

# AVA Response to Draft Environmental Protection (Single-use Plastic Products) (Wales) Bill

AVA: The Vending & Automated Retail Association is the trade association of the vending industry, representing machine and ingredient manufacturers and suppliers, cup manufacturers and vending machine operating companies throughout the United Kingdom. Vending operator companies in membership represent over 75% of the turnover of the vending industry in the UK.

Vending operators, those who provide, fill and maintain vending machines and Coffee Service companies, with one or two exceptions, small or medium sized companies, often family owned. There are 78 such companies in Wales, employing approximately 1,200 people directly. In addition to those employed by the support and supply companies.

We are grateful for the opportunity to comment on the draft Welsh Single Use Plastics Products Bill as below:

*The AVA has followed the guidance in the 'Purpose of the consultation' document and sectioned our response by the requested headings:*

- **Whether a Bill is needed to introduce a ban on commonly littered single-use plastic items.**  
The AVA supports all initiatives to reduce littering. If bans are to be introduced, then we would rather they were implemented in the format of a Bill following consultation, rather than providing powers to Ministers to introduce and modify current bans without consultation in the form of secondary legislation.
- **The advantages and disadvantages of using a Bill rather than secondary legislation to introduce a ban.**

Each item is unique and, if banned, result in a unique set of implication for retailers and for consumers. A Bill (primary legislation) brings with it a consultation process. This process is needed to avoid:

- Safety and hygiene consequences as a result of an item such as polystyrene lids for hot drinks being banned where there is no suitable alternative
- Economic issues particularly among independent retailers, foodservice and vending operators who struggle to afford more expensive alternatives
- Environmental damage resulting from alternatives with higher carbon footprints to the items banned

- The potential to increase litter
- The unintentional banning of a material due to a misunderstanding of the technology. An example is the misunderstanding of the difference between expanded, expanded and extruded, and sheet or crystal polystyrene

This also applies to amending items currently banned which may take place as a result of political pressures rather than taking into account evidence and science.

We see no disadvantages of using a Bill to bring a ban into being for appropriate products.

- **Whether the provisions of the draft Bill will deliver the policy intention.**

This bill will contribute little towards the policy intention of reducing litter and will result in significantly increased costs and challenges to the sustainability of their businesses for many vending operators.

Those who litter will not change their behaviour because of a change in material. The Bill would simply replace one type of litter with another. The policy objective will only be achieved by enforcement and issuing fixed penalty notices to those who litter and to car owners from whose vehicles litter is thrown.

- **Whether there are any potential barriers to the implementation of the draft Bill's provisions (including the United Kingdom Internal Market Act 2020).**

The AVA is concerned that adequate time to use up stocks will not be provided within the Bill. This has been a problem with the Single Use Plastics legislation in Scotland and has resulted in scrapping to land fill of a quantity of packaging. A further six months from the bill coming into force should be given to use up stocks including exporting stocks to England and other countries where banned items are legally traded. The Bill includes the prospect of retailers being fined because officers exercising the powers to enter premises and homes might identify leftover stock which hasn't been scrapped and isn't even being used. This could include banned items left in store cupboards and in warehouses that hasn't been scrapped.

As a matter of principle, no packaging should be scrapped as this represents a waste of resources. It should also be possible to donate banned packaging to good causes during the six-month period we propose to use up stocks.

It should not be assumed that all retailers will be aware of the ban. This will depend on publicity provided by the Welsh Government. Not all retailers are members of trade associations providing them with regular information and nor, do we suspect, they look at government websites. The evidence for the registration of businesses in connection with the Single Use Plastics Tax suggests that smaller retailers are unlikely to be aware of any restrictions.

We support the intention of the UK Internal Market Act to enable the four nations to trade without barriers. Seeking exemptions even when other nations are developing similar policies represents a major challenge the IMA and we fear further exemptions will be made making it difficult to trade freely with all four nations. We are already aware of businesses based in England withdrawing the sale of some of their lines from Scotland. We are concerned a series of exemptions will result in the IMA being withdrawn.

- **Whether the powers in the draft Bill for Welsh Ministers to make subordinate legislation are appropriate.**

Welsh Ministers should not be able to make subordinate legislation without the requirement of evidence or consultation with industry experts. To do so would have unintended consequences and may create confusion.

Many plastics are complex and defining one incorrectly can lead to materials or items not considered for banning being restricted unintentionally.

- **Whether there are any unintended consequences arising from the draft Bill.**

- **Plastic Cup Lids** - Polystyrene has particular properties that enable a polystyrene lid to grip the rim of the cup so that it is secure. The evidence presented in the case of Sam Bogle and others vs McDonald's Restaurants (case number HQ0005713) demonstrates the issues involved in selling hot coffee for drinking on the go and the lengths that suppliers of cup lids go to in order to ensure that the lid stays on the cup even when it is tipped over. There is current research on developing a lid made from fibre but so far examples do not have the same grip of the cup rim as polystyrene. Banning polystyrene lids at present would mean that it is more likely that more people will be scalded with hot coffee and that premises selling coffee to go will be faced with more claims for both injury and damaged clothes.
- **Plates**: The vending industry uses single use plastic containers for meals in vending machines and micromarkets. Plastic plates are used for plated salad meals and bowls and trays are used for meals that need to be reheated in a microwave before consumption. Chilled vending machines and micromarkets are installed in locations in business premises which do not have other meal provision. These locations would also not have the facility to wash up reusable crockery. Making single use plates unavailable for salad meals would make it impossible to provide these meals in these situations. No other material will work in this context while employers are duty bound to supply their after-hours staff with a hot meal.
- Suspension of the IMA in Scotland has not only restricted current sale, donation, or removal of the allocated products within Scotland, but also the production and export of products. Welsh legislators may wish to consider how the framing of the legislation would affect the ability of the five companies currently manufacturing in Wales to sell their product legitimately to markets where they are permitted. Such restrictions would negatively

- **The financial implications of the draft Bill (including for businesses and consumers).**

The bans on some items will have a negative financial impact for foodservice and vending companies. For example, while there are suitable alternatives to cups made from expanded polystyrene, preliminary costings suggest replacement lids would be significantly more expensive.

Any additional cost will have to be passed on to the consumer, at a time of increasing consumer cost pressures across the economy, already impacting turnover and the sustainability of vending and automated retail businesses.

### **David Llewellyn**

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