

Compromise proposal on European Commission proposal for a Directive of the European parliament and of the Council amending Directive 94/62/EC on packaging and packaging waste to reduce the consumption of lightweight plastic carrier bags

1. Eliminate the option for a ban of plastic carrier bags, as a reduction can be achieved without banning

Justification:

The type of economic instrument to use in order to reduce the use of plastic carrier bags should be left to each Member State in order to take national circumstances into consideration.

The free movement of packaged goods across EU borders is a fundamental principle and one of the success stories of the European Union from which all citizens and businesses benefit. Allowing a derogation from this principle would not only create a very dangerous precedent, leading to legal uncertainty for all packaging products, materials and packaged goods, but it will also end up hindering investments.

Allowing national bans would hinder the objective of providing a coherent response: the preamble to the Commission's Proposal states that "an EU-wide initiative is necessary to tackle the problem in a more coherent and effective way." Allowing Member States to introduce a ban would certainly not improve coherence across the EU.

Furthermore, the principle of proportionality requires that before allowing a measure as radical as a ban, all less restrictive alternatives have to be carefully examined in order to evaluate if they are equally appropriate to achieve the objective. In its Impact Assessment, the Commission itself confirms that Member States have been successful in reducing the use of lightweight plastic bags, and this, through measures less drastic than a ban.

Reductions can already be met by merely introducing charging measures for plastic carrier bags, not the possibility for a ban (which is disproportional). Instead, reductions to responsible levels should be sought through the use of charges and/or levies for lightweight plastic carrier bags (i.e. service packaging with a thickness between 10-30 microns).

<i>European Commission's proposal</i>	<i>Text adopted by ENVI</i>	<i>Compromise proposal</i>
<p>(6) Measures to be taken by Member States may involve the use of economic instruments such as taxes and levies, which have proved particularly effective to reduce the use of plastic carrier bags, as well as marketing restrictions such as bans in derogation of Article 18 of Directive 94/62/EC, subject to the requirements laid down in Articles 34 to 36 of the Treaty on the Functioning of the European Union.</p>	<p>(6) Member States <i>should also be able to</i> use economic instruments such as taxes and levies, as well as marketing restrictions such as bans in derogation of Article 18 of Directive 94/62/EC, subject to the requirements laid down in Articles 34 to 36 of the Treaty on the Functioning of the European Union.</p> <p><i>(6a - new) Plastic carrier bags used to wrap humid, loose foods such as raw meat, fish and dairy and plastic bags used to hold unpackaged prepared foodstuffs are required for food hygiene and should therefore be exempt from the scope of this Directive.</i></p> <p><i>(6b - new) Very lightweight plastic carrier bags are routinely used to purchase dry, loose unpackaged foods such as fruits, vegetables or confectionery. The use of very lightweight plastic carrier bags for such purposes helps prevent food wastage, since it enables consumers to purchase the exact amount required rather than a fixed pre-packaged quantity, and since it allows the withdrawal of a product that is no longer fit for consumption specifically without needing to discard entire pre-packaged packages. Nevertheless, very lightweight plastic carrier bags made of conventional plastics are a particular problem with regard to littering.</i></p> <p><i>(6c - new) Plastic carrier bags made of biodegradable and compostable materials are less harmful to the environment than conventional plastic carrier bags. Where the use of plastic carrier bags provides important benefits, namely where very lightweight plastic carrier bags are used for dry loose, unpackaged foods such as fruits, vegetables and confectionery, those conventional very lightweight plastic carrier bags should be gradually replaced by carrier bags made of recycled paper, or by very lightweight plastic carrier bags that are</i></p>	<p>(6) Measures to be taken by Member States may involve the use of levies, which have proved particularly effective to reduce the use of plastic carrier bags. Member States should ensure that retailers do not provide carrier bags, and in particular plastic carrier bags other than very lightweight plastic carrier bags or alternatives to such very lightweight plastic carrier bags, free of charge at the point of sale of goods or products. Member States should also be able to use economic instruments such as taxes, subject to the requirements laid down in Articles 34 to 36 of the Treaty on the Functioning of the European Union.</p>

	<p><i>biodegradable and compostable. Where the use of plastic carrier bags should be reduced, namely the use of lightweight plastic carrier bags, the use of such bags made of biodegradable and compostable materials should also fall under the general reduction target. However, Member States with separate collection of bio-waste should be allowed to reduce the price of biodegradable and compostable lightweight plastic carrier bags.</i></p> <p><i>(6d - new) Education programmes aimed at consumers in general, as well as at children in particular, should play a particular role in the reduction of the use of plastic bags. Those education programmes should be implemented both by Member States as well as by producers and retailers at the point of sale of goods and products.</i></p> <p><i>(6e - new) The essential requirements with regard to packaging that is recoverable in the form of composting should be amended so as to ensure that a European standard for garden composting is developed. The essential requirements with regard to biodegradable packaging should be amended so as to ensure that only materials that are fully biodegraded are considered to be biodegradable.</i></p> <p><i>(6f - new) European Standard EN 13432 on "Requirements for packaging recoverable through composting and biodegradation - Test scheme and evaluation criteria for the final acceptance of packaging" lays down the characteristics that a material must possess in order to be considered 'compostable', namely that it can be recycled through a process of organic recovery comprised of composting and anaerobic digestion. The Commission should ask the European Committee for Standardization to develop a separate standard for garden composting.</i></p>	
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	<p><i>(6g - new) Some plastic materials are referred to as "oxo-biodegradable" by their manufacturers. In such plastic materials, "oxo-biodegradable" additives, typically metal salts, are incorporated into conventional plastics. As a result of the oxidation of those additives, the plastic materials fragment into small particles, which remain in the environment. It is thus misleading to refer to such plastic materials as "biodegradable". Fragmentation transforms visible littering of items such as plastic carrier bags into invisible littering by secondary microplastics. This is not a solution to the waste problem, but rather increases pollution of the environment by those plastic materials. Such plastic materials should therefore not be used for plastic packaging.</i></p>	
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2. Level playing field for all materials and no exemptions for biodegradable plastic carrier bags

Justification:

There should be no exemptions (de facto or otherwise) for biodegradable materials due to the unproven sustainability of biodegradable materials, the fact that they do not degrade in all environments and conditions (including the marine environment). Furthermore, their detrimental impact on the quality of plastics recycling has been proven by independent tests done TCKT¹.

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<http://www.plasticsconverters.eu/uploads/FINAL%20Impact%20of%20Degradable%20Plastic%20Carrier%20Bags%20on%20mechanical%20recycling.pdf>

<i>European Commission's proposal</i>	<i>Text adopted by ENVI</i>	<i>Compromise proposal</i>
<p>1a. Member States shall take measures to achieve a reduction in the consumption of lightweight plastic carrier bags on their territory <i>within two years of entry into force of this Directive.</i></p>	<p><i>Member States shall take measures to ensure that economic operators selling food do not provide plastic carrier bags free of charge, except for very lightweight plastic carrier bags, or alternatives to such very lightweight plastic carrier bags as referred to in paragraph 1c of this Article.</i></p> <p><i>Member States shall ensure that economic operators selling food charge a price for lightweight plastic carrier bags that is effective and proportionate so as to achieve the reduction targets referred to in paragraph 1a of this Article. Member States shall ensure that economic operators selling food charge at least the same price for thicker plastic carrier bags, and that economic operators do not replace lightweight plastic carrier bags by very lightweight plastic carrier bags at the point of sale. Member States shall take such measures by ...*.</i></p> <p><i>Member States that have set up separate collection for bio-waste may require economic operators selling food to reduce the price by up to 50% for lightweight plastic carrier bags that are biodegradable and compostable.</i></p> <p><i>Member States shall encourage economic operators selling non-food items to charge for plastic carrier bags to an extent that is effective and proportionate so as to achieve the reduction targets referred to in paragraph 1a of this Article.</i></p> <p><i>*OJ: please insert the date – two years after the entry into force of this Directive.</i></p>	<p>1a. Member States shall take measures to achieve a reduction in the consumption of lightweight plastic carrier bags on their territory <i>within two years of entry into force of this Directive.</i></p> <p><i>Member States shall ensure that economic operators selling food charge a price for lightweight plastic carrier bags that is effective and proportionate so as to achieve the reduction targets</i></p>

3. Reduction of thickness from 50 microns to 30 microns

Justification:

The underlying aim of the Commission's proposal is to reduce littering of lightweight plastic carrier bags (i.e. those between 10-30microns in thickness (below 10microns in thickness = fruit & veg./hygiene bags – not a 'carrier bag')) and encourage the more efficient use of resources. The European Parliament and the Council will have the opportunity to address the Packaging and Packaging Waste Directive in its entirety during the upcoming review of waste legislation.

All bags above a thickness of 30 microns are reusable, durable bags. If we set a thickness of 50 microns in order to distinguish between what is reusable and what is 'lightweight' we will be going against the principles of resource efficiency as producers of reusable bags will have to use more materials to produce thicker bags in a situation where thinner bags offer the same durability and performances.

Proposed compromise amendments for Recital 3, pg 5 (EC Proposal):

<i>European Commission's proposal</i>	<i>Text adopted by ENVI</i>	<i>Compromise proposal</i>
<p>(3) Plastic carrier bags with a thickness below 50 microns, which represent the vast majority of the total number of plastic carrier bags consumed in the Union, are less frequently re-used than thicker plastic carrier bags and more prone to littering.</p>	<p>(3) <i>Lightweight</i> plastic carrier bags with a thickness below 50 microns, which represent the vast majority of the total number of plastic carrier bags consumed in the Union, are less <i>reusable</i> than thicker plastic carrier bags, <i>thus become waste more quickly, are</i> more prone to littering <i>and, due to their light weight, more likely to end up scattered through the environment, both on land and in freshwater and marine-ecosystem.</i></p> <p><i>(3a - new) Current recycling rates are very low even though plastic carrier bags are recyclable. Furthermore, the recycling of plastic carrier bags is not expected to reach a significant level, as due to their thinness and light weight, plastic carrier bags do not have a high recycling value. In addition, there is no separate collection for plastic carrier bags, their transportation is costly, and washing them for recycling requires large volumes of water. The recycling of plastic carrier bags therefore does not resolve the problems caused by them.</i></p>	<p>(3) Plastic carrier bags with a thickness <i>between 10 – 30 microns</i>, which represent the vast majority of the total number of plastic carrier bags consumed in the Union, are less frequently re-used than thicker plastic carrier bags and more prone to littering.</p>

Proposed compromise amendments for Recital 5, pg 6 (EC Proposal):

<i>European Commission's proposal</i>	<i>Text adopted by ENVI</i>	<i>Compromise proposal</i>
<p>(5) To promote similar reductions of the average consumption level of lightweight plastic carrier bags, Member States should take measures to reduce the consumption of plastic carrier bags with a thickness below 50 microns in line with the overall objectives of the Union's waste policy and the Union's waste hierarchy as provided for in Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives. Such reduction measures should take account of current consumption levels of plastic carrier bags in individual Member States, with higher levels requiring more ambitious efforts. To monitor progress in reducing the use of lightweight plastic carrier bags national authorities will provide data on their use under article 17 of Directive 94/62/EC.</p>	<p>(5) To promote similar reductions of the average consumption level of lightweight plastic carrier bags, Member States should take measures to <i>significantly</i> reduce the consumption of plastic carrier bags with a thickness below 50 microns <i>with very limited reusability</i> in line with the overall objectives of the Union's waste policy and the Union's waste hierarchy as provided for in Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives⁷. Such reduction measures should take account of current consumption levels of plastic carrier bags in individual Member States, with higher levels requiring more ambitious efforts. To monitor progress in reducing the use of lightweight plastic carrier bags national authorities will provide data on their use under article 17 of Directive 94/62/EC.</p> <p><i>(5a - new) Measures to be taken by Member States should involve the use of economic instruments such as pricing, which has proved particularly effective to reduce the use of plastic carrier bags. Member States should ensure that economic operators selling food do not provide plastic carrier bags other than very lightweight plastic carrier bags or alternatives to such very lightweight plastic carrier bags, free of charge at the point of sale of goods or products. Member States should also encourage economic operators selling solely non-food items not to provide plastic carrier bags free of charge at the point of sale of goods or products.</i></p>	<p>(5) To promote similar reductions of the average consumption level of lightweight plastic carrier bags, Member States should take measures to reduce the consumption of plastic carrier bags with a thickness <i>between 10 – 30 microns</i> in line with the overall objectives of the Union's waste policy and the Union's waste hierarchy as provided for in Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives. <i>Such reduction measures should not target 'service packaging*' or 'reusable plastic carrier bags**'.</i></p> <p><i>*A service packaging may be defined as a bag (not a carrier bag), up to 10 microns in thickness that is typically the fruit & veg, meat and hygiene bags. Service packaging is generally supplied to the consumer before the point of sale and are used to wrap loose, unpackaged foods and fall into two categories: a) humid food such as raw meat, fish and dairy products and b) dry food such as fruit, vegetables and confectionary.</i></p> <p><i>**A reusable plastic carrier bags may be defined as a bag: with a thickness greater than 30 microns, with handles and one which is supplied (at a charge) to the consumer, by food retailers at the point of sale (cashier/checkout) for the purposes of transporting home goods purchased from the food retailer.</i></p>

Proposed compromise amendments for Article 1, pg 6 (EC Proposal):

<i>European Commission's proposal</i>	<i>Text adopted by ENVI</i>	<i>Proposed amendment</i>
'2a. "lightweight plastic carrier bags" shall mean bags made of plastic materials as defined in Article 3(1) of Commission Regulation (EU) No 10/2011* with a wall thickness below 50 microns and which are supplied to consumers at the point of sale of goods or products.	'2a. "lightweight plastic carrier bags" shall mean bags made of plastic materials as defined in Article 3(1) of Commission Regulation (EU) No 10/2011* with a wall thickness below 50 microns and which are supplied to consumers at the point of sale of goods or products, <i>except very lightweight plastic carrier bags</i> ;	2a. "lightweight plastic carrier bags" shall mean bags made of plastic materials as defined in Article 3(1) of Commission Regulation (EU) No 10/2011* with a wall thickness <i>between 10 – 30 microns</i> and which are supplied to consumers at the point of sale <i>(checkout/cashier)</i> of goods or products.

4. Limit health issues to plastic carrier bags only

Justification:

The scope of the Commission's proposal is restricted to carrier bags and not packaging in general. Furthermore, the presence of substances showing ED or CMR properties alone does not indicate that exposure to such substances poses a safety issue. The best way to ensure that humans and/or the environment can be safely exposed to a substance found in plastics bags is to establish whether exposure actually causes harm.

Recital 6 g (new)

<i>European Commission's proposal</i>	<i>Text adopted by ENVI</i>	<i>Proposed amendment</i>
Not applicable (new proposal by ENVI)	(6g) The use of substances that are carcinogenic, mutagenic or toxic to reproduction and of substances that are endocrine disrupters should be phased out from packaging material so as to avoid unnecessary exposure of humans to such substances and to avoid that such substances enter the environment during the waste phase.	The use of substances that are carcinogenic, mutagenic or toxic to reproduction and of substances that are endocrine disrupters should be phased out from lightweight plastic carrier bags so as to avoid unnecessary and harmful exposure of humans to such substances and to avoid that such substances harm the environment during the waste phase.

Article 1 – point 2 (new)

Justification:

The scope of the Commission's proposal is restricted to carrier bags and not packaging in general. Furthermore, the presence of substances showing ED or CMR properties alone does not indicate that exposure to such substances poses a safety issue. The best way to ensure that humans and/or the environment can be safely exposed to a substance found in plastics bags is to establish whether exposure actually causes harm.

European Commission's proposal	Text adopted by ENVI	Proposed amendment
Not applicable (new proposal by ENVI)	<p><i>(-2) In Article 4, the following paragraph -1a is inserted:</i></p> <p><i>'-1a. Member State shall ensure that packaging is manufactured in such a way that it does not contain substances in concentrations above 0,01% that are carcinogenic, mutagenic or toxic to reproduction or that are endocrine disrupters. Member States shall ensure that packaging is manufactured in such a way that it does not contain "oxofragmentable" plastic materials. Those measures shall be achieved by ...*.</i></p>	<p><i>(-2) In Article 4, the following paragraph -1a is inserted:</i></p> <p><i>'-1a. Member State shall ensure that lightweight plastics carrier bags are manufactured in such a way that they do not contain substances in concentrations above 0,01% that are carcinogenic, mutagenic or toxic to reproduction or that are endocrine disrupters and that are harmful to humans or the environment. Member States shall ensure that plastics bags are manufactured in such a way that they do not contain "oxofragmentable" plastic materials. Those measures shall be achieved by ...*.</i></p>