

International Insight: NO PLASTIC IS THE NEW BLACK The use and abuse of plastic packaging and the regulator's response

Plastic is a mainstay in our economy and daily lives since its multiple functionalities help tackle many challenges facing our society. However, too often the way plastics are produced, used and discarded harms the environment (European Commission, 2018). Currently, the amount of plastics entering the environment exceeds the amount that is recycled (European Academies - Science Advisory Council, 2020) and this situation has worsened since the beginning of the COVID-19 pandemic to the point that some have even called it “The Plastic Pandemic” (Brock, 2020). There are two main reasons for this: (i) it has surged the demand not only in personal protective equipment (PPE) (i.e., face masks, gloves), but also in takeaway food containers, bubble wrap and packaging for online shopping (Brock, 2020); and (ii) the collapse of oil prices due to the fall in demand made “the manufacture of virgin plastics from fossil fuels less expensive than recycling” (Adyel, 2020). In the next paragraphs we will analyze some key points regarding the use and abuse of plastic packaging and the European Union's response.

Unboxing the problem

The Plastic Pandemic hit while governments around the globe “promised to wage war on waste from single-use plastics” (Brock, 2020). The European Union was planning to ban many single-use plastic items starting from 2021. The U.S. Senate was considering a ban on single-use plastic and the introduction of legal recycling targets. Ironically, the pandemic has accentuated a trend to create even more plastic trash: the global plastic packaging market size is projected to grow from 2019 to 2021 at a compound annual growth rate of 5.5% (Brock, 2020).

Packaging is the meeting point between the consumer and the product and is crucial in consumers' perception of a brand. While packaging offers an infinite range of options of functionality and design to convey marketing messages (European Academies - Science Advisory Council, 2020), it represents about 40% of plastic production in the European Union (Jereb *et al.*, 2020).

During “The Plastic Pandemic” social media led to the “unboxing” boom, “with each additional layer of packaging added to the product, more plastic packaging is created, only to be immediately thrown out” (EB May, 2020), thereby increasing the environmental footprint of plastics. Indeed, “the durability and resistance to degradation of plastics means that if they ‘leak’ into the environment, they persist” (European Academies - Science Advisory Council, 2020), failing to capture the economic benefits of a more ‘circular’ approach.

Most of the plastics used in packaging reach their end-of-life in the hands of individual consumers (European Academies - Science Advisory Council, 2020), which places a great responsibility on them. Fortunately, and notwithstanding the mentioned “unboxing” boom, consumers are becoming more and more positively influenced towards buying products with environmentally friendly, recyclable and biodegradable packaging materials. Therefore, companies are increasingly turning to sustainable packaging design, avoiding waste and the use of unnecessary materials.

Finding new solutions for more sustainable packaging is imperative. According to EUROPEN (The European Organization for Packaging and the Environment), packaging should be designed holistically with the product to optimize overall environmental performance; be made from responsibly sourced materials; be designed to be effective and safe to protect the product; meet market criteria for performance and cost; meet consumer choice and expectations; and be recycled or recovered efficiently after use (The European Organization for Packaging and the Environment, 2020).

The European Union

The increase in plastic production has attracted public and political attention. To transition towards a more circular economy and to reach the UN’s Sustainable Development Goals, the European Commission approved a Plastics Strategy in January 2018. “The strategy aims to address all sectors generating plastic waste, using EU laws as well as voluntary measures and standards” (Jereb *et al.*, 2020) and has as one of its key goals that “all plastic packaging put on the EU market is either reusable or can be recycled in a cost-effective manner by 2030” (Jereb *et al.*, 2020).

In May 2018, the Commission reviewed and amended the Packaging and Packaging Waste Directive (PPWD) and doubled the previous plastic packaging waste recycling target to 50% by 2025 and 55% by 2030. Member States are free to achieve these targets by whichever means they see fit (Jereb *et al.*, 2020). Moreover, “the legal framework to improve the management of plastic packaging waste provided by the PPWD has been gradually complemented by other Directives and Regulations” (Jereb *et al.*, 2020). These set targets on the preparation for reuse and recycling of municipal waste (Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives), rules on the shipment of waste (Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste) and restrictions on landfilling of waste (Council Directive 1999/31/EC of 26 April 1999 on the landfill of waste) (Jereb *et al.*, 2020).

The role of extended producer responsibility (EPR)

Notwithstanding the growth of “green” awareness, the use of plastics is still increasing. Hence, regulators have been focusing on the implementation of EPR systems to incentivize producers to give more consideration to the end-of-life handling of their

packaging (European Academies - Science Advisory Council, 2020). In Italy, Legislative Decree 116/2020 reviewed and expanded EPR making it operational for a wide range of products on the territory. It imposes informational and financial obligations on producers, making them pay a modulated contribution, where possible, for individual products or groups of similar products, taking into account their reparability, reusability, recyclability and the presence of hazardous substances. To facilitate the monitoring of national EPR systems, a National Register of Producers will be established in Italy by a subsequent implementing decree (Martelli, 2020). For its part, it has been recommended to the Commission that it adopts objectives for EPR schemes to: incentivize the reduction of packaging used and encourage reuse; maximize recyclability of end-of-life packaging; minimize the proportion of packaging that is unable to be recycled; integrate with availability of recycling infrastructure; apply to all packaging; aim to eliminate cost burdens on local governments from plastics disposal; ensure the scheme supports recycling within the EU and disallows export to lower-cost and environmentally damaging alternatives, *inter alia* (European Academies - Science Advisory Council, 2020).

Online sales and the Fashion Industry

Textiles and clothing waste has become a huge global concern. The fashion industry, e-tailers and online platforms have a high environmental and social impact with the recent wide use of e-commerce and delivery packages. Much of the packaging used to fulfil online deliveries is plastic-based and most of it ends up in landfill sites or the oceans (Halliday, 2020). Nowadays, a simple t-shirt can arrive to the customer's house in a plastic bag, inside a laminated box, inside another bag. In a nutshell, plastic packaging has become an integral part all along the supply value chain.

Increasing attention is therefore placed on the development of policies that allow a transition to a circular economy model (Jacometti, 2019). It is in this context that last year the European Commission approved a new circular economy action plan which, regarding the textile sector, focuses on the encouragement of the use of secondary raw materials; making clothing more sustainably; EPR; and international cooperation (Bongioanni, 2020).

Consumers are demanding more and more products with a low environmental and social impact. Some of the world's fashion giants have heard these requests and are taking action. H&M, for instance, has recognized that "in the fashion industry, plastic is one of the biggest challenges" (Halliday, 2020) and has developed a test project in its distribution centres in the UK, Netherlands, Sweden, China, Russia and Australia, using new bags made of certified paper that is said to be as protective of the products as plastic (Halliday, 2020). The implementation of environmentally compliant programs and the advice of good environmental lawyers are imperative to compete effectively.

Conclusion

The war between new and recycled plastic had a winner in 2020 with recyclers' businesses worldwide shrinking (Brock, 2020). Investments in waste reduction by some of the largest oil and chemicals firms of the world do not seem to be enough, and inappropriate waste management strategies, such as mobile incineration, direct landfills and local burnings, are not helping either (Adyel, 2020). Resilient businesses recognize that the creation of on-site recycling facilities, the association with entities dedicated to green packaging or even their acquisition as part of the product design is key to a sustainable long-term business.

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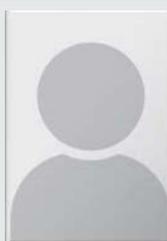
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Please feel free to contact any of the persons listed below if you have any questions on this important development:



Daniela Della Rosa

Partner
ddellarosa@curtis.com
Milan: +39 02 7623 2057



María H. De La Peña

Associate
mdelapena@curtis.com
Buenos Aires: +54 11 5196 8300