



2019

12 August
(rev. 4 Oct.)

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EDA guidelines for interpretation of the Single Use Plastics Directive

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

This document includes our sectoral guidelines, which propose our interpretation of the Single Use Plastics Directive's requirements that might be applicable to the dairy products. It aims at providing input to the development of the future EU Commission's guidelines, as well as improving the understanding of the Directive by dairy companies. The overall objective would be to support EU guidelines that guarantees legal certainty and facilitate a harmonised approach to implementation across the EU.

The focus of this document is on the clarification of the scope of the Directive, and of the main relevant definitions of 'plastic', 'single use plastic product', 'single use plastic food container', 'single use plastic beverage container'.

General considerations

The European Dairy Association (EDA) welcomes the publication of the Directive on the reduction of the impact of certain plastic products on the environment. The dairy industry appreciates the EU Commission's efforts in raising awareness on the problem of marine plastic pollution, and is fully committed to further reduce packaging waste along the chain. For example, EDA has driven a major project identifying the most relevant environmental impacts of different dairy products – the Dairy Product Environmental Footprint (Dairy PEF) – which also includes the assessment of packaging.

Nevertheless, some of the definitions in the text still need further clarification, in order to avoid numerous misunderstandings and diverging interpretations by regulators at the national level during the implementation phase. Ambiguous definitions would create legal uncertainty and potentially lead to the fragmentation of the internal market for packaged goods. For this reason, EDA is pleased to have clarified the dairy sector's approach, and provides this as input to the Commission's work.

In addition, and while recognizing the general necessity of reducing plastic packaging and increase recycling, EDA is always keen to highlight that many dairy products 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 influences, and remains as light and practicable as possible. Also,



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the design of dairy packaging not only needs to ensure safety and quality as a non-negotiable baseline, but also plays an integral part in reducing food waste by keeping dairy products fresh and safe for longer.

For all these reasons, we firmly believe that research, investment, and innovation in circular economy solutions play a vital role, which would need to be favoured by the legislative framework in place. A framework facilitating investments in new and cutting-edge solutions would have a positive impact on the overall environmental footprint of packaging, and would support the dairy industry's overarching goal of reducing plastic littering while ensuring the protection of our consumer's safety. Therefore, we consider as key that both the current legislative framework and the future guidelines do not discourage investments that further safeguard environmental resources.

Clarification of the 'single-use plastic product' definition

Supported by Recital 12, Article 3 of the Directive defines a single-use plastic product as “*a product that is made wholly or partly from plastic and that is not conceived, designed or placed on the market to accomplish, within its life span, multiple trips or rotations by being returned to a producer for refill or re-used for the same purpose for which it was conceived.*” This definition could have unintended consequences in the implementation of the Directive, such as, for example, an extension of the scope of the Directive to food and drink products which are not intended to be consumed 'on-the-go' and are unlikely to be littered.

Whilst the material used as packaging of dairy products is to a great extent made of plastic, the contribution of these products to littering is basically below detection level as dairy products are generally not consumed 'on-the-go', as most of them need cooling and are consumed chilled. EDA believes that the focus of the Directive should remain on the most frequently littered items – in line with article 12, which specifies that the tendency to be littered should play a decisive role in order to determine whether a food container is to be considered as a single-use plastic product for the purposes of this Directive.

EDA would recommend that the future EU guidelines clarify that plastic packaging of food that is normally intended to be brought back to households is not in the scope of the Single Use Plastics Directive, to avoid that in the implementation phase such scope could be extended to items that are not consumed 'on-the-go' and thus do not contribute to plastic marine littering.

Clarification of the 'single use plastic food container' definition

We can find some general definition of food and beverage single-use plastic container in Recital 12 of the Directive, which is useful to clarify until a certain extent which products are covered by the requirements in the text. This recital brings into focus fast-food containers and containers of food that does not need further preparation, and introduces the concept of single-serve portions or single-serve portion-sized food containers sold in more than one unit.

Moreover, according to the description of 'food containers' in the Annex (first included in Part A), food containers covered by the Directive are containers of food:

(a) for immediate consumption,



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- (b) typically consumed from the receptacle, and
- (c) ready to be consumed without any further preparation.

This means that dairy food containers containing food in more than single-serve portions, or single-serve-portion-sized dairy food containers sold in more than one unit are not to be considered as single-use plastic products. This rules out large-size in home-use packaging.

With reference to the concept of 'further preparation' introduced in the Annex of the Directive (supported by Recital 12), food containers of food requiring further preparation are also not single-use plastic products. For this reason, we consider that single-serve-portion-sized food containers sold in one unit requiring cutlery to be consumed and sold without would also fall out of scope of articles 4, 8 and 10 unless there is cutlery attached to the container (e.g. attached to the pot of a fermented milk product or a dessert), because a product can be considered to be ready for consumption directly from the receptacle without any further preparation only if there is cutlery attached to the packaging that would enable the consumer to actually consume that product immediately. Instead, in the case of a single-serve-portion-sized food container sold in one unit having cutlery attached to the packaging, this container would be in the scope of the Directive.

Possible single-serve portion sized food container sold in one unit

To facilitate a harmonised implementation of the Directive in EU Member States, EDA is proposing in these guidelines possible single-serve portion sizes of food containers sold in one unit with cutlery attached to the packaging.

- Yoghurt and fermented milk products (excl. yoghurt drinks)
→ Possible max. size for this category: 200g
- Milk-based dessert
→ Possible max. size for this category: 200g

Clarification of the 'single use plastic beverage container' definition

A product in liquid or semi-liquid form can be either a food or a beverage, it depends on each singular product, so it is not always clear for the purpose of this Directive under which category some specific product would fall.

Milk – as defined in Reg. Regulation (EU) No 1308/2013, Annex VII, Part IV, Point III – would fall under the category 'beverage container', as per Recital 12: "*Examples for beverage containers to be considered as single-use plastic products are beverage bottles or composite beverage packaging used for beer, wine, water, liquid refreshments, juices and nectars, instant beverages or milk, but not cups for beverages as these are a separate category of single-use plastic products for the purposes of this Directive.*"

Other dairy products in liquid in liquid or semi-liquid form are not explicitly mentioned as such and can be either a food or a beverage – it depends on each singular product – thus it is not always clear whether such



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products would fall under the 'food container' or the 'beverage container' category for the purpose of this Directive.

Differentiating lightened polystyrene from expanded polystyrene

The manufacture of yoghurt pots often uses a sheet of 'lightened' polystyrene (PS), which is made up of three layers: the inner and outer layers are PS compact (density 1.04) and the intermediate layer is PS which has been slightly expanded during extrusion with chemical agents or gas (CO₂ or nitrogen). With this expanded intermediate layer, a lightened PS sheet of density <1 is obtained. Depending on the thickness of the intermediate layer and the level of the expansion, sheets of lightened PS are obtained whose density can range from 0.80 to 0.95. Replacing the compact PS sheet with lightened PS reduces PS consumption by 10 to 20% depending on the type of pot. It is not conceivable to lower the density of the reduced PS sheet below 0.80 because the loss of rigidity and resistance of the pots will be too large and not acceptable.

There is no distinction between these two types of expanded polystyrene in the Directive. EDA would suggest differentiating in the future EU guidelines lightened polystyrene (density >0,8) from expanded polystyrene (density <0,8), and focus the ban on expanded polystyrene. If lightened polystyrene was banned, producers would need to use full polystyrene, leading to an increase of plastic on the market by around 10%.

Annex

Recital 12 provides the following examples of food and drink-related products that are considered as single-use plastics:

Category of containers	Examples of products in the scope	Examples of products outside the scope
Food containers	<ul style="list-style-type: none"> - fast-food containers or meal, sandwich, wrap and salad boxes with cold or hot food, - food containers of fresh or processed food that does not need further preparation, such as fruits, vegetables or desserts 	<ul style="list-style-type: none"> - food containers with dried food or food that is sold cold requiring further preparation, - containers containing food in more than single-serve portions or single-serve portion-sized food containers sold in more than one unit
Beverage containers	<ul style="list-style-type: none"> - beverage bottles or composite beverage packaging used for beer, wine, water, liquid refreshments, juices and nectars, instant beverages or milk* 	<ul style="list-style-type: none"> - glass and metal beverage containers

* Cups for beverages are a separate category of single-use plastic products for the purposes of this Directive