1.1. The EU: Time's up for single-use plastic?

The plastics industry is a powerful lobby in Europe, represented through numerous industry associations, consultancies and lobby groups. PlasticsEurope is one of Brussels' biggest lobby groups, with members including all the big names in chemicals and petrochemicals: BASF, Borealis, Dow Europe, ExxonMobil Chemical, Ineos, Novamont, Solvay and many others.[1] Another industry association – which recently sent an open letter to delay the implementation of the EU SUP Directive in light of the Covid-19 crisis – is the EuPC, which represents all sectors of the European plastics-converting industries.[2] The industry also has a specific association representing recycling – Plastics Recyclers Europe (PRE), which represents 500 companies with a combined €3 billion turnover[3] – and another representing packaging – the European Organization for Packaging and Environment (EUROPEN), whose members range from Arcelor Metal, BASF and major FMCGs, like Coca-Cola, Danone, Mars and L'Oreal.[4]

The plastics industry also works through numerous, more specific, trade bodies and seemingly independent environmental organisations. For example, CEO revealed that Pack2Go Europe (a trade association for the convenience-food-packaging industry) and Serving Europe (a trade association for the fast-food industry) are both initiatives of notorious EU lobbyist, Eamonn Bates.[5] On behalf of all these organisations, Bates has proactively lobbied on European and national legislation on single-use-plastic packaging, attempting to reframe the issue as one of litter rather than of corporations taking responsibility for their products and their opposition to DRS in Ireland. Pack2Go also established an organisation called Clean Europe Network,[6] which, according to CEO's exposé, remained closely connected with Eamonn Bates's consultancy, and represented industry interests by putting litter centre-stage in the political debate on packaging waste and ensuring industry contributions should only be voluntary. Member organisations Keep Scotland Beautiful, Mooimakers in Flanders and Nederland Schoon in the Netherlands openly opposed policies on DRS in their respective legislatures.[7]

In addition to specific groups set up to defend industry interests on plastic, the same companies are also members of many national and European associations – ranging from FoodDrinkEurope to Business Europe (a very powerful group representing all businesses in Europe) – and influence EU policy in the guise of these little-known groups, where the lowest common denominator often prevails in defending industry interests from policy interventions. The European Soft Drinks Industry (UNESDA) and European Federation of Bottled Waters (EFBW) – whose members include Coca-Cola, Danone, Pepsi and Nestlé – were especially active in lobbying on the SUP Directive.

The industry has tried to delay and undermine the ambition of EU legislation on waste, plastics and other aspects of the circular economy for many years. In this section, we investigate its attempt to influence the Plastics Strategy (since 2017) and the SUP Directive (proposed in May 2018).

1.1.1. The industry's attempt to weaken the Plastics Strategy

Corporate lobbyists initially focused on the European Commission (EC) – the institution that proposes legislation and was therefore in charge of drafting the Plastics Strategy, which set out how plastics would be addressed under the EU's plan for a circular economy. Of the 92 EC lobby meetings on the Plastics Strategy, 76% were with corporate interests.[8] Access to information requests by CEO revealed the industry's response was not blatant opposition but broadly welcoming – while still delaying and derailing legislative efforts.[9] The EC held several meetings with the industry to try to obtain concrete commitments on the way forward in the Plastics Strategy, but the industry ultimately succeeded in avoiding any mandatory measures and delaying voluntary commitments.[10]

The main objective of the Plastics Strategy was that, by 2030, all plastic packaging placed on the EU market should be either reusable or recyclable cost-effectively – with 55% actually being recycled.[11] Annex III calls on stakeholders to make voluntary pledges to boost the uptake of recycled plastics – which would ensure that, by 2025, 10 million tonnes of recycled plastics would find their way into new products on the EU market.[12] The EC would only consider taking action if the pledged contributions were deemed insufficient.

Some voluntary commitments were published at the same time as the strategy (January 2018), but they were notably weaker than those the EC promoted. PlasticsEurope expressed an ambition to reuse and recycle 60% of plastics packaging by 2030, and said: '*this will lead us to achieve our goal of 100% reuse, recycling and/or recovery of all plastics packaging in the EU-28, Norway and Switzerland by 2040*'.[13] Voluntary commitments from the EuPC and PRE were also 10 years behind the EU proposals – they stated they would '*launch Circularity Platforms aiming to reach 50% plastics waste recycling by 2040*'.[14]

CEO notes that the EC created the CPA because of the failure to include voluntary industry commitments in the strategy, and because industry pledges failed to meet the minimum targets the EC had pushed for.[15] In essence, the CPA was the most buy-in the EC was able to achieve from industry – but even this led to more delays. In May 2018 – more than three months after the Plastics Strategy launch – no pledges had been received. Instead, there had been lobbying calls from BusinessEurope – the corporate world's most significant EU lobby group – for 'flexibility' on the 30 June 2018 deadline, and a strong expression of support for voluntary approaches.[16]

The EC launched the CPA in December 2018, saying it would invite key industry stakeholders to join. In the press release, the EC said its preliminary analysis of the pledges '*indicates that at least 10 million tons of recycled plastics could be supplied by 2025 if the pledges are fully delivered*' – but, on the demand side, '*only 5 million tons will be absorbed by the market*'.[17] From the CPA's meeting in September 2019, and its formal launch, it seemed the industry had committed to work together to actually absorb this recycled plastic and convert it into new products.[18] However, environmental NGOs were excluded from any involvement in drafting the CPA's declaration, and have criticised its lack of transparency, lack of ambition, insufficient emphasis on reuse and redesign, omission of risks associated with the presence of toxic substances in plastic waste, and emphasis on investments in chemical recycling.[19]

1.1.2. Lobbying around the EU SUP Directive

The SUP Directive, whose primary aim is to reduce environmental litter,[20] was formally adopted in April 2019 and published in the Official Journal of the European Union in June 2019. The measures it established include outright bans of certain single-use plastic products, consumption reduction for others, EPR, marking and labelling requirements, awareness-raising measures and separate collection. Some of the key elements of the Directive are:

- EU-wide bans for 15 items (e.g. plastic plates, cutlery, straws);
- consumption reduction and fee-modulated EPR schemes for a number of plastic products;
- an obligation to separately collect 90% of beverage bottles put on the market by 2029, with an intermediate target of 77% by 2025; and
- design requirements for products, including an obligation for drinks containers to have attached (or tethered) lids or caps by 2024, and an obligation for beverage bottles to include at least 30% recycled content by 2030 (and, for PET bottles, at least 25% by 2025).[21]

The speed at which the Directive was drafted and adopted caught both the industry and NGOs by surprise; proposed in May 2018, it took just eight months for the main EU institutions to agree on a text. A range of different industry groups was involved in lobbying on various aspects, though the activity of bottled-drinks companies and their industry federations – UNESDA and EFBW – was particularly notable, given that so much of the legislation related to beverage bottles.

The final text of the legislation remained broadly intact from the original EC proposal, though the industry won some important concessions at the last minute – the most significant changes occurred at the final stage of the negotiations. Although unwilling to compromise on substance, the EU institutions did compromise on targets and timeframes, delaying more ambitious targets for single-use plastic collection and recycled content, as well as the introduction of tethering caps to bottles.[22]

CEO's investigative research shows that various member-state officials working on the single-use-plastics proposal reported '*a lot of lobbying*' on this issue, and that it had been '*very intensive*'.[23] Officials reported that many different industrial sectors had contacted them, including via lobby emails, requests for face-to-face meetings, invitations to attend debates and events, and the circulation of position papers. One member-state official noted '*that the level of industry lobbying outnumbered that by NGOs three-fold* '.[24]

Below, we outline some of the main findings of our investigations into lobbying around the SUP Directive. As we will see later, lobbying continues – at both the EU and national levels – to weaken implementation of the Directive.

1.1.3. Tethered caps

The requirement to attach caps and lids to beverage containers was a major battlefield. Plastic caps and lids are a significant source of marine litter; they easily enter the natural environment, and are hard to collect for recycling, if they are not attached to beverage containers. The major FMCG companies, however, strongly opposed the introduction of tethering caps by design as a solution to this problem. A leaked letter – written by Coca-Cola, Danone, PepsiCo and Nestlé, and sent to Frans Timmermans, First Vice President of the European Commission, on 9 October 2018 – revealed their strong opposition; they suggested 'that tethered caps will only become mandatory if our proposed alternatives do not prove to be effective by end of 2021'.[25] Their proposed alternatives included DRS or EPR schemes, combined with consumer-awareness education.

Two major EU FMCG lobby groups, UNESDA and EFBW, commissioned the consultants PricewaterhouseCoopers (PwC) to conduct an impact assessment on the proposed measure, and used these inflated figures extensively in their lobby meetings. They claimed introducing the measure could require 50,000–200,000 tonnes of additional new plastic, leading to carbon emissions equivalent to adding 244 million cars to the roads. PwC also estimated the cost of the disruption to bottle-production lines across Europe as €2.7–8.7 billion.[26] The industry also claimed no technology existed for the design of tethered caps, despite the existence of solutions using minimal additional plastic.[27]

Loose bottle caps in a kerbside collection

Credit: David Mirzoeff

An email (released under an FOI request) shows that, on 23 November 2018, UNESDA met with a member of Frans Timmermans' cabinet to outline the figures in the forthcoming PwC report.[28] The email correspondence reveals the industry presented even more inflated costs at the meeting (€4.9–13.6 billion), instead of the substantially lower figures (€2.7–8.7 billion) in the final PwC report. Although the meeting was with UNESDA, it is telling that the email correspondence came from Hans Van Bochove, Vice-President of European Public Affairs for Coca-Cola European Partners, who is also chairman of the lobby group EUROPEN. A further released email reveals UNESDA also targeted the EU Council; on 20 November 2018, it invited all permanent representatives to a meeting to present the PwC findings.

Other evidence released reveals that, on 10 December 2018, FoodDrinkEurope (including representatives from Nestlé, PepsiCo and Coca-Cola) organised a meeting with cabinet members representing Vella, Timmermans and Katainen to lobby against tethered caps. Again, the industry said the measure would be very damaging, and proposed waiting until 2025 to see if 90% of plastic caps could be collected as part of the 90% collection target. The industry said it was confident many member states would raise this issue at the final trilogue[a] meeting,[29] indicating its belief that its lobbying against this proposal had been successful.

Although the lobbying took place behind the scenes, UNESDA and EFBW also made their position on tethered caps public in a post on *Politico* in December 2018. The article, titled 'More plastic, more carbon, more cost: Why attached bottle caps are not the way to fix waste', is also available on Coca-Cola's EU Dialogue webpage.[30]

1.1.4. 90% separate collection for beverage bottles

The EC's original proposal stated the 90% collection target should be achieved by 2025. The four-column document, which showed the positions of different institutions regarding the final meeting of the trilogue process, clearly demonstrates that lobbying had taken place to delay target dates – the Commission and European Parliament agreed on a 90% collection rate by 2025, but not the European Council, which proposed 90% by 2030. In the final text, the agreed figure is 90% by 2029 with an intermediary target of 77% by 2025.

The SUP Directive mentions the introduction of DRS as a means to achieving a 90% separate-collection rate, but member states are, in theory, able to choose the system they want – despite all evidence showing that, without DRS, it is impossible to achieve these collection rates. The industry is divided when it comes to the introduction of DRS, and our country case studies reveal the battles that have now moved to the national level, with many industries trying to delay the introduction of DRS for as long as possible. However, some actors have changed their opinions on this issue due to the obligation to include recycled content in beverage containers. DRS delivers a clean and high-quality stream of plastic recyclates, and will essentially finance itself – via the deposit – once the infrastructure is in place.[31] This requirement for recycled material made some big beverage companies, such as Coca-Cola, reluctantly support DRS in Western Europe, although – as will be exposed – they have continued to undermine it elsewhere.

1.1.5. Implementation of the SUP Directive

These battles did not come to an end with the adoption of the SUP Directive. It is evident, from their participation in meetings and workshops, that corporations are still trying to influence and delay the guidelines and implementing acts the EC is developing to ensure effective implementation of the Directive. Among these are unrelenting efforts to exempt single-use-plastic items made from bio-based, biodegradable or compostable plastics, and continued resistance to a design standard for tethered caps.[32] In addition, the industry is trying to influence the very definition of plastic, which would affect the essence of the Directive and undermine its purpose by exempting certain materials – such as PHAs (a novel group of polymers) and lyocell (a man-made cellulosic fibre used for items like disposable wet-wipes).[33]

a Trilogue refers to a series of meetings between the representatives of the European Commission, Council and the European Parliament, which is part of the EU legislative process to reach an agreement between the three institutions on a specific piece of legislation.

The industry's lobbying efforts have also moved to the national level, where it is trying to influence, delay and weaken the transposition of the Directive into national legislation, as we will expand on in our country case studies. One example is the industry's attempt to undermine the 90% separate-collection obligation by including bottles from post-sorted residual waste. NGOs have called on the EC and member states to resist these lobbying efforts as, notably, they will only be able to achieve the Directive's recycled-content targets, if plastic bottles are collected as a clean, separate waste stream.[34]

Box 4.2: Green Dot and producer responsibility

The Green Dot™ symbol is widely used on plastic products and packaging sold in the EU and beyond. According to a UNEP and Consumer International report, '*consumers typically misinterpret these symbols to mean recyclability or perhaps recycled content*', which leads to an overestimation of what items can be recycled, as well as the contamination of waste streams with non-recyclable material.[35] This is because, in reality, the label means only that a producer or retailer has paid a financial contribution to a qualified national packaging-recovery organisation, set up in accordance with the principles defined in European Packaging and Packaging Waste Directive 94/62.[36] Green Dot is a protected trademark, registered and owned by Der Grüne Punkt Duales System Deutschland GmbH and licensed for all European countries to the Packaging Recovery Organisation Europe (PRO Europe). However, it is used in over 140 countries and displayed on more than 400 billion packaging items per year,[37] creating additional confusion for consumers.[38]

In this report's EU case studies, we also analyse the actions of PROs – national organisations that collect licensing fees for packaging placed on the market, and that sub-license Green Dot™ label to companies for their packaging. The money accumulated by these fees is partly used to provide funding for waste management and recycling – usually managed by a PRO. The companies that pay these fees are also relieved from their individual obligation to manage used packaging. Some of the Green Dot organisations examined in this report are ARA (Austria), EKO-KOM (Czech Republic), Ecoembes (Spain) and CITEO (France). As we will see, the companies paying into these schemes often exert undue amounts of influence, and are even coordinating lobbying activities against more effective collection (and recycling) legislation, such as DRS.[39] PRO organisations also have two associations at the EU level: the PRO Europe, founded in 1995, and the Extended Producer Responsibility Alliance (EXPRA), established in 2013. Unsurprisingly, one of EXPRA's first position papers set out its clear opposition to deposit systems, calling them '*problematic from an internal market perspective*'.[40]

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