

Warszawa, 29 września 2020 r.
KL/455/326/DZS/2020


Pan
Jacek Ozdoba
Sekretarz Stanu
Ministerstwo Klimatu

Szanowny Panie Ministrze,

Przekazuję w załączeniu uwagi Konfederacji Lewiatan w języku angielskim do projektu aktu wykonawczego w sprawie oznakowania do tzw. Dyrektywy SUP (*single-use plastic*). Zwracam uwagę na najważniejsze postulaty Konfederacji Lewiatan dotyczące dłuższych terminów przejściowych oraz propozycji, aby Komisja wykorzystywała od dawna stosowane oznakowanie „do not flush”, do którego konsumenci zdążyli się już przyzwyczaić, a nie tworzyć zupełnie nowe zasady oznakowania. Dodatkowo podkreślam, iż zdaniem Konfederacji Lewiatan niektóre zapisy projektu powodują zbytnią ingerencję Komisji Europejskiej w zasadę proporcjonalności, a także wskazują na wykroczenie przez KE poza uregulowania przewidziane w Dyrektywie SUP.

Pozostaję do dyspozycji w przypadku konieczności przedstawienia dodatkowych informacji.

Z poważaniem,



Maciej Witucki
Prezydent Konfederacji Lewiatan

Załącznik:

Uwagi Konfederacji Lewiatan do projektu aktu wykonawczego w sprawie oznakowania do tzw. dyrektywy SUP (*single-use plastic*).

**Załącznik - uwagi Konfederacji Lewiatan do projektu aktu wykonawczego w sprawie oznakowania do
tzw. dyrektywy SUP (single-use plastic)**

Contribution to the consultation on draft of Implementing Act on marking requirements on single-use plastic product listed in Part D of the Annex to Directive 2019/904/EU of the European Parliament and the Council on the reduction of the impact of certain plastic products on the environment

Version 1., 23 September 2020

Analysing the impact of the proposal on the different industry in Poland, the Polish Confederation Lewiatan postulates for:

- Extension of timeframe to process and comply packaging of products with the new marking requirements.
- Replace text with symbols wherever possible.
- Maintain the flexibility for manufacturers to place markings on the “front OR back surface” of the packaging.
- Choose positive communication for marking (positive labelling).
- Define a contrast ratio instead of a colours.
- Define the minimum marking size according to a minimum front of packaging.

Extension of timeframe

It is crucial for the industry to have at least twelve months, in line with Directive (EU) 2019/904, to process and comply with the new labelling requirements.

According to Art. 7 of Directive (EU) 2019/904, the Commission was to adopt an implementing act establishing harmonized specifications for marking requirements by 3 July 2020. According to the announcement, the publication of the law will be delayed by 6 months in December 2020. The transposition deadline for Member States is set at 3 July 2021, in accordance with Art. 17 of Directive (EU) 2019/904, which means that the industry has to comply with the new measures on placing products on the market by that date at the latest, meaning that manufacturers have less than a year to adapt their packaging to the new labelling requirements. Therefore, the Polish Confederation Lewiatan would recommend that the deadline for compliance with Art. 7 to ensure that enterprises can adapt their processes and packaging appropriately. Extending the time will allow manufacturers to make an optimal transition, avoiding destroying existing products / packaging. It should be taken into account that



manufacturers produce a wide variety of product categories with distinctive packaging. It takes considerable effort to customize each product. Moreover, manufacturers use multi-lingual labelling to serve consumers in many EU countries & languages where any spare space on pack is already very limited. It is reasonable to expect the additional marking requirements will not fit properly on these packs. Manufacturers will have to re-design & re-structure the whole portfolio of products. This is a time-consuming and expensive end-to-end process involving a complex supply chain. Packaging material already ordered at this stage may need to be cancelled or even destroyed, if already manufactured, due to changing requirements. Considering the aim of the directive to protect the environment, its implementation should allow for an optimal transition avoiding the destruction of already existing products / packaging.

Maintain the flexibility for manufacturers to place markings on the “front OR back surface” of the packaging.

- In Annex III, page 11

Reject changes made in version 1 of the Implementing Act in annex III 2. a) i) to maintaining the flexibility for manufacturers to place markings on the “front OR back surface” of the packaging, as provided for in version 0.

Reasoning:

It is suggested to maintain the flexibility for manufacturers to place markings on the “front OR back surface” of the packaging, as provided for in version 0 of the Implementing Act, In line with the principle of proportionality. Such flexibility is also granted for products under annex 1 and annex 2 of the Implementing Act.

- In Annex III, page 11

The marking shall be clearly visible to consumers when stacked on shelf.

This requirement should be deleted.

Justification:

Such provision goes beyond the Article 7 of the SUP-Directive which entitles the COM only to establish harmonized marking specifications, but not product display specifications or sales arrangements in connection with shelf stocking.

This deletion would also be consistent with the Tobacco Products Directive 2014/40/EU which states in Recital (48) with regard to combined health warnings explicitly that *“this Directive does not harmonize the rules on domestic sales arrangements”*.

The new implementing act should take into account existing voluntary approaches

The Polish Confederation Lewiatan was surprised to learn that the current Do Not Flush icon, part of EDANA's existing code of practice, is not part of the labels shown. However, Art. 7 of the SUP Directive requires the Commission to adopt harmonized specifications that "take into account existing voluntary approaches". The current symbols in the EDANA Code of Practice work well and are well recognized. The industry is unlikely to combine the newly required markings with the existing Do Not Flush logo. The fact that the new logos are reapplied can be considered as misleading (and confusing) to consumers.

Replace text with logos (pictograms) wherever possible

The Polish Confederation Lewiatan strongly recommends to use a logo (pictograms) wherever possible, instead of text labelling. Any translation would require a lot of space on pack. This is particularly essential for packs with 3 or more languages. In order to avoid any confusion by consumers between the product or packaging containing plastic, the text "product contains plastic" could be used if no alternative logo can be agreed. However, the first choice should be to develop appropriate pictograms/symbols, wherever possible.

Choose positive communication for marking (positive labelling)

Positive communication has proven to reinforce the messaging to the consumer. Studies demonstrate that positive reinforcement and indirect suggestions can influence the motives, incentives and decision making of groups and individuals. A study by Wageningen University demonstrates that visual elements are excellent tools that can be used for nudging and preferred over textual claims. The argumentation is that "images are capable of communicating subtle and complex messages", while allowing for "rapid and automatic processing", "whereas textual information generally requires more deliberate processing" (https://rd.springer.com/chapter/10.1007/978-3-319-29562-6_11).

The new labels should not mislead consumers and lead to stigmatization of products. It may raise concerns in the consumer as to whether, if a product is harmful to nature, whether it is also hazardous to the skin. It should be noted that positive labelling would avoid this kind of misunderstanding.

Define a contrast ratio instead of a colours

Symbol artwork should have sufficiently high contrast with the background to be highly readable (i.e., dark on a light background). The use of colour is not necessarily increasing the message to consumers. However, adding colours to a packaging design that is not composed of this colour unnecessary increases



the printing costs and use of paint. The Polish Confederation Lewiatan therefore recommends defining a contrast ratio instead of a colour scheme.

Define the minimum marking size according to a minimum front of packaging

When specifying the sizes of markings, there are three elements to take into account (1) the surface area of a packaging, (2) the minimum size of the marking and (3) a scale ratio of the marking to the surface area. It is crucial to take into account small packaging sizes. The largest surface area's of some small wet wipes packages can only be 32 cm². The front of the packaging also contains an opening lid of considerable size. The Polish Confederation Lewiatan therefore recommends specifying the minimum marking size according to a minimum front of packaging of ≤ 32 cm².

A useful reference is the CLP Regulation defining the size of the hazard pictograms, which defines the size of the hazard pictograms must never be less than 1 cm². The hazard labels are requested to safeguard consumer's health and safety. The combined markings of the SUP directive should in total not be bigger than a CLP hazard pictogram.

In addition, the Polish Confederation Lewiatan recommends:

- indication in the act of fonts dedicated to each official language used in the EU. At this point in time, the act does not indicate which language is dedicated to texts in Polish,
- indication of the recommended size of the fonts.

The Polish Confederation Lewiatan looks forward to contributing actively to the future discussions on the detailed solutions implementing the Single-Use Plastic Directive 2019/904/EU.

