

Brussels, 1 December 2021

Re: Consultation on Dutch Single Use Plastics Regulation

To the *Ministerie van Infrastructuur en Waterstaat*,

I am writing to you from the European Vending & Coffee Service Association (EVA), which is based in Brussels and represents the interests of the European-wide industry, with regards to the Dutch draft Regulation on the rules regarding certain single-use plastic products

As of 2020, the Netherlands is one of the largest vending and office coffee service markets in Europe with a total of 326,000 machines dispensing 3.2 billion 'vends' annually (down over 37% in 2020 compared to 2019 due to the impact of Covid-19). Hot drinks, and in particular coffee, make up 98% of these dispensed items. Unlike most other European vending markets, 90% of machines in the Netherlands are located in workplaces which allows for single use cups to be more easily collected and recycled through the normal waste collection process in the workplace.

Hot drinks vending machines are typically divided into 'table top' and 'freestanding' form factors. Table top machines, due to their smaller size, are usually placed in offices and often require the user to place a beverage cup under the dispensing mechanism. This means that consumers can choose either a reusable cup or a single use cup based on their needs. Freestanding machines on the other hand are much larger in comparison and often are fully automatic – that is the drink is dispensed together with a single use cup to the consumer. As explained later in this letter, in certain circumstances it may not be preferential nor safe to allow consumers to choose to use their own beverage containers. It should furthermore be noted that the cups designed to be used in a fully automatic machine have a number of very specific technical features to allow a smooth dispense from the machine, which means they are distinct in design from other beverage cups used for example in coffee shops.

We would like to highlight the following comments with regards to the draft provisions:

Hoofdstuk 1. Algemene bepalingen

Artikel 1.1 (begripsbepalingen)

1. Voor de toepassing van deze regeling wordt verstaan onder: voedseluitgiftelocatie: lokaliteit, waaronder een afgesloten terrein, waarop een bij gemeentelijke verordening voor publiek toegankelijk vergunningplichtig evenement plaatsvindt, waarin bedrijfsmatig voedsel of dranken worden verstrekt, met de daarbij behorende terrassen voor zover die terrassen zijn bestemd voor gebruik van eten en drinken ter plaatse;

We are unsure whether this definition would explicitly cover the provision of drinks from hot drinks vending machines, which by nature are unattended. As you recognise in the Annexes, locations for vending machines can be in 'closed' environments but also in public or 'open' locations. We are therefore not sure if the definitions used here are prescriptive enough.



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Hoofdstuk 2. Reductiemaatregelen voor het verminderen van gebruik van wegwerpbekers en voedselverpakkingen voor eenmalig gebruik

Artikel 2.1 (maatregelen eet- en drinkgelegenheden met consumptie ter plaatse)

1. *Het aanbieden van drinkbekers voor eenmalig gebruik aan de eindgebruiker door of vanwege de exploitant van een voedseluitgiftelocatie, voor consumptie binnen die voedseluitgiftelocatie, is verboden, tenzij de exploitant het volgende percentage, voor hoogwaardige recycling, gescheiden inzamelt:*

Artikel 2.2 (maatregelen eet- en drinkgelegenheden met consumptie om mee te nemen of te bezorgen)

1. *Het bedrijfsmatig aanbieden van drinkbekers voor eenmalig gebruik of voedselverpakkingen voor eenmalig gebruik aan de eindgebruiker, voor de consumptie van een drank of voedsel buiten de voedseluitgiftelocatie, geschiedt voor een meerprijs ten opzichte van de prijs van het voedsel of de drank per afzonderlijk kunststofproduct.*

2. *Exploitanten bieden, voor consumptie van drank of voedsel buiten de voedseluitgiftelocatie dat op die locatie wordt bereid, een herbruikbaar alternatief aan de eindgebruiker aan voor drinkbekers voor eenmalig gebruik of voedselverpakkingen voor eenmalig gebruik. Hieraan worden door de eindgebruiker meegebrachte bekertjes of verpakkingen gelijkgesteld, indien de exploitant dit niet weigert aan de eindgebruiker vanwege risico's voor de voedselveiligheid.*

We note the clarification provided in the table on Page 18 which sets out which precise sub-article single use products from vending machines would fall under, based on whether they are situated in an open or closed environment. From the EVA and industry point of view we consider that for example hospitals would be classed as an open environment, but a school on the other hand would not, despite both locations being situated in a building. We would appreciate explicit clarity on this and a definitive list as to which locations are to be considered to be in which environment, perhaps through official guidance on the Regulation. That being said, we are unsure as to how a vending machine operator could comply with the collection target requirements of Article 2.1 for on-site consumption. With 90% of vending machines located in workplaces such as offices, the single use plastic beverage cup would almost never leave the premises after use and would be collected and recycled as appropriate. Importantly, this collection is done within the existing waste management scheme of the premises. In order to comply with Article 2.1, a vending operator would therefore have to supply and organise a separate waste management channel within the same building in order to verify the precise collection rates by weight required under the Article. Due to the excessive and duplicated costs to comply with this measure in closed sites, this will in reality result in vending operators no longer supplying single use beverage cups with their machines, and is effectively a ban on these products. This is something that we believe is grossly unfair to our industry and goes well beyond the essence and indicated measures of EU 2019/904. We note in addition that no other EU country is proposing such a comparative measure which would cause real difficulties for the vending operator, and in fact several countries are actively recognising the peculiar circumstances of the vending industry with certain exemptions. In summary, for single use beverage cups from vending machines to be included in Article 2.1 is something we absolutely cannot support.



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Regarding Article 2.2 specifically, the stipulation that the single use cup must be offered at an additional price to the food or drink is also concerning to us. The average selling price of a hot beverage from a vending machine in the Netherlands is only €0.22 (EVA Market Report – Netherlands 2020). Further to this, the Netherlands is considered as a ‘free-vend’ market – that is that the hot beverages are often offered free of charge to employees and the employer pays for the service. We strongly disagree with any requirement where a levy is placed on single use products from the vending industry, which would 1) likely more than double the average selling price immediately and 2) disrupt the traditional business model where offering free vends in the office environment is the norm. Simply put, it is our strong belief that any obligation for vending operators to charge for single use beverage cup would lead to a considerable change in the existing industry service and a significant reduction of sales, at a time when the majority of vending operators have reported a turnover reduction of between 21-40% by the end of 2020 (EVA Economic Situation Report 2021). Depending on the location, many vending machines in the Netherlands do not have any payment system, so we do not see how a consumer in a workplace would be able to pay a levy for a single use beverage cup without the investment in payment terminals by the vending operator, at a huge cost. From our reading of this Regulation, there is no precise additional cost required to be added to a product, but is left completely up to the operator himself. We believe that this does not make good legislation and would lead to a raft of differing levies, confusing consumers. In addition, the requirement for an operator to provide a reusable alternative for public/take away locations is an impossibility.

We furthermore completely refute the impact assessment which suggests that companies providing takeaway only options would have a one-off cost of €34 to ‘adapt the cash register.’ As our industry is completely unattended, the practicalities to not only introduce a pricing differential depending on the receptacle, but also on the appropriate behaviour by the consumer would be extremely complex. Unlike a traditional canteen with one point of sale or cash register, this one-off cost would also be multiplied per each individual vending machine, meaning extortionate investments for a vending operator managing numerous machines. While you identify an additional cost of €0.10 - €0.15 for a non plastic alternatives, in our experience (non plastic-containing) alternatives which can be reliably used in a fully automatic vending machine are next to non-existent.

In summary, we consider that the introduction of such a financial measure would be disproportionate and discriminatory to our industry.

The last sentence of Article 2.2 (2) is for us a provision that will likely lead to confusion for vending machine operators as to when the exemption applies. Fully automatic hot drinks machines on the main deliver a hot drink (mostly coffee) to the consumer directly with a single use cup. A consumer may be able to choose an option which allows the use of a reusable beverage, but this is neither possible nor desirable in every occasion with this machine category. For example, although newer machines can detect the presence of a reusable cup in the dispensing area and hence not dispense a single use cup with the drink, some older fully automatic machines may not have this technology. Further to this, in certain locations using a reusable beverage cup at these machines could present a health and safety risk. This may be because the reusable cup is too big to fit properly under the dispensing nozzle(s) or too small to contain the precise quantity of hot beverage dispensed. In our view, this can result in a risk of scalding for the consumer. In addition, a single use beverage cup



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is by definition the safest means to consume a beverage on food safety grounds. A reusable container may not be properly sanitised by the consumer before use at a vending machine. With this provision in Article 2.2, it does seem plausible that vending machine operators may not need to comply with this due to the safety risks for using a reusable cup/container with fully automatic machines. We seek clarification on when this exemption should be employed.

Hoofdstuk 3. Uitgebreide producentenverantwoordelijkheid

Regarding Article 3.1, we are unclear as to the impact of Extended Producer Responsibility measures would have on suppliers of single use plastic beverage cups used within the vending industry, considering 1) the specific technical features of single use cups used in our industry which differentiates them from regular single use coffee cups (ability to be dispensed automatically by a machine, the particular cup rim), and 2) the fact that unlike e.g. high street coffee shops 90% of hot drinks vending machines are located in workplaces where collection and therefore recycling of the product can easily take place, meaning the cup typically does not leave the premises and therefore littering should not take place. We don't believe that it is fair single use beverage cups that are used in the vending industry should be treated in the same way as other 'regular' single use cups when it comes to the producer bearing the costs for littering. We call for you to consider an exemption from EPR requirements for cups used in closed environments.

We note that with the exception of Article 2.1 (2) which comes into force on 1 January 2024, the Regulation comes into effect on 1 January 2023.

Thank you for your consideration of these points in advance. We are available for a meeting to discuss and clarify any of the points raised in this letter with you.

Yours sincerely,

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Director General



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