



5 August 2011

Mr. Jan Potocnik
Commissioner for Environment

European Commission
Rue de la Loi 200 Wetstraat
1049 Brussels

Dear Commissioner,

STAKEHOLDER CONSULTATION

On options to reduce the use of plastic carrier bags and options to improve the requirements of biodegradability in the Directive 94/62/EC on packaging and packaging waste and the visibility of biodegradable packaging products to consumers.

Pack2Go Europe is the sole material-neutral European association representing Europe's manufacturers of food and beverage service and convenience packaging. The products we put on the market are designed for single use and are the packaging of choice in applications where there is a need for safe and hygienic service of food or beverages to consumers for the numerous occasions nowadays when they choose (or need) to eat and drink "on-the-go". For millions of Europeans, they are not "nice to have", they are essential.

We would also underline that we fully recognise that as manufacturers we must take our full share of responsibility for our products and their use in society.

We are writing to you directly for two reasons:

1. Firstly, we believe that there is an inherent bias against single use packaging solutions implicit in the manner in which the Commission is approaching the issue of plastics (carrier) bags, which fails to take account of the broader context of packaging in society. What we perceive as a sort of "witch hunt" against plastics (carrier) bags may set precedents that are wholly inappropriate to the broader range of packaging solutions on the market, especially where health and hygiene are concerned.

The essentially material- and application-neutral philosophy of Directive 94/62/EC has served the European environment, consumers and industry very well for close to two decades. We are most concerned that an initiative narrowly targeted at one category of packaging and, essentially, one type of packaging material risks undermining these basic principles of the Packaging and Packaging Waste Directive. These principles have made it one of the most successful and effective pieces of EU environmental and single market legislation ever, regulation that has influenced industry and legislators around the world.

Nowhere in the consultation about plastics bags has the Commission opened a discussion regarding the functionality of the packaging products in question. That is deemed to be irrelevant, it seems. Yet this is a crucial aspect to consider when considering any packaging

solution. In our view, singling out one specific packaging application or material type for special attention is entirely inconsistent with the existing philosophy of the Directive. It would imply a fundamental re-engineering of the Directive 94/62/EC, which may result in national initiatives that distort the market while failing to achieve the underlying environmental objectives. In summary, what is “appropriate for plastics bags” cannot be divorced from what is “appropriate” by extension for all types of packaging covered by the Directive.

We believe that the real solution to the real problem of litter in the environment lies entirely elsewhere; not in product-specific legislation but rather in civic society solutions (in which manufacturers take and demonstrate their share of responsibility), designed to moderate consumer behavior and improve waste management systems. Yet this plays no part in the consultation exercise (see comments in 2., below).

Indeed, moves by the European Commission that communicate directly or indirectly to consumers that certain types of packaging may be disposed of in the environment “because they are biodegradable” seem to us to run counter to what needs to be achieved; that is to say, a more thoughtful and/or careful approach by the tiny minority of consumers who carelessly or deliberately contribute to the problem of littering. Care must be taken not to send the message that it is acceptable to discard some packaging in the environment because it is made of biodegradable materials. The problem of discarded packaging in the environment is fundamentally NOT related to environment policy and regulation and long term solutions will not, in our view, be found in environmental or product regulation.

2. Secondly, we are both astonished and dismayed at the manner in which the stakeholder consultation exercise has been set forth. The questionnaire seems to have been construed in a hurried and inconsistent manner and is defective as a result.

More worrying, however, is the underlying impression given that the Commission is not seeking a substantive debate or to truly consult but rather to extract the answers it needs to justify a position it has taken already. Pack2Go Europe is writing to you directly because it feels that the nature of the structured consultation you have launched does not allow it to express the industry’s very real concerns, opinions, experience and expertise in a constructive manner supportive of the Commission’s underlying environmental objectives.

Indeed, the technique of posing compulsory objective questions to which there are clear objective answers and then characterizing them as seeking stakeholder “opinions” is of great concern. Furthermore, the sequencing and interlinkages between questions also leave one with the feeling that, by giving the objective answer to a compulsory question, one will be construed as (a) having agreed that such answer constitutes the correct solution to the problem; and (b) supporting a pre-determined policy approach that the Commission is seeking to validate rather than debate.

Allow us to illustrate:

Question 2.3.1 asks “**In your view, can pricing measures effectively reduce the use of plastic carrier bags?**” and then offers 5 alternative responses from Strongly Agree to Strongly Disagree or No opinion. In our view, this is not a matter of “view” or opinion but rather of fact, not requiring consultation at all. The evidence is overwhelming that price manipulation does, of course, impact consumer behaviour notably when the price is set high enough. There is only one possible answer here – Strongly Agree. However, that is not to say that price manipulation is necessarily the right approach to the policy challenge in this case. This is then immediately followed up by Question 2.3.2 **In your view, at which level should pricing measures on the use of plastic carrier bags be best defined? EU level, National Level or No opinion.** Again, we would argue that the objective answer if one supports the last twenty years of EU single market policy is clearly “at EU level” if we are to avoid market distortions. The cumulation of the replies to these two compulsory questions seems certain to us to be interpreted as indicating support for EU level pricing measures, whereas this may not be the real view on the real solutions.

We could give other examples throughout the questionnaire where the structure either is deeply flawed or suggests that there is a desire to validate an underlying set of predefined policy options rather than seek views on the best policy approaches to address the root challenges.


With this in mind, we have taken the liberty of attaching a reworked consultation questionnaire which we believe you and your services should have issued to obtain a neutral but real debate on this topic. It does not exclude the provision of views by stakeholders on any of the issues that you have clearly put on the table in the original questionnaire.

Furthermore, we have taken the liberty of answering these questions from the perspective of Pack2Go Europe and hope that you and your services will consider carefully not only the substance of our replies but also the withdrawal of the flawed questionnaire.

We further would like to suggest that you organize a full day consultation hearing with a broad cross-section of stakeholders to compliment the written procedure.

Finally, Pack2Go Europe would like to underline that we fully share your concern that the presence of packaging waste in the environment, regardless of the material used, is a challenge that is worthy of all our attention. An EU level impetus might usefully be given. Yet solutions in practice will, in our view, inevitably need to be adapted to Europe’s many and varied local situations. We would be delighted to meet you and your services in the near future to elaborate on paths to obtaining effective solutions to the challenge of littering.

Yours sincerely,



Eamonn Bates
Secretary General