

Mrs. Ursula von der Leyen
President
European Commission
Rue de la Loi 200
1049 BRUSSELS
BELGIUM

Date
29 January 2021

Page
1 of 2

Dear President,

the Italian and German industry associations, Confindustria and BDI, support the European Green Deal and the pursuit of its goals.

Notably, we believe that promoting a circular economy, as we have been doing for years now, is essential for our industrial systems to remain innovative, competitive in the global market and able to generate the economic resources that will have to be invested to meet the ambitious social, economic and environmental objectives set out at EU level.

In this context, we share the underlying objectives of EU Directive 2019/904 (SUP Directive), which aims at preventing and reducing the impact of certain single-use plastic products on the environment, and at fostering the transition to a circular economy with safe and innovative materials.

However, we are concerned because the way in which the Directive is being implemented, first and foremost via the definition of its guidelines, seems to be losing track of these fundamental objectives, and particularly of the need to reduce the risk of dispersion of mismanaged plastic waste into the environment, especially the marine one. The latest version of the draft guidelines confirms our concerns.

There seems to be the risk that the scope of the Directive is extended by the guidelines beyond its rationale and purpose and without attaining significant additional environmental benefits. Indeed, opposite effects are shown to be possible, with damaging consequences on a wide range of supply chains and sectors: chemicals, plastics, textile, mechanical, agro-food and paper.

The divergence between the guidelines and the legislative text threatens to produce a severe fragmentation of the Single market. In order to ensure that the principles of the SUP Directive are transposed in a harmonized way by all Member States, guidelines must provide all economic operators with accurate and objective indications, avoiding arbitrary or vague interpretations, which would have unpredictable consequences on entire manufacturing value chains.

The *de facto* extension of the scope of the SUP Directive through the draft guidelines to all single-use products would also hinder the investments in research and development made by the European plastics, bio-plastics and paper industry, threatening the competitiveness of the European industry to the advantage of non-European producers, engaged in the production of goods that are most certainly less environmentally sustainable.

The current pandemic context has also shown that single-use products can play a critical role in reducing the risks of transmission of pathogens and other health hazard by minimizing the risks of cross-contamination.

Finally – and beyond the specific case – the extension of the scope of a Directive by means of guidelines represents an alarming precedent for the reliability of the European decision-making process and legislation. Not only would a limit set by the co-legislators be overstepped, but also legal certainty for authorities, companies and citizens would be at danger. Even though guidelines are not legally binding, such interpretative acts issued by the Commission have a considerable impact on the implementation of the law. It must be in the own interest of the Commission to exclude any doubts regarding proper guidance of EU law.

We believe that the correct implementation of the Directive represents an opportunity to foster the development of the European plastics, bioplastics and paper industry, while an inaccurate application, such as the one that is taking shape, would not only determine the end of entire industrial sectors, but would also end up putting at risk the reliability of European legislation in a broader sense.

We therefore ask you to consider the implications of the draft guidelines of the SUP Directive carefully and take our concerns into consideration.
We remain at your disposal for further explanation or discussion.

Yours sincerely,



Carlo Bonomi
President of Confindustria



Siegfried Russwurm
President of BDI