



2018

July

Position Paper

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EDA position on the proposal for a Directive on the reduction of the impact of certain plastic products on the environment

EDA supports action to reduce marine litter made of plastic while prioritising food safety

The dairy industry agrees with the overarching objective of reducing marine litter. Nevertheless, EDA asks for the proposal to be coherent with the current EU policy framework for packaging, proportionate in scope (10 most found Single Use Plastics (SUP) on European beaches) and clear in order to facilitate the implementation process.

It is essential to take into account that for dairy products, packaging – including plastic packaging – has primarily a food safety functionality, and also plays an integral part in reducing food waste by keeping dairy products fresh and safe for longer. Hence, environmental and safety considerations will always need to be balanced.

It also needs to be highlighted that dairy products are mostly consumed in household and do not contribute to plastic marine littering, and as such they shall not fall under the requirements of the proposed Directive.

Notwithstanding, the dairy industry is involved in many initiatives to further streamline the environmental impact of its packaging and strives to also find improved solutions for collection and recycling.

The European Dairy Association (EDA) welcomes the proposal for a Directive on the reduction of the impact of certain plastic products on the environment, which was presented by the Commission on 28 May 2018, and following a public consultation on single-use plastics and fishing gear carried out from December 2017 to February 2018, to which EDA contributed. This proposal follows the engagement announced in the European Plastics Strategy to address marine plastic waste via new rules on Single Use Plastics, in line with the EU's climate commitments and the UN Sustainable Development Goals, and towards a Circular Economy.

The agricultural and food sector, more specifically the dairy, is at the origin of circular production cycles, and the tradition of circular production is the daily experience in the dairy sector. While the 'linear economy' has become predominant over the last decades, the dairy sector has never lost the fundamental circular economy mindset despite its permanent adaptation to the changes in the economic system. Most of the materials and resources that are utilised by the dairy sector are being used and re-used several times within the cycle, or recycled to be put to other uses.¹

The dairy industry recognises the need of reducing plastic packaging and increase recycling, as long as food hygiene is not compromised, and welcomes the acknowledgment in the Commission's proposal that the highest food safety

¹ [EDA_statement_on_circular_economy](#)



Position Paper

connect to the world of dairy

standards are a priority within the EU Plastic Strategy². These below are just some of the positive actions accomplished by the dairy industry to pursue further plastic reduction and boosting recycling:

- Nestlé and Danone R&D partnership for the development of a 100% bio sourced plastic bottle³;
- Group Bel engagement with the aim of having 100% of their packaging recyclable and biodegradable by 2025;
- Arla, Danone, and Nestlé involvement in the UK Plastics Pact⁴;
- Several targets in the UK Dairy Roadmap focusing on plastic and packaging⁵.

General dairy position

First of all, it is essential to highlight that **a safe food chain is of the utmost importance for the dairy sector**. In this context, EDA would point out that plastic packaging has primarily a food safety functionality. Hence, environmental and safety considerations should be balanced, with food safety always being a priority.

Packaging plays an important role for the dairy products, as it assures the safety and quality of the products. Namely, the role of single-use packaging from a food safety perspective cannot sufficiently be underlined with regard to dairy products, especially fresh ones. Many dairy products for consumers need to be kept refrigerated and thus require specific handling at production, in transportation and in the consumer's home. This can only be achieved with the adequate packaging that safeguards the products from external influences⁶, and remains as light and practicable as possible. The dairy focus on hygiene also explains why a deposit scheme would not be an adequate solution for milk bottles.

The design of dairy packaging needs to assure safety and quality as a non-negotiable baseline, and then also it needs to address logistics, recyclability and many other criteria (see also our Dairy pilot on Product Environmental Footprinting⁷, as well as the specific considerations on dairy in the revision of the BREF documents). According to a recent European study⁸, if plastic were to be replaced by other materials, in its principal applications, the weight of packaging would increase almost fourfold; there would be a 60% increase in the volume of waste produced and a 57 % increase in lifecycle energy consumption.

Furthermore, packaging – including plastic packaging – plays an integral part in **reducing food waste** by keeping dairy products fresh and safe for longer. The dairy industry has an important challenge in optimising packaging to reduce food waste and supporting options to increase recycling, reducing packaging waste and reducing the environmental impact of packaging (e.g. light weighting and increasing the recycled content), whilst prioritising food safety. The dairy industry is fully engaged in further reducing food losses and waste, and EDA is an active member of the EU Platform on Food Losses and Food Waste (see factsheet⁹).

² "The measures that Member States take to transpose and implement Articles 4 to 9 shall comply with Union food law to ensure that food hygiene and food safety are not compromised" (COM proposal for a Directive, Art. 11)

³ <http://downtoearth.danone.com/2017/03/08/danone-joins-forces-with-nestle-and-origin-materials-to-develop-100-bio-sourced-plastic-bottles/>

⁴ <http://www.wrap.org.uk/content/what-uk-plastics-pact>

⁵ <http://www.dairyuk.org/images/publications/The-Dairy-Roadmap-2018.pdf>

⁶ The importance of prioritising hygiene and health aspects in the dairy sector is also highlighted by EU Commissioner Guenther Oettinger in EU Food Policy (Issue 408, January 12, 2018), where he states that milk packaging "needed to be used plastic for health and hygiene reasons".

⁷ [The Dairy Product Environmental Footprint factsheet](#)

⁸ European Commission, press release, 16 January 2018, in EESC opinion on the Plastic Strategy (NAT/721)

⁹ [EDA sustainability statement on preventing food wastage on the dairy sector](#)



Position Paper

connect to the world of dairy

In order to most effectively address littering, combined efforts undertaken by all relevant actors are required. This would need to be taken forward through a comprehensive and **holistic approach** to education, infrastructure and law enforcement. The core of such actions should be on litter prevention by increasing public awareness of proper waste disposal and litter reduction.

In conclusion, the dairy industry would like to reaffirm its full commitment to further reduce food wastage and packaging waste along the chain, along with its appreciation of the EU Commission's efforts in raising awareness on the problem of marine plastic pollution.

Policy coherence and clear definitions

The dairy industry would ask for the proposal to be consistent with the current EU policy framework for packaging, more proportionate in scope (10 most found SUP on European beaches) and clearer in order to facilitate the implementation process.¹⁰

The policy framework should guarantee **regulatory coherence, clarity and legal certainty**, in a context where new legislation – i.e. the revised EU waste and packaging rules – has just recently been approved, and its transposition at Member State level, as well as its integration through implementing and delegated acts, is still ongoing. Besides, some of the measures provided for by the two waste directives and the new SUP proposal would be overlapping, thus confusing both the national authorities and business operators.

The **definition of 'Food containers'** and **'packets & wrappers'** in the Annex to the Proposal will have to be improved to avoid numerous misunderstandings and diverging interpretations by regulators at the national level in its implementation. The absence of a clear definition would create legal uncertainty and potentially lead to the fragmentation of the internal market for packaged goods.

Moreover, it should be better specified that plastic packaging of food that is normally intended to be brought back to households is not included in the scope of the SUP proposal for a Directive, to avoid that in the implementation phase such scope could be extended to items that are not found on beaches: this would obviously exclude dairy products from the scope of the proposal, as they are mostly consumed at home. Thus, dairy products would remain solely under the provisions of the amended Packaging and Packaging Waste Directive (PPWD).

More specific dairy points

In the proposal for a Directive on the reduction of the impact of certain plastic products on the environment, **the requirements of relevance** to the food and drink industry regard namely:

- A. **Extended Producer Responsibility (EPR)** measures (Article 8)
- B. **Collection targets or deposit** for single-use plastic beverage bottles (Article 9)
- C. **Attached caps and lids** (Article 6)
- D. **Market restriction** for straws (Article 5)
- E. **Reducing plastic packaging** (Article 4)

¹⁰ Please see EUROOPEN position for detailed recommendations on policy coherence and better regulation: <https://europen-packaging.eu/issue-papers.html>



Position Paper

connect to the world of dairy

A. Extended Producer Responsibility (EPR)

Regarding the **Extended Producer Responsibility (EPR)** measures, the dairy industry welcomes the opportunity to cooperate with other stakeholders in providing consumers with consistent and clear information on recycling, and raising awareness on the impact of certain plastic products on the environment.

However, EDA has reservations about the proposal requiring Member States to establish additional EPR schemes for selected single-use plastic products and ascribing the costs of collection, transport, treatment, litter clean-up and awareness raising campaigns efforts only to the manufacturers, as we consider that all actors should work together and the costs and responsibility should be shared along the chain, at all levels. As stated in the revised Waste Framework Directive in recital 34, litter is a “shared effort between competent authorities, producers and consumers”.

We wish for the EPR as defined in newly published Packaging and Packaging Waste Directive (PPWD) to be maintained: “Producers under these schemes are responsible for the collection of used goods, sorting and treatment for their recycling. Producers will be required to pay a financial contribution for that purpose calculated on the basis of the treatment costs.”

Dairy products’ packaging (e.g. milk bottles, yoghurt pots, cheese packets, etc.) is not among the single-use plastic (SUP) items most commonly found on our beaches (neither on the streets, as they are normally consumed in households). For this reason, we estimate that the dairy industry should not be held generally accountable for the littering and bear the clean-up costs as per the new proposal. The dairy sector runs the risk to be penalised unfairly due to other food and beverages packaging, because in spite of those items being in the top 10, dairy packaging is not.

Thus, we would also ask for a better definition of ‘food containers’ (“receptacles ... intended for immediate consumption from the receptacle either on-the-spot or take-away without any further preparation, such as food containers used for fast food”) and ‘packets & wrappers’ (“... made from flexible material containing food that is intended for immediate consumption from the packet or wrapper without any further preparation”) in the Annex, which would exclude items that do not have the purpose of being used on the go, and therefore do not create litter.

We will continue to take our responsibilities towards plastic pollution in the framework of EPR schemes as conceived in the PPWD, whilst including clean-up cost only when appropriate: limits should be set (no open-ended list of products), clean-up costs’ sharing should be better defined and proportionate in terms of roles and responsibilities of each actor, and the performance of the municipality in charge of the cleaning up should be monitored.

We would also request to clarify to which SUP items deposit refund schemes (DRS) would be applicable in the intention of the legislator¹¹, while emphasising that dairy products’ packaging should be excluded. Indeed, deposit schemes are implemented by collecting the plastic food/beverage packaging inside the stores, with the purpose of reusing or recycling. In both cases, deposit would be impracticable for dairy products’ containers, packets and wrappers, in order to ensure the respect of hygiene rules. Concerning reuse, the safety concern is self-evident, as pathogens would develop easily in the emptied packaging once disposed of and collected. Collection of dairy products’ packaging via deposit schemes for recycling would be unsafe as well, because dairy products are, perishable natural products – vulnerable to microbiological contamination – which could create hygiene issues in the storing location of the supermarket.

¹¹ In the text of the proposal for a Directive, deposit is explicitly mentioned only in Art. 9 on separate collection. This article (as well as the table on p.3 of the explanatory memorandum) refers only to beverage bottles. Deposit is not mentioned in Art. 8. However, also from the explanatory memorandum, p. 12-13, deposit could be included in EPR schemes as per the scenario 2d, covering all products in the Annex, Part E, which need to be better defined. In this case, the target of 90% set in Art. 9 should not apply.



Position Paper

connect to the world of dairy

Lastly, other problems would arise in addition to the ones mentioned above, in particular concerning food packaging made of composite materials, which are inherently difficult to recycle.

B. Collection target or deposit

In general, it needs to be highlighted that the dairy producers have an extensive set of rules to comply with, namely the Hygiene Regulation (EC) No. 852/2004 and the General Food Law Regulation (EC) No. 178/2002. Taking this duly into consideration, the **collection target** could be alleviated because of food safety considerations.

Regarding deposit refund schemes (DRS) for single-use plastic beverage bottles, we would propose for bottles of all dairy products in liquid/drinkable form to be excluded. Firstly, because they should be considered as food instead of beverages, because of their unique nutritional content; secondly, for the same reasons as the ones described in the chapter above on EPR. Namely, deposit schemes are implemented by collecting the plastic beverage bottles inside the stores, with the purpose of reusing or recycling. In both cases, deposit would be impracticable for liquid/drinkable dairy products bottles, in order to ensure the respect of hygiene rules. The safety concern is self-evident, as pathogens would develop easily in the emptied bottle once disposed of and collected, creating hygiene issues in the storing location of the supermarket as well.

The proposal is also unclear on the following point: the letter of Article 9 on separate collection (as well as the table on p.3 of the explanatory memorandum) refers only to beverage bottles, not to beverage containers in general (e.g. cartons). However, the explanatory memorandum, p. 13, is ambiguous, as it seems that not only beverage bottles but all beverage containers also made from other materials could be concerned.

Furthermore, the Commission proposal for a Directive focuses on the 10 SUP most found on European beaches by counts. As already mentioned above regarding EPR schemes, dairy products' plastic packaging, and in this specific case bottles, are not among the SUP items most commonly found on beaches.

This is why we would find more appropriate to have the new waste recycling targets for packaging as established in the revised Packaging and Packaging Waste Directive applied to the dairy sector: minimum 50% of plastic by weight for recycling to be met by 2025, and 55% by 2030.

C. Attached caps and lids

Regarding the measure in Article 6 – requiring that **beverage containers** having **caps and lids** with a significant part made of plastic can be placed on the market only if the caps and lids remain attached to the container – we would first underline that all dairy products in liquid/drinkable form should be considered as food instead of beverages, because of their unique nutritional content.

Then, and as already noted in point A and B, we would question the applicability of this requirement to liquid/drinkable dairy products containers, since the Directive was drafted to tackle the problem of marine litter, and those dairy products – being typically consumed in households – does not contribute to litter.

In addition, this requirement might be very costly for the manufacturers, resulting inevitably in a price increase for the consumers. The filling machines could need to be replaced to adapt to the new design, adding to the production costs. We would also suggest to explicitly exclude caps and lids made of some specific types of plastic, namely the fully biodegradable ones, from the requirement of being attached to the bottle.

Tethered caps could have other disadvantages: from a food hygiene perspective, as liquid/drinkable dairy products are vulnerable to microbiological contamination; and from a consumer perspective, as consumers might find it inconvenient or uncomfortable to have the caps and lids attached to the bottle.



Position Paper

connect to the world of dairy

Thus, the dairy sector would request this requirement to be voluntary, and linked to a proportional reduction of the EPR costs. Likewise, voluntary labelling for educating consumers about recycling the caps together with the bottles could possibly be a more cost-efficient measure to tackle plastic litter. Otherwise, there is the very concrete risk of this measure impacting disproportionately our sector.

D. Market restriction for straws

As established in the Packaging and Packaging Waste Directive, the **straws attached to our portion-sized carton milk packages** are part of the packaging, and they should be collected and recycled as such. There is no more sustainable alternative at the moment, and time will be needed for its development and commercialisation.

Whereas the straws on cartons are part of the packaging according to the legislation, they should be covered by the Extended Producer Responsibility and awareness raising measures as defined in Articles 8 and 10 of the Commission's proposal for a Directive.

E. Reducing plastic packaging

Regarding the requirement on **plastic consumption reduction** as outlined in Article 4 of the proposal for a Directive, it is more difficult to further reduce plastic packaging on our products in the dairy sector, than in other sectors. Other types of products may indeed have bigger packaging in relation to the size/volume of the item sold. Dairy products instead do not have so much margin for reduction, as any further reductions or light weighting in packaging would compromise food safety and increase food waste.

Moreover, it needs to be highlighted that packaging provides information to consumers, which is particularly extensive for the dairy industry. Besides, in some cases packaging reduction cannot coexist with food waste reduction, e.g. by providing individually portioned packs that are important to help consumers having a healthy and balanced diet as well as cut down food waste in households.

Ultimately, we would suggest applying a life-cycle approach (see also our Dairy pilot on Product Environmental Footprinting¹²), to assess on a case-by-case basis whether substituting totally or partly the plastic packaging with other materials would result in an overall better environmental performance through the full life-cycle of the product.

Increase recycled plastic content in packaging

Regarding the **increase of recycled plastic content in packaging** as established in the **European Plastic Strategy**, the dairy sector is fully committed to increase the recycled plastic content in the packaging of dairy products, as long as it is abiding by all the safety requirements under EU legislation.

The dairy industry is by nature very different from other non-food and drink industrial sectors, as the dairy producers have an extensive set of rules to comply with, namely the Hygiene Regulation (EC) No. 852/2004 and the General Food Law Regulation (EC) No. 178/2002. The dairy sector has less potential for change in this respect as food safety is always the highest priority.

¹² [The Dairy Product Environmental Footprint factsheet](#)



Position Paper

connect to the world of dairy

As laid down in EU legislation, packaging materials that are in contact with food and drinks have to meet very strict requirements, and some are not suitable to enter into contact with food¹³. Many plastic materials are difficult to recycle with today's existing technology and infrastructure, and even less meet the necessary quality and food safety requirements for food and drink applications.

We reiterate the need for high quality and safety of recovered plastics, as a prerequisite for increasing recycled plastic content in packaging, and thus support the Council of the European Union in calling upon the EU Commission to speed up the development of quality standards for recycled plastics and assess which recycled plastic materials can be safely used in contact with food, also in collaboration with the European Chemical Agency and the European Food Safety Authority.

¹³ Commission Regulation (EC) No 1935/2004 of the European Parliament and of the Council of 27 October 2004 on materials and articles intended to come into contact with food