

Our position

Common Industry Association Position Paper on the EU 'Plastics Levy'

February 2020

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The undersigned organisations represent a wide range of actors from different stages of the packaging value chain in Europe. All support the objectives of the Circular Economy. Members of the signatories have individually or collectively committed to the reduction of packaging waste, increasing packaging recycling and the promotion of circularity. This includes driving the uptake of recycled content and growing the market for secondary raw materials including plastics.

We believe that any fiscal measures to incentivise circularity in relation to any material need to be carefully designed, evaluated and calibrated in a transparent manner if they are to serve the intended purpose. This must include a thorough analysis of the impacts that such measures may trigger. This is clearly not the case with the 'Own Resource on unrecycled plastic packaging' that has been proposed as part of the Multi-Annual Financial Framework (MFF) 2021-2027. The explanatory memorandum provided by the Commission in support of the measure is far from being a comprehensive assessment of impact capable of satisfying the fundamental policy principles of accountability, transparency, and effectiveness of the Commission's action. This is clearly inconsistent with the spirit of 'Better Regulation'. We are particularly concerned that the packaging value chain has not been consulted. We therefore wish to express our explicit reservations about the manner in which this proposal has been developed.

Industry is not per se against measures aimed at promoting the circularity of plastics, but we are convinced that this is not the way to ensure an efficient transition to a Circular Economy. We understand that the 'Own Resource' is not directly chargeable to the packaging value chain. However, the concrete possibility that the measure will ultimately be translated into national levies on the packaging value chain risks the adverse effects we have identified in this paper.

We are also fearful that the 'Own Resource' will have an adverse effect on circularity as it will effectively divert significant resources away from where they need to be invested (i.e. innovation, improved collection and sorting, waste infrastructure, etc.). The 'Own Resource' could well hinder the achievement of the goals that industry has already committed to as part of internal or externally articulated goals and voluntary initiatives.

For these reasons, the proposal as it currently stands is not fit for purpose and as such should either be withdrawn or revised. Any new proposal should be subject to a thorough stakeholder consultation and appropriate assessment of impacts. We have identified many deficiencies with the proposal that have prompted this response. We cannot support the proposed measure for the following reasons:

Potential adverse impacts on EU solidarity and the Single Market

- (i) The measure would penalise those countries that are less well equipped with recycling infrastructure;
- (ii) The measure could therefore be 'regressive' in respect of certain Member States and undermine the principle of EU solidarity;
- (iii) Differences in recoupment mechanisms applied by Member States risk impacting the Single Market;

The real risk of diversion of resources from the core objective of circularity

- (iv) The revenue is not earmarked and will therefore not serve the intended environmental policy objectives;
- (v) The proposed 'Own Resource' rate is disproportionate relative to the actual cost of plastics and the separate collection of packaging;

(vi) The measure could also significantly add to the financial commitments needed to adapt to the recent wave of legislation under the Circular Economy;

(vii) The measure would consequently have a perverse effect on future innovation and investment;

(viii) The measure could have a negative impact on current voluntary industry initiatives to tackle plastics pollution;

There will be real methodological problems on implementation

(ix) The proposed basis for calculation of the Member State liability is inconsistent and not sufficiently transparent;

(x) The scope of the measure and data 'granularity' is insufficient to incentivise useful change in packaging design;

The proposed measure is also fundamentally flawed in its goal as an 'Own Resource'

(xi) The measure would be inflationary and socially regressive;

(xii) The proposal is mispositioned as a 'Pigouvian Tax';

(xiii) The 'Own Resource' is ultimately not sustainable as the basis to maintain a balanced European budget; and

The absence of any assessment of impact is concerning for a measure of this magnitude

(xiv) The 'Own Resource' has been proposed without a thorough assessment of impact.

Further details elaborating each of the above points can be found in the attached annex.

List of Signatories

| Association | Logo |
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| Agoria |  |
| American Chamber of Commerce to the EU |  |
| Asociación Española de Industriales de Plásticos |  |
| ASPAPLAST |  |
| Associação Portuguesa da Indústria de Plásticos |  |
| Association of Chemical Industry of the Czech Republic |  |
| Association of Hellenic Plastics Industries |  |
| Association for European Manufacturers of Expanded Polystyrene |  |

The Belgian and Luxembourg association for producers and distributors of cosmetics, cleaning and maintenance products, adhesives, sealants, biocides and aerosols



Branch Association Polymers



British Plastics Federation



CEFEP



Committee PET Manufacturers Europe



Croatian Chamber of Economy



Cyprus Plastic



Czech Plastics Cluster



Czech Technology Platform Plastics



Danish Plastics Federation

Plastindustrien.
 Brancheforeningen for danske plastvirksomheder

EDANA



ELIPSO



Engineering Polymer Shapes for Machining



European Carpet and Rug Association



European Engineered Thermoplastic Sheet Extrusion



European Masterbatchers and Compounders



European Plastic Films



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| <p>European Plastic Pipes and Fittings Association</p> |  |
| <p>European Plastics Converters</p> |  |
| <p>European Polycarbonate Sheet Extruders</p> |  |
| <p>European Resilient Flooring Manufacturers' Institute</p> |  |
| <p>European Single Ply Waterproofing Association</p> |  |
| <p>Europur</p> |  |
| <p>Essencia - PolyMatters</p> |  |
| <p>Extended Producer Responsibility Alliance</p> |  |
| <p>Fachverband der Chemischen Industrie Österreichs</p> |  |

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| <p>Federatie Nederlandse Rubber- en Kunststofindustrie</p> |  |
| <p>Fédération de la Plasturgie et des Composites</p> |  |
| <p>Federazione Gomma Plastica</p> |  |
| <p>FoodDrinkEurope</p> |  |
| <p>IKEM</p> |  |
| <p>Industrievereinigung Kunststoffverpackungen e.V.</p> |  |
| <p>International Association for Soaps, Detergents and Maintenance Products A.I.S.E.</p> |  |
| <p>IVK Europe e.V.</p> |  |
| <p>Kunststoff.swiss</p> |  |

LINPRA



MedPharmPlast Europe



Norsk Industri



Pagder



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Petcore Europe



PET Sheet Europe



PlasticsEurope



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| <p>Plastics Ireland</p> |  |
| <p>Polish Association of Cosmetic and Detergent Industry</p> |  |
| <p>Polish Union of Plastics Converters</p> |  |
| <p>Polyolefin Circular Economy Platform</p> |  |
| <p>SLOVENSKÉ ZDRUŽENIE PRE ZNAČKOVÉ VÝROBKY</p> |  |
| <p>Styrenics Circular Solutions</p> |  |
| <p>UNESDA – Soft Drinks Europe</p> |  |
| <p>Vinyl Films and Sheets Europe</p> |  |

Annex to the Common Industry Association Position Paper on the EU 'Plastics Levy'

(i) The measure would penalise those countries that are less well equipped with recycling infrastructure:

The Member States most likely to be impacted by the measure will be those countries where investments aimed at improving waste collection, sorting and recycling are most needed. The measure will paradoxically most affect those same countries that need the greatest support in addressing the problems of packaging waste. Instead, these countries will end up disproportionately contributing to the general EU budget.

(ii) The measure could therefore be 'regressive' in respect of certain Member States and undermine the principle of EU solidarity: Countries that are less equipped with waste recycling infrastructures are often those that receive higher EU structural funds contributions to reduce regional disparities in the field of the environment, income, wealth and opportunities. Under the 'Own Resource' measure, they would have to pay an increased contribution to the EU revenues. The measure is therefore 'regressive' in respect of such countries. This runs contrary to the long-established principle of solidarity that is central to the European project. The measure is therefore a potential source of further criticism at a sensitive time in the history of the EU.

(iii) Differences in recoupment mechanisms applied by Member States risk impacting the Single Market: The 'Own Resources' measure calculates a national contribution based on the amount of non-recycled plastic packaging waste. The articulated ambition is that this 'will create an incentive for Member States to reduce packaging waste and stimulate Europe's transition towards a circular economy by implementing the European plastics strategy'. Whilst not explicitly indicated, it is widely expected that Member States will seek to recover such a contribution from the plastics value chain. Given the absence of any explicit guidelines on recoupment within the proposal, Member States may well choose to implement different fiscal 'claw-back' mechanisms from the value chain and impose different points of liability. The implementation of different mechanisms of recoupment, applicable to different points in the value chain would threaten the Single Market in packaged goods traded within the EU. Such products are traded across borders between Member States with markedly different packaging recycling infrastructure and rates. The implications of the different potential points of liability along the plastics value chain seem to have been inadequately evaluated and there is a real risk of double taxation if Member States chose a different liability point (i.e., resin manufacturers, packaging 'formers' and packaged goods 'fillers').

(iv) The revenue is not earmarked and will therefore not serve the intended environmental policy objectives:

The ambition of the proposed 'plastic levy' is to "create an incentive for Member States to reduce packaging waste and stimulate Europe's transition towards a circular economy by implementing the European plastics strategy". However, the proposed levy will not meet this objective. The revenue is not 'hypothecated' and will feed directly into the EU budget. This means that the resulting revenue from the 27 Member States will not be directly invested in addressing the problems associated with packaging waste. This will not help improve waste management systems. For this, the revenue would need to be earmarked and reinvested into waste management infrastructure at national level. But the principle of universality in EU budget rules does not allow the earmarking of revenue from the 'Own Resources' measures for specific purposes. It is therefore evident that the proposed levy is a purely revenue-raising exercise, calibrated to fill a budget gap as opposed to addressing an accurately defined and quantified set of environmental externalities.

(v) The proposed 'Own Resource' rate is disproportionate relative to the actual cost of plastics and the separate collection of packaging: The proposed rate of €0.8 to €1.0/kg¹ represents a premium of 100% or more on current resin prices (c. €500 to €1000/tonne). If indeed passed on to the packaging value chain this would impose an additional cost on producers in the range of €7.7 to €9.7 billion/annum². This figure would add to the €3.5 billion per annum that the obligated industry currently pays in Extended Producer Responsibility (EPR) fees for all packaging materials (paper, glass, metal and plastics). EPR fees are already set to increase substantially over the coming years to drive the new 2030 EU recycling targets and other requirements in new legislation that is not even implemented yet (i.e., the revised Waste Framework and Packaging & Packaging Waste Directives and the Single Use Plastics Directive).

(vi) The measure could also significantly add to the financial commitments needed to adapt to the recent wave of legislation under the Circular Economy: The recently revised Waste Framework Directive (EU/2018/851), the revised Packaging & Packaging Waste Directive (EU/2018/852) and the Single Use Plastics Products Directive (EU/2019/904), as well as the Plastics Strategy and related Circular Plastics Alliance aim to increase plastic packaging recycling across Europe and boost the uptake of recycled plastic content in EU products (including packaging). The objective of the 'Own Resource' measure would therefore overlap with the existing policy objectives. Industry will already be impacted by the new obligations imposed by the above-mentioned legislation. Corresponding increases in EPR fees are still pending, subject to national transposition and implementation of the new EPR requirements. These new rules will all require financial resources and investment to adequately address all the provisions. The 'Own Resources' initiative will represent a significant addition to these.

(vii) The measure would consequently have a perverse effect on future innovation and investment: In the absence of hypothecation (i.e., allocation to improving waste management practices and infrastructure), the new measure could represent a very significant diversion of resources away from the problem and to the detriment of future innovation and investment. Industry resources are finite. All the key institutions (the European Commission, the European Parliament and the Member States) understand the central role of innovation for the circular economy. Such innovation requires significant financial resources and investment from industry³. If the monies to be paid by the Member States on the basis of the 'Own Resource' would be collected by imposing a levy on the packaging value chain (as it is likely to be), there would evidently be less industry funds for innovation research or investment in the required infrastructure improvements. The 'Own Resource' therefore represents a clear diversion of resources from the accepted need to invest in circularity. This could place the competitiveness of European industry at risk.

(viii) The measure could have a negative impact on current voluntary industry initiatives to tackle plastics pollution: Many industry association members have already committed to engage in a variety of voluntary initiatives at EU and Member State level. These include various pledging exercises, the Circular Plastics Alliance (CPA) and other voluntary corporate initiatives around plastics. These all require significant investment from companies in terms of both time and financial resources. Many of these initiatives could likely be compromised by the introduction of a substantial additional (mandatory) financial obligation, that would by necessity have to take priority over other voluntary initiatives targeted at plastics.

¹ Proposal for a COUNCIL DECISION on the system of Own Resources of the European Union' COM(2018) 325 Final 2nd May 2018. See page 4.

² Total plastic packaging placed on the market on 2017 was 16.75 million tonnes (Eurostat). The proportion of plastic packaging that was non-recycled in 2017 was 58% or 9.66 million tonnes.

³ Achieving the objectives in the 2018 European Strategy for Plastics in a Circular Economy (COM/2018/028) will require major investments in both infrastructure and innovation. Meeting ambitious goals on plastics recycling alone will require an estimated additional investment of between EUR 8.4 and 16.6 billion. See Deloitte, (2015) Increased EU Plastics Recycling Targets: Environmental, Economic and Social Impact Assessment. From footnote 38 in 'Financing the EU budget: report on the operation of the own resources system' SWD(2018) 172 Final 2nd May 2018.

(ix) The proposed basis for calculation of the Member State liability is inconsistent and not sufficiently transparent: Calculation methods and reporting on packaging recycling are not yet standardised and this is not addressed in the proposal. The current recycling rates as calculated and reported under the existing calculation methodologies will need to change in light of the adoption of the new Commission Implementing Decision (EU) 2019/1004 of 7 June 2019 'laying down rules for the calculation, verification and reporting of data on waste in accordance with Directive 2008/98/EC'. This new methodology will provide for the counting of recycled plastics coming out of waste recycling facilities, rather than the plastic waste that is prepared for recycling (i.e. that goes into the facility). This will mean that the reported amount of unrecycled plastic reported will likely go up depending on the technological abilities of the recycling countries by an estimated 20% to 30%. This demonstrates that the data on which the liability might be calculated is currently not fit for purpose. Liability is therefore difficult to gauge with any certainty. This is important given the overall magnitude of the payments. It may also result in the need for future retroactive payments once a 'fair' calculation methodology has been established. The measure could also effectively penalise those Member States with better administrative reporting practices. The more accurately and transparently a Member State reports on unrecycled plastic packaging the more it will need to pay. (x) The scope of the measure and data 'granularity' is insufficient to incentivise useful change in packaging design: The proposal is focused on the non-recycled component of plastic packaging. If the 'Own Resource' would become a levy to be paid by plastics manufacturers, it will not be possible to discern which proportion of their production will not be recycled. The same resin can be sold to different companies and used in different packaging formats that effectively have different recycling rates. If such a levy would have to be paid by packaged goods producers ('fillers'), there is currently a lack of sufficient detail as to the fate of individual brands and products in the waste chain. More specifically, in terms of the actual recycling rates individual products achieve across different countries. If the levy liability is not responsive to changes in actual recycling (due to a lack of data granularity), then any claim that the levy will incentivise the minimisation of waste is exposed as incorrect.

(xi) The measure would also be inflationary and socially regressive: Total retail spending is of the order of €2.6 trillion per annum. As an example, the food and drink sector represents approximately €1.1 trillion per annum of this spend and likely accounts for circa 80% of consumer packaging (as measured by EPR fees). The potential yield from the 'Own Resource' of €9.7 billion/annum therefore represents a potential inflationary hike of a magnitude of 0.7% for the food and drink sector. Given that expenditure on food and drink will likely be a bigger proportion of the household budget for those on lower incomes, this price inflation would likely also be socially 'regressive' in its disproportionate impact on such groups.

(xii) The proposal is mispositioned as a 'Pigouvian Tax': A Pigouvian tax is a tax on an activity that creates adverse effects or negative externalities within society that are not included in the market price. The intention is to correct a market failure and does so by setting the tax at a level equivalent to the social/environmental cost of the externalities. Non-recycled plastic packaging is therefore seen here as an 'externality' that creates a negative effect and the intention is to curb the production of plastic and/or ensure greater recyclability. One criticism of Pigouvian taxes is the suggestion that in reality, actual policy decisions stem from budget requirements rather than from any empirical determination of the marginal social/environmental cost of a negative externality that can be converted into a monetary value. In the absence of any meaningful cost analysis through an impact assessment, it is not credible that the magnitude of the 'Own Resource' is linked to known externalities. Rather, it seems that the magnitude of the tax is designed to address the budgetary shortfall from the exit out of the EU of the United Kingdom (which was the third largest contributor to the EU budget). If the EU and Member States are intent on a plastic tax, it should only take place after an impact assessment to create an evidence-based argument that can also determine the real level of any externalities. The current reality is

that an 'Own Resource' measure for plastic packaging is seen by policy makers as socially and politically more acceptable than other measures. The lack of hypothecation is an additional issue here. The revenue from Pigouvian taxes are often intended to be used to ameliorate the external cost. There is no such stated intention here.

(xiii) The 'Own Resource' is ultimately not sustainable as the basis to maintain a balanced European budget: With increased recycling, less money will accrue to the revenues sent to Brussels. The only correction mechanism that can then be applied to address the resulting shortfall in the European budget will once again be the GNI (Gross National Income). The underlying rationale behind the measure (i.e., addressing the budget gap resulting from the exit of the UK) is therefore flawed.

(xiv) The 'Own Resource' has been proposed without of a thorough assessment of impact: Given the magnitude of the proposed levy and the timing, it is evident that no comprehensive assessment has been conducted to date on possible consequences (positive or adverse effects) of the measure. It would have undoubtedly revealed the scale of the problems highlighted above. We therefore call upon all Member States to properly assess the full implications of the introduction of such a measure as we believe it to be counterproductive to addressing the issue of plastics escaping into the environment and the need to successfully catalyse a Circular Economy.