

OceanCare response to the European Commission Inception Impact Assessment on *Reducing Marine Litter: action on single use plastics and fishing gear* (Ref. Ares (2017) 6169607

Who we are: OceanCare is an internationally focussed, ocean conservation non-governmental organisation based in Switzerland and has been working to protect oceans and marine wildlife since 1989. OceanCare has been granted Special Consultative Status on marine issues with the Economic and Social Council of the United Nations, has also been accredited as a Major Group to the United Nations Environment Assembly (UNEA) and is part of UN Environment's Global Partnership on Marine Litter (GPML). Through research and conservation projects, environmental education campaigns, and significant involvement in inter-governmental fora and UN bodies, OceanCare is taking concrete steps to improve life in the oceans for the benefit of wildlife and people.

General comments

1. OceanCare welcomes this European Commission initiative and the invitation being extended to provide comment. We particularly welcome the recognition by the Commission that the problem of plastic pollution in the marine environment is a major global problem with significant environmental and economic implications. Furthermore, we strongly agree that urgent action at EU level is desirable and necessary due to the transnational nature of the marine plastics issue. We therefore advocate that dedicated regulatory action at EU level to tackle marine litter is needed.
2. As an overarching comment, and to aid in the development of an effective strategy response to the threats posed by marine litter, OceanCare recommends greater clarity and consistency across the main sections of the document, particularly in terms of the prioritisation being placed on its stated objectives and areas of impact (for example, environmental, economic and social) and between its causes and approach sections which do not currently neatly align. However we hope that our suggestions as follow will assist in addressing some of these inconsistencies.

Overarching focus, objectives and context

1. If the intent, as the name of the upcoming strategy suggests, is to transition towards a circular economy approach for tackling the plastic litter crisis, then reducing or even eliminating single use plastics must be explicitly stated as an objective. Within a truly circular economy waste is 'designed out' of the production and use cycle and thus helps society to adopt more sustainable consumption patterns. Without this as a clear objective the adverse impacts of marine plastic litter are unlikely to be significantly reduced.
2. There is already a clear precedent in place for the EU to move towards regulating reduction of single use plastics in the form of national initiatives which ban or enforce a fee levy on specific disposable plastic items and EU Directive 2015/720 on reducing the consumption of lightweight plastic carrier bags.

3. OceanCare would suggest that the importance of the circular economy approach to the European Commission, as currently outlined within section B 'Objectives and Policy Options' should be further elaborated upon in any context setting being provided by this initiative and should act as a framework around which the development of any legislative instrument can be developed.
4. In keeping with the overarching aim of the EU's Marine Strategy Framework Directive which is to 'protect more effectively the marine environment across Europe', it would be appropriate for the EU to consider within the basis for intervention, that in addition to EU level action being desirable in order to avoid potential disruption in the free market of goods in the single market and to reduce implementation costs for economic actors, that there is also a strong environmental rationale for this approach and this should be explicitly stated.
5. The international imperative to urgently address the marine litter issue should be included and maintained within the context of creating any EU legislative measures. In this document the context would appear to be wrongly placed within the 'Objectives and Policy Options' section and only a brief mention of the United Nations Environmental Assembly in the section is made that should be providing this overarching context. It would be preferable to explicitly acknowledge that marine litter is a priority issue at UN level and that international strategies and targets exist which this EU Initiative should be striving to contribute to. It may be of particular relevance to draw attention to the following: the outcomes of the Rio + 20 conference, the G7 action plan on marine litter and Sustainable Development Goal 14.1 which represents the international commitment to prevent and significantly reduce marine litter by 2025.
6. Numerous Resolutions and Decisions have also been taken by various regional and global multilateral environmental agreements and Conventions, including the United Nations General Assembly (UNGA), United Nations Environment Assembly (UNEA), Convention on Biological Diversity (CBD), The Convention on the Conservation of Migratory Species of Wild Animals (CMS), The Agreement on the Conservation of Cetaceans in the Black Sea, Mediterranean Sea and contiguous Atlantic Area (ACCOBAMS), Agreement on the Conservation of Small Cetaceans in the Baltic, North East Atlantic, Irish and North Seas (ASCOBANS), the Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean (Barcelona Convention) and the International Whaling Commission (IWC). The common themes of their conclusions should be taken into account including the acknowledgement that the private sector including businesses and other non-governmental entities have a significant role to play.
7. Throughout the document the significance of the impacts on marine species, particularly with regards to animal welfare and conservation impacts, is grossly underplayed. It would not be sufficient for any potential regulation at EU level to cover such specific and significant impacts under the broad scope of 'environmental impacts' because the most harmful types of marine litter from an animal welfare and conservation perspective may be different from those that are the most harmful to the broader environment. As an example, it has been proven that plastic items which contain any form of 'looping' shape within the material carry an elevated risk of entanglement for marine species. Also, specific types of plastic items pose particular threats to particular species, e.g. plastic bags and turtles, and the type of material, e.g. the type of fishing gear, is a determining factor in the severity of injuries that may be incurred to an animal and the degree and duration of suffering or likelihood of mortality that may result. With this in mind OceanCare suggests that 'animal welfare' and 'species conservation' impacts are acknowledged, and ultimately addressed, as additional impacts to 'environmental'.

8. Within the description of the problem and later in the policy options section, microplastics in cosmetic and household products seem to be omitted. OceanCare would urge that since such microplastics are a form of single-use plastic measures to address them must be regulated. Similarly microplastics originating from textiles and clothing are not mentioned despite being a recognised significant contributor to the problem, and regulation could be in the form of improvements in washing machine technology that become mandatory. The problem of car tyre erosion causing rubber particle dust may also eventually be possible to deal with via regulations imposed at tyre manufacturing stage, however further research is required to define what the solutions are in this particular case. In addition plastic resin pellets are a major problem and should be addressed within the initiative, particularly with regards to their transportation and transshipment which represent an elevated risk of loss.
9. The first stated causes of the problem 1) Market Failures, may be misleading. It is important to note that a market cannot fail at something it was never intended to do so in the case of plastics, it is only in relatively recent times that the problem posed by plastic itself, and in particular, single use plastic has been fully realised. It may be more accurate to describe the current problem as 'market forces' - market forces have until recently been in favour of the plastics industry, however now incentives must be created and accelerated in favour of alternatives. Secondly, the technical viability of collection and recycling may be better placed under a separate cause which is the availability of technology and investment in research - as a relatively new science it makes sense that increased investment in alternative technologies is necessary to stimulate the market forces previously outlined but it is also critical to note that there are already far more viable alternatives invented than what existed even 5 years ago and that greater investment in them is now required. Regulatory failures are as already accurately stated an important cause of the problem.
10. The description of the problem and the potential approach for dealing with Abandoned, Lost or Discarded Fishing Gear (ALDFG) is significantly more vague and lacks detail in comparison with the sections focussed on single use plastic. The eventual initiative must adequately and comprehensively address the matter of ALDFG which makes up a significant proportion of marine litter and which represents some of the most harmful types of litter in terms of animal welfare and conservation impacts.

Objectives and Policy Options

1. It is important that the objectives and policy options presented take all of the facets to the plastic marine litter problem and its potential solutions into consideration. In particular, whilst Section B 'Objectives and Policy Options' succeeds in making reference to the environmental component, it is vital to acknowledge that market failures, as stated in a previous section of the document (or perhaps 'market forces' as proposed above) as being a leading cause of the problem, will not be adequately addressed unless there is an equally as strong economic approach within the strategy and within any legislative initiative.
2. The policy options should have clearer alignment to the identified causes of the problem and with due consideration given to all potential Circular Economy tools that might be possible to strengthen within a potential legislative approach.

3. The 'categories' currently outlined in the policy option section currently present some problems. Firstly, the order and structure of the categories should reflect a clear priority being given to prevention via reduction and replacement of single use plastics. Improvements to existing regulatory measures, for example legislation relating to collection of waste, are both welcome and necessary but are unlikely to be fully effective unless the overall reduction of single use plastic products is achieved. Secondly, the term 'items already captured' is not clear and it must be stressed that 'capturing' and 'collection' of plastic waste does not automatically result in it being appropriately disposed of. A concern exists if landfill continues to be the 'fall back option' since landfill represents a proven pathway for plastic litter entering the waterways. Thirdly, the categorisation as it currently stands does not indicate target stakeholders or sectors and it is likely to be necessary to look at the problem from a sector perspective when considering different regulatory approaches.
4. OceanCare propose that the following categories of regulatory actions should be considered under this initiative; EU wide requirement for Extended Producer Responsibility on certain plastic products, the introduction of EU wide bans on the worst types of single use plastic including microplastics and nano plastics in cosmetic products, urgent classification of the different types of plastic waste according to its hazardousness to assist with regulating the use of toxic chemicals in plastic and to identify where phase outs and bans of the most hazardous chemical use may be possible, strict regulations regarding packaging use, particularly in food items but also in other types of products, strict regulations on the transport of plastic resin pellets, strengthening definitions in existing waste legislation which may currently provide loop-holes regarding manufacture or disposal options, the creation of economic incentives targeting consumption such as mandatory fees, improved legislation regarding the labelling of plastic items to provide transparency on the chemical components of the items and the mandatory provision of waste collection, infrastructure and services by local authorities and within businesses. This is not an exhaustive list of possible beneficial legislative interventions and further consultation should take place to determine final list of options.
5. It should be explicitly stated that Circular Economy approaches are not limited to land-based sources of marine litter and that Circular Economy tools also play a critical role in reducing ALDFG, in particular via increasing recycling possibilities and access for end of life fishing gear, creating incentives which add economic value to end of life fishing gear and regulating the role that fishing gear manufactures might play through extended producer responsibly schemes.
6. The complex nature of the ALDFG problem must be reflected, and as already stated within the document, is not and cannot, be adequately addressed by the existence of one regulatory instrument on one aspect such as the marking of fishing gear. Rather, such tools should be integrated into more holistic frameworks of fishing gear management throughout its life-cycle, from design, to use, to end of life disposal, as per a Circular Economy approach. Additional management considerations for fishing gear include gear design, gear storage on board vessels, improved access to free or low cost gear disposal facilities in ports, gear retrieval protocols and reporting, risk based protocols for the use of fishing gear particularly in bad weather or sea conditions, fishing effort controls and other measures to reduce the potential for conflict between fishing gears and education and awareness amongst the fisheries sector. Some of these measures could certainly be regulated in a more vigorous manner and at an EU wide level.

7. With regards to the marking of fishing gear it should be noted that the Food and Agriculture Organization of the United Nations is currently developing guidelines on the marking of fishing gear, which if adopted by its Committee on Fisheries may provide useful guidance for any potential updating of relevant EU legislation on this matter.

Preliminary Assessment of Expected Impacts

1. Any consideration of negative economic impacts must be taken in the context of the expected positive benefit to be gained in other areas and that opportunities to off-set any negative impacts are clearly outlined and built into the initiative from the start.
2. Whilst most of the positive benefits of intervention are listed, the long-term benefits including those which will accumulate over time and the scale of the impacts should also be acknowledged. Taking tourism as just one example which is only briefly mentioned in the document, it should be made clear that long term benefits to coastal municipalities and in some cases nation-wide economies can result. The negative impacts of marine litter on the tourism potential of coastal communities are more than aesthetic and also includes the health risks to beach goers, the inability to achieve beach awards which inhibits marketing potential, potential legal action should someone be injured by marine litter, reduced recreational activities, the costs of beach cleans, disposal and contractors/staff to continually try and control the litter issue. It is clear that reduction of marine litter at source would immediately eliminate or reduce most of these negative impacts. This could be more carefully considered, particularly in terms of how a regulatory approach can be pitched to Member States.
3. The final assessment of the expected impacts should take a holistic approach and make explicit reference to the synergies that exist between SDG14.1 of the UN's Sustainable Development and other SDGs and targets.
4. It is critical that any regulatory measures include mandatory measuring and monitoring of the plastic marine litter problem by Member States. There is currently no mention of this within the document but it is vital that accurate baselines and targets are established and that the effectiveness of interventions can be monitored at both a national and EU-wide level.