Directive should therefore be the same as in the Waste Framework Directive or be deleted. Indeed, an EPR provision in this newly proposed Directive is not necessary because the Waste Framework Directive already established EPR for packaging.

Additionally, it should be remembered that it is not the retailer – or producer – who does the littering but the consumer. Many retailers – especially our independent members who are an integral part of their communities – already have many measures in place to decrease littering or raise awareness among consumers. However, these should remain voluntary and limited to prevention and raising awareness. Obliging retailers to pay for litter clean ups would take their EPR responsibilities too far and go way beyond the *polluter pays principle*. Article 8 should therefore be deleted in this proposed Directive.

- ➔ Manufacturers can switch to different materials and products not containing plastics, small retailers can only sell what has been produced and have to cope with all the materials.
- ➔ For reasons of legal certainty and to respect the polluter pays principle, the **definition of EPR of the Waste Framework Directive** should also apply to the products covered by the newly proposed Directive;
- ➔ **The provision on extended producer responsibility (Article 8) should be deleted.**

### 3. Separate collection (Article 9)

The collection target of 90% is too optimistic and very hard to achieve in practice. Also the two suggested options to achieve this target are to be treated with caution:

As one of the ways to achieve this target, Article 9 a) recommends the establishment of deposit return schemes (DRS). However, experiences in different EU markets raise doubts whether this is the right way to proceed. DRS have had – at best – mixed successes in different Member States. These types of measures should therefore not per se be encouraged on EU level but should be judged on a case-by-case basis.

Some issues that should be taken into account before deciding on promoting deposit return schemes:

- We are concerned about the impact on retailers especially in relation to containers being returned to a shop for recycling, either manually at the shop counter or through an automated

Reverse Vending Machine (RVM) in-store. In this context, **the size of a store should be taken into consideration**. Small retailers should not be required to have rubbish collection and sorting stations on their shop floor. For instance in the United Kingdom, 71% of convenience retailers indicated they do not have space in their store. The problem of space is however not only a concern for small retailers. Deposit return schemes are associated with considerable joining and handling fees. All in all, this would put high practical and financial burdens on independent retailers.

- It is important to note that a number of **European countries which have a deposit return scheme in place for one-way plastic bottles already had similar DRS for refillable plastic or glass bottles**. This means that consumers were already accustomed to returning bottles. Therefore, in many of the countries with DRS, the decision to introduce a DRS on one-way containers was more an evolution of an existing scheme rather than a revolutionary policy to increase recycling.
- In other Member States, such as Belgium or Ireland, plastics are collected from the door. They have been in place for years and consumers are used to them. The introduction of DRS risks diminishing the efficiency of these existing systems.
- It can be questioned whether a DRS is the best solution to increase recycling and reduce litter. Instead, we support other **considered options as part of a more holistic approach to promote the circular economy, for example, investing more in existing kerbside collections or collection infrastructures and in increasing consumer awareness**.
- **A DRS should not be introduced at the expense of household recycling collections.**

*“Establish[ing] separate collection targets for relevant extended producer responsibility schemes”* (Art. 9 (b)) could be an option as long as the established targets are proportionate. Otherwise, an overload for EPR schemes can harm their workability and their efficiency (as outlined in section 2 of this position paper).

- ➔ Deposit return schemes are not the perfect solution across the EU because of Member State differences in recycling/collection systems, consumer behaviour etc.
- ➔ **Shop sizes and handling cost should be taken into account** when putting in place DRS systems;
- ➔ Instead of DRS, promote other **options as part of a more holistic approach to promote the circular economy, for example, increasing consumer awareness or investing more in existing kerbside collections or on-the-go recycling infrastructure;**
- ➔ **DRS should not be introduced at the expense of household recycling collections.**

Established in 1963, **Independent Retail Europe** (formerly UGAL – the Union of groups of independent retailers of Europe) is the European association that acts as an umbrella organisation for the main groups of independent retailers in the food and non-food sectors.

Independent Retail Europe represents retail groups characterised by the provision of a support network to independent SME retail entrepreneurs; joint purchasing of goods and services to attain efficiencies and economies of scale, as well as respect for the independent character of the individual retailer.

Our members are groups of independent retailers, associations representing them as well as wider service organizations built to support independent retailers.

Independent Retail Europe represents 23 groups and their 373,764 independent retailers, who manage more than 594.000 sales outlets, with a combined retail turnover of more than 977 billion euros and generating a combined wholesale turnover of 287 billion euros. This represents a total employment of more than 6.341.000 persons.

More information about Independent Retail Europe under [www.independentretailleurope.eu](http://www.independentretailleurope.eu)