



Mrs Ursula von der Leyen
President
European Commission
Rue de la Loi/Wetstraat 200
1049 Brussels
Belgium

9 February 2021

Dear President,

Re: Concern over the current draft of Single Use Plastics Directive guidelines

BusinessEurope is supportive of the objectives of the European Green Deal and the Circular Economy Action Plan. In this context, we fully subscribe to the objective of the Single Use Plastics (SUP) Directive to address the serious issue of certain plastic products being disposed inappropriately into the environment, notably as marine litter.

With regards to the implementation of the SUP Directive we are, however, concerned about the guidelines that are currently under preparation by the Commission. Based on the most recent draft, we see a significant risk that the guidelines would extend the SUP Directive to all single-use items, going beyond its objectives and intended scope. This may lead to serious implications for a wide range of manufacturing supply chains.

First, and despite the guidelines being legally of a non-binding nature, the inconsistencies contained in the most recent draft of the guidelines bear the risk of encouraging excessive gold plating when the SUP Directive will be implemented into national law, going beyond the political agreement of the co-legislators. Additionally, it risks creating significant gaps across national legislation and as a result lead to serious legal uncertainty for companies on the European Single Market. It is crucial that the SUP Directive is transposed in a harmonized manner, to provide European companies with adequate certainty. Unfortunately, the most recent draft of the guidelines does not provide for fully accurate and objective definitions, which may result in arbitrary or vague interpretations when implementing the SUP Directive.

On the one hand, the guidelines risk setting unintended precedents for the broader circular economy legislation due to unsubstantiated definitions and indications. On the other hand, it risks having serious impacts on innovation efforts carried by industry to achieve Europe's environmental and climate objectives. It will discourage future investments on material alternatives under the risk of this precedent, and even threaten their competitiveness.

In light of the points addressed above, raised by several Member States during expert meetings, BusinessEurope calls on the European Commission to not enlarge the scope of the directive. The SUPD guidelines should only be adopted when it is fully ensured that covered definitions are clear and correct. Sustainable industrial practices should be promoted, rather than hindered through the introduction of unsubstantiated definitions into EU legislation. The SUP Directive can only be deemed successful, when it is consistent with the wider objective of Europe's Green Deal and those of the circular economy and is implemented consistently across the Union.

Yours sincerely,

Markus J. Beyrer