

OPINION by the European Fishing Tackle Trade Association (EFTTA)

Concerning the European Commission's proposal of 25 May 2018 for "a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the reduction of the impact of certain plastic products on the environment"; COM(2018) 340 final¹

About EFTTA

EFTTA is the only European association of its kind, with a membership of more than 200 European based companies that manufacture, trade or distribute fishing gear and other products meant for recreational fishing. The principal target group of these products consists of individual consumers, anglers in particular. The products are not meant to be single-use products.

EFTTA OPINION AND PROPOSALS FOR AMENDMENTS

EFTTA finds that the proposed Directive contains some inconsistencies, grey areas and inaccuracies in need of being addressed. If adopted in its proposed form, the Directive would impose unfair and disproportional costs on EFTTA's members. EFTTA respectfully requests our opinion and proposed amendments taken into account.

Based on the information and discussions on the following pages EFTTA's preferred proposals for changes are, that:

- the Directive's definitions of *fishing gear* and *waste fishing gear* should concern solely gear meant for commercial fishing operations. Fishing gear meant for 'recreational fishing', eventually limited to our segment 'recreational angling', should be excluded from the scope.
- the definition of *producer* in the Directive should be narrowed down so as to cover solely the manufacturers of fishing gear meant for the use of the aforementioned commercial fishing operations, leaving the manufacturers of recreational fishing gear outside the scope of the responsibility. This would allow for the correct allocation of producer responsibility.

INTRODUCTION

The proposed Directive aims to prevent and reduce the impact that certain single-use plastic products (**SUPs**) have, particularly on the aquatic environment, and to promote the transition to a circular economy. In addition to **SUPs** the Directive also applies to fishing gear containing plastic, and proposes the introduction of measures for the improved management of waste fishing gear containing plastic returned to shore and its financing.

ABOUT RECREATIONAL ANGLING

- Recreational angling (recreational rod and line fishing) is a well-defined sub-segment of 'recreational fishing'. Like other recreational fishing/fisheries, sales of catches are banned by EU law².
- Recreational angling is conducted at sea, from shore and inland, with or without boats involved. Most recreational anglers fish far from "*port reception facilities*". It would be disproportional and unworkable to oblige them to deliver waste at these ports. It may be workable for some other kinds of recreational fishing gear (e.g. large nets, pots, traps..) to be disposed of like proposed for commercial fishing gear, but probably best if collected close to or

¹ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM%3A2018%3A340%3AFIN>

² [Council Regulation \(EC\) No 1224/2009 of 20 November 2009](#); (the 'Control Regulation'), Article 55(2):
"The marketing of catches from recreational fisheries shall be prohibited."

at the place where the gear was bought in the first place.

- Recreational fishers aim to minimise the loss and destruction of the gear that is often valuable to them. They have a clear financial interest in this, which is also influenced by the fact that there are no special insurance policies available for the gear of recreational fishers, while commercial fishing operators (and fish farmers) may avail of such insurances.
- Recreational fishers are able to recycle their recreational fishing gear in full within the waste management meant for consumers.
- In ‘the old days’ it was considered ‘good practice’ that sea anglers cut used line into small pieces before being disposed of at sea. Not so anymore:
- Volunteer line collection and recycling programs are common in the US, Florida in particular³, Australia⁴ and increasingly seen and promoted in Europe⁵.
- Angling organisations arrange beach and river brink cleaning events, and promote litter collection⁶.
- Anglers are very aware of the SUP problem. A Facebook group “Anglers Against Single-Use Plastic In The Tackle Trade”⁷ was launched 30 June and now has more than 4,000 members and very lively.

THE DIRECTIVE’S SCOPE vs DEFINITIONS

Unfortunately, the proposed Directive makes no explicit distinction between commercial and recreational fishing gear waste. However, in context the Directive can be understood to focus only on commercial fishing gear waste. Consequently, the Directive concerns only – or should only concern - parties that manufacture and import commercial fishing gear, not recreational fishing gear. Otherwise, the recreational fishing gear producers (including EFTTA members) may be held accountable for the waste of commercial fishing gear products they do not manufacture or import, and thus would be, unfairly, obliged to contribute to “cover the costs of the collection of waste fishing gear containing plastic that has been delivered to adequate port reception facilities” (Article 8), as well as being obliged to contribute to the costs of awareness-raising measures (Article 10), which may not concern recreational fishing.

1) - The scope (Article 2)

“This Directive shall apply to the single-use plastic products listed in the Annex and to fishing gear containing plastic.”

Critics of the scope

The purpose of fishing gear that includes plastic – whether meant for recreational or commercial fishing – is not to serve as a single-use product; rather, they have been made to last. The nature of the other fractions of waste included in the proposed Directive is largely single-use. We find it inappropriate to include Single Use Plastic (SUP) products and non-SUP products like fishing gear in one and the same Directive. It doesn’t fit well the Commission’s “better regulation agenda.”⁸ The issues surrounding waste fishing gear are very diverse and distinctly different from those of SUPs, and ought to be dealt with through a legal act aimed at fishing gear alone. We also find it strange that aquaculture is mentioned in a definition of ‘fishing gear’. And we wonder why aquaculture is not mentioned in the scope (Article 2)? These and other peculiarities suggest that it might be more appropriate to deal also with aquaculture in another legal act than this one.

Proposals for amendments to the scope

³ <http://mrrp.myfwc.com>

⁴ <https://marine158.wordpress.com/2016/04/09/seal-the-loop>

⁵ http://news.bbc.co.uk/local/dorset/hi/people_and_places/nature/newsid_8549000/8549582.stm
www.anglers-nlrs.co.uk/about

⁶ www.anglingtrust.net/page.asp?section=1773§ionTitle=Take+5

⁷ www.facebook.com/groups/2131719777066270

⁸ https://ec.europa.eu/info/law/law-making-process/planning-and-proposing-law/better-regulation-why-and-how_en

1a) - Remove fishing gear from the scope, to be dealt with in a new directive - or alternatively:

1b) - Insert the word 'some':

"This Directive shall apply to the single-use plastic products listed in the Annex and to some fishing gear containing plastic."; - or insert the word 'commercial':

1c) - "This Directive shall apply to the single-use plastic products listed in the Annex and to commercial fishing gear containing plastic."; - eventually extend with aquaculture installations:

1d) - "This Directive shall apply to the single-use plastic products listed in the Annex and to aquaculture installations and commercial fishing gear containing plastic."

2) - The proposed definition of fishing gear - Article 3(3)

Without the context, the scope of the proposed Directive (Article 2) would include all fishing gear with plastic content. However, the fishing gear definition brings some confusion as it is geographically limited to the sea ('marine biological resources), and extended strangely to include some aquaculture items, which may not exist while the installations (cages/net pens) are not included:

"any item or piece of equipment that is used in fishing and aquaculture to target or capture marine biological resources or that is floating on the sea surface and is deployed with the objective of attracting and capturing such marine biological resources." (Article 3(1)(3)).

Critics of the fishing gear definition

- 'fishing gear' seems to include recreational fishing gear, which would go against our interpretation of the proposed Directive when read in its entirety.
- 'fishing gear' could be interpreted broadly by Member States when implementing the Directive to include not only fishing tackle but everything on a vessel, boat, kayak used for fishing, or even the boat itself, and any items or products on or in the immediate vicinity of the fisher that contain plastic, including specialized fishing clothes and tools.
- Geographical inconsistency: The definition concerns only fishing for "marine biological resources", while other definitions and provisions in the Directive concern the whole of the EU territory - the sea as well as the inland territory.
- Aquaculture installations, both at sea and inland, are not intended to target, attract or capture marine biological resources, but to hold and grow fish or other marine biological resources. Thus, aquaculture installations fall outside the *fishing gear* definition, which raises the question why aquaculture is mentioned in this *fishing gear* definition at all?

Proposals for amendments to the fishing gear definition

2a) Remove all fishing gear and aquaculture from the scope of the Directive (to be moved to a new Directive), or alternatively:

2b) make it clear that the Directive only concerns fishing tackle in the narrowest sense; and

2c) make it clear that fishing gear only concerns commercial fishing gear, not recreational fishing tackle and eventually not aquaculture installations; and

2d) replace the word 'marine' with 'aquatic'; and

2e) include a provision, which deals with aquaculture in its own right if not moved to another legal act

3) - The proposed definition of waste fishing gear (Article 3(4))

According to the proposed definition waste fishing gear means:

"any fishing gear covered by the definition of waste in Directive 2008/98/EC, including all separate components, substances or materials that were part of or attached to such fishing gear when it was discarded."

Critics of the waste fishing gear definition

Contrary to the fishing gear definition above this definition of waste fishing gear has no geographical limit and as such would apply to the entire area of the European Union. This inconsistency should be fixed. We have suggested one way of fixing above under the fishing

gear definition (the change of the word 'marine' to 'aquatic').

Proposals for amendments to the waste fishing gear definition

3a) If the marine limitation from the fishing gear definition wants to be preserved then this waste fishing definition should or could be amended by insert of the word 'marine':

“any marine fishing gear covered by the definition of waste in Directive 2008/98/EC, including all separate components, substances or materials that were part of or attached to such fishing gear when it was discarded.”; or:

3b) If the definition shall concern the whole of the EU territory then the fishing gear definition ought to be amended e.g. as suggested above under 2d.

4) - The proposed definition of producer (Article 3(1))

According to the proposed definition, “producer” means:

“any natural or legal person that, irrespective of the selling technique used, including distance contracts within the meaning of Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011, places on the market single-use plastic products and fishing gear containing plastic except persons carrying out fishing activities as defined in Article 4(28) of Regulation (EC) No 1380/2013 of the European Parliament and of the Council.”

Critics of the proposed definition of producer, the producer responsibility and scope as applied to various operators

According to the proposal, Member States must ensure that they establish extended producer responsibility schemes for fishing gear introduced to Union markets pursuant to the provisions of Directive 2008/98/EC. According to the proposal, the producers of fishing gear cover the costs of the collection of waste fishing gear containing plastic once the waste has been delivered to adequate port reception facilities in accordance with Union law on port reception facilities or to other equivalent collection systems that fall outside the scope of Union law on port reception facilities and its subsequent transport and treatment.

According to the proposal, the producers must also cover the costs of the awareness-raising measures regarding fishing gear containing plastic (Article 8(3) and (4)).

- Without changes, the proposed extended producer responsibility will become unreasonable to EFTTA’s members as they in general will be held financially responsible for the recycling of waste fishing gear used by commercial fishers. EFTTA members’ target group is composed of consumers who engage in recreational fishing, who are able to recycle their recreational fishing gear in full within the waste management meant for consumers.
- The responsibility is not allocated on the right party if the costs for waste management of commercial fishing gear and awareness-raising measures are rolled on to the manufacturers of recreational fishing gear.
- Consumers – including recreational fishers - normally do not have access to the port reception facilities or other equivalent collection systems referred to in the proposed Directive, which are located in the seaports used by commercial fishing operators. Said reception facilities are not meant for the use of consumers, nor do such ports necessarily even exist in water bodies used for recreational fishing.
- The division of costs among operators would require, among other things, their registration, new legislation and the determination of a basis for the cost allocation.

Proposals concerning the proposed definition of producer, the producer responsibility and scope as applied to various operators

The definition of *producer* should be narrowed down so as to cover solely the manufacturers of fishing gear meant for the use of commercial fishing operations, leaving the manufacturers of

recreational fishing gear outside the scope of the responsibility. This would allow for the correct allocation of producer responsibility.

5) – Identification and separation; recreational- vs commercial fishing gear

To separate recreational fishing gear from commercial fishing gear would be straightforward for most if not all fishing gear of relevance to this Directive. It can be left to the Member States to choose the method(s), which suit them. If there remains a need for additional separation this could be sorted out by adding new categories to the EUROSTAT's nomenclature, to be replicated by the national nomenclatures. EFTTA has argued for many years (as have marketing companies as well as scientists) that too often it is impossible to get robust statistical data on sales and consumption of various products related to recreational fishing in Europe. Much more of this kind of data is available in the USA for example. If the implementation of this Directive (as amended) leads to more detailed and regularly produced statistics about various recreational fishing gears that would be very welcomed by EFTTA.

Yours sincerely,



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