



Public Consultation Submissions & Responses

Implementation of the Extended Producer Responsibility obligations on tobacco filters containing plastic in line with the Single Use Plastic Directive

February 2025

Environment & Resources Authority



CONSULTATION FEEDBACK

Ref No.	Name of Stakeholder / Date	Comments Received	Response / Remarks
1	<p>Alexandra Ramona Michael</p> <p>European Rolling Paper Association</p> <p>21/09/2024</p>	<p>Thank you very much for the opportunity to submit our position and add insights on the draft proposal of the ENVIRONMENT PROTECTION ACT (CAP. 549) Extended Producer Responsibility (Tobacco Filters Containing Plastic) Regulations, 2024.</p> <p>Our key points are:</p> <ul style="list-style-type: none"> A. Most of the ERPA members do not belong to the tobacco industry and are predominantly independent manufacturers of rolling filters and filter tubes. Our industry is an ancillary industry. This applies to most of our member companies. B. It should be noted that the weight of plastic filters for cigarettes and heated tobacco products is much higher while the filters of our members are considerably lighter. C. Therefore, a weight-based approach should be the benchmark for the determination of the fee for tobacco filters containing plastic. <p>In detail:</p> <p>I. Manufacturers of rolling filters and tubes do not belong to the tobacco industry.</p> <p>The European Rolling Paper Association (ERPA) has represented the interests of predominantly small and medium-sized manufacturers and converters of rolling papers and filters for almost 30 years. ERPA does not only represent European companies but also companies operating outside of Europe.</p>	<p>ERA would like to thank you for your active participation in this public consultation. Specific replies are provided below.</p> <p>Distinction between the two types of products is well noted as well as between the tobacco industry and its ancillary industry.</p> <p>As a matter of clarification, the relevant provisions of Directive (EU) 2019/904 (i.e. commonly known as SUP Directive or SUPD) does not call to address the tobacco industry but specific products, which in this case are: (1) tobacco products with filters; and (2) filters marketed for use in combination with tobacco products.</p>

	<p>ERPA operates to sustain the place of the business for rolling paper, rolling filters and filter tubes as Europe’s leading high-quality, safe and environmentally sustainable products. ERPA’s member companies account for the majority of the industry. We head towards fair market access, a competitive and sustainable business environment, safeguarding its products against unfair competition and promoting the responsible use of all our products.</p> <p>First and foremost, we would like to emphasize that most of our manufacturers of rolling papers, rolling filters and tubes do not belong to the tobacco industry. Our industry is an ancillary industry. This applies to most of our member companies.</p> <p>Secondly, it is important to note that our products do not contain tobacco, thus warranting a distinction in regulation.</p>	<p>Comment noted. This is further clarified in Section 4.11 of the Commission Guidelines on SUPs¹ where a number of examples of tobacco filters containing plastic falling within the scope of the SUPD are provided, including those sold separately for use with tobacco products.</p>
	<p>II. Remarks on the substantive part of the proposed Extended Producer Responsibility (Tobacco Filters Containing Plastic) Regulations, 2024.</p> <p>a. Weight-based approach.</p> <p>We have noted that “<i>weight and number of items</i>” have been mentioned several times in the draft document.¹ The term “<i>weight and number of items</i>” is connected to obligations imposed on the authorised producer responsibility organisation towards the Authority.</p> <p>However, we understand that that the Extended Producer Responsibility (Tobacco Filters Containing Plastic) Regulations, 2024 do not foresee a specific approach to determine the costs for each</p>	<p>It is to be noted that the draft LN does not prescribe any methodology for the calculation of costs to be borne by a producer responsibility organisation (PRO) on behalf of producers, but requires the PRO to propose a methodology as part of the Work Plan to be submitted to the competent authority upon application for authorisation to operate.</p> <p>Therefore, the draft provides enough flexibility to PRO(s) and therefore, to the industry for the said methodology to be based exclusively on the weight of filters placed on the Maltese market, on the number of filters, or else, to propose a hybrid approach.</p> <p>Kindly also note that while the methodology is to be designed and proposed by PRO(s), it needs to be to the satisfaction of the competent authority, and needs to take into consideration the</p>

¹ [Commission guidelines on single-use plastic products in accordance with Directive \(EU\) 2019/904 of the European Parliament and of the Council on the reduction of the impact of certain plastic products on the environment](#)

	<p>individual member arising from the extended producer responsibility for tobacco filters containing plastic.</p> <p>As insinuated in Regulation 8 (5) lit. b, a weight-based approach was chosen (per unit sold or per tonne) when governing the publication requirements of the producer responsibility organisation.</p> <p>As of today, many types of filters are available on the market with differences regarding:</p> <ul style="list-style-type: none"> • the size, • the length, • the diameter • the content of plastic (cellulose acetate) • the weight • other materials attached to the filter • the colour • the tipping paper. <p>We would like to point out that our filters produced by ERPA members are much lighter than those used by the tobacco industry in their factory-manufactured cigarettes. The weight is therefore for us a crucial point with regards to the clean-up of littered plastic tobacco filters.</p> <p>On average, our filters weigh between 35 mg and 70 mg in comparison to the much heavier filters in factory-made products (between 173 mg and up to 413 mg).</p> <p>It is therefore important to make sure that our companies pay less for the extended producer responsibility as our filters contain a lot less cellulose acetate.</p>	<p>agreements with government bodies in charge of clean-up litter and management of waste collected in public collection systems.</p>
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	<p>Less cellulose acetate in the product means less plastic that may spill into the environment when a consumer product is being inappropriately disposed of.</p> <p>Some of the filters in tobacco products, especially in novel products weigh up to 413 mg and contain therefore much more plastic which has a much bigger impact on the environment due to the heavier plastic content.</p> <p>The cost allocation for the EU SUPD-fees should therefore be a weight-based approach as this would sustainably incentivize companies to overall reduce the plastic content in filters.</p> <p>Many other EU Member States have already chosen the weight-based approach for filters.</p> <p>In short: less acetate-containing products should therefore pay less in comparison to companies who place heavy plastic filters in all sorts of tobacco products onto the market.</p> <p>Our petition shall contribute to a proposal as mentioned in Regulation 4 (8) of Extended Producer Responsibility (Tobacco Filters Containing Plastic) Regulations, 2024² while being fully aware that we are not an extended producer organization.</p> <p>Suggestion: Incorporation of a weight-based approach for tobacco filters containing plastic with regards to the extended producer responsibility.</p> <p>1 See Regulation 8 (1) lit. b) and c) and Schedule 3 Part B, point 8 and Schedule 5 Part B, point 3</p> <p>2 Further provided that the calculation methodology shall be developed in a way that allows for the costs of cleaning up litter to be established in a proportionate way, taking into consideration the proposals for the calculation of such costs submitted to the</p>	
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	<p>Authority as per regulation 7 and any guidelines published by the European Commission in accordance with Article 8(4) of Directive (EU) 2019/904.</p> <p>b. Multiannual fixed amounts according to Regulation 4 (8) last sentence.</p> <p>The proposal reads as follows:</p> <p>“To minimise administrative costs, the Authority in cooperation with the Department and the Division may determine financial contributions towards the costs of cleaning up litter by setting appropriate multiannual fixed amounts.”</p> <p>We appreciate the 1:1 transposition of Article 8 (4) last sentence of the EU SUPD into the national law.</p> <p>Should the Government of Malta decide to determine financial contributions towards the costs of cleaning up litter by setting appropriate multiannual fixed amounts, we still support a weight-based approach as underlying factor behind the fixed amounts. We would be content to support you in this respect.</p> <p>Suggestion: Stakeholder engagement with ERPA should multiannual fixed amounts be determined.</p>	<p>Your comment is noted. ERA would like to clarify the intention of the legislator for this proviso, namely, that where such multiannual fixed amounts are set, it is done in consultation with all relevant actors concerned. To clarify this, the text has been amended accordingly.</p>
	<p>c. Collectively organized extended producer responsibility (EPR) obligations</p> <p>We have noted that Regulation 4 (5) of the Extended Producer Responsibility (Tobacco Filters Containing Plastic) Regulations, 2024 offers the fulfillment of EPR-obligations only collectively and not individually.</p> <p>Our understanding is that the Extended Producer Responsibility (Tobacco Filters Containing Plastic) Regulations, 2024 does not offer the assumption of the EPR-obligations individually by the individual</p>	<p>ERA notes the different approaches taken by Member States for implementing these EPR obligations as to take into consideration national circumstances. Collective fulfilment of EPR requirements would make the system more efficient, particularly noting that agreements are to be reached by authorised PRO(s) with other government entities concerning certain costs.</p>

	<p>companies that fall under the scope of the Extended Producer Responsibility (Tobacco Filters Containing Plastic) Regulations, 2024.</p> <p>The individual fulfilment of said obligations is only possible until such producer responsibility organisation is set up and authorised or if for a period there is no authorised PRO. In that case, the Authority may allocate the costs referred to in sub-regulation (4) to producers in accordance with the requirements of this regulation and their market share.</p> <p>We notice that a contradiction may occur when a producer responsibility organization refuses or revokes the participation of a producer with reasonable justification. In such a case, a producer seems to be banned from placing products onto the market (regulation 9).</p> <p>While we do not generally oppose a collective fulfilment of the EPR-obligations arising from Extended Producer Responsibility (Tobacco Filters Containing Plastic) Regulations, 2024, we would like to suggest allowing the individual fulfilment of the EPR-obligations as well.</p> <p>The reason is that the individual fulfilment of the EPR-obligations is oftentimes less expensive than paying for an organization that needs to be established, managed, administered and supervised. This cost-related aspect is crucial especially for smaller players in the business such as independent companies as some of our affected members.</p> <p>The cost aspect is also crucial in countries with a smaller turnover arising from these affected products.</p> <p>In addition, many other EU Member States have followed this dual approach, such as but not exhaustive:</p> <ul style="list-style-type: none">• the Netherlands,• Belgium,	
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		<ul style="list-style-type: none"> • Bulgaria, • the Czech Republic, • France, • Hungary, • Luxembourg, • Portugal, • Spain • and Sweden. <p>Only a few known EU Member States, such as Cyprus and Germany, opted for a collectively organized producer-responsibility organization (PRO).</p> <p>Suggestion: Incorporation to fulfill the EPR-obligations on an individual basis by individual companies.</p>	
		<p>d. Awareness-raising campaigns pursuant to Regulation 4 (6)</p> <p>We appreciate that the authorized producer responsibility organization was chosen to organize and, or finance effective information and awareness raising campaigns to incentivize responsible consumer behaviour and inform consumers.</p> <p>It seems appropriate that an authorized producer responsibility organization comprising of manufacturers knows best how to reach consumers and nudge them to consider and / or change their behaviour.</p> <p>Suggestion: Insertion as follows in Regulation 4 (6) sentence 2:</p> <p>Rationale:</p>	<p>With regards to allocation of costs, including those concerning awareness-raising, it is considered that it is important that such allocation is done in a transparent manner between all the parties involved, as reflected in the SUP Directive. The drafted text of the proposal is considered sufficient to cater for this purpose.</p>

		<p>As mentioned before, smaller manufacturers placing lighter filters onto the market shall contribute less to the information and awareness raising campaigns as they place less plastic on the market.</p> <table border="1" data-bbox="501 328 1272 817"> <thead> <tr> <th data-bbox="501 328 882 395">Draft of 03.09.2024</th> <th data-bbox="882 328 1272 395">Suggestion</th> </tr> </thead> <tbody> <tr> <td data-bbox="501 395 882 817"> <p>Provided that in case an authorised producer responsibility organisation finances campaigns organised by other entities, the costs that shall be covered by that organization shall be established in a transparent manner between all actors concerned:</p> </td> <td data-bbox="882 395 1272 817"> <p>Provided that in case an authorised producer responsibility organisation finances campaigns organised by other entities, the costs that shall be covered by that organization shall be established and agreed upon in a transparent and fair manner between all actors concerned:</p> </td> </tr> </tbody> </table>	Draft of 03.09.2024	Suggestion	<p>Provided that in case an authorised producer responsibility organisation finances campaigns organised by other entities, the costs that shall be covered by that organization shall be established in a transparent manner between all actors concerned:</p>	<p>Provided that in case an authorised producer responsibility organisation finances campaigns organised by other entities, the costs that shall be covered by that organization shall be established and agreed upon in a transparent and fair manner between all actors concerned:</p>	
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		<p>e. Authorisation to operate a producer responsibility organisation according to Regulation 7 (4) in connection with Regulation 4 (7) and (8).</p> <p>Based on the experience some of our affected members had in other jurisdictions, we would like to point out the following point: We appreciate that upon the authorization of a producer responsibility organization the competent authority scrutinizes certain aspects of said organization as outlined in Regulation 7 (4) lit. a) and lt. b).</p> <p>Our experience in other jurisdictions has shown, however, that a weight-based approach is usually rejected by those companies who place heavier filters onto the market. As the majority of companies place heavier plastic filters onto the market, they favour an item-</p>	<p>The draft LN requires that PRO(s) – following discussion with its members – submits a Work Plan to the competent authority upon application for authorisation to operate. The said work plan needs to be to the satisfaction of the competent authority and should include – amongst others – a proposal for the calculation of costs and details of the fee structure.</p> <p>In addition, a given PRO is to make the necessary arrangements with the government entities responsible for clean-up litter and waste collected in public systems with regards to these costs. Thus, the proposed methodology need to also account for such agreements and terms of payment which might be in weight or items. The terms of execution of payments are to be notified to the competent authority.</p>				

	<p>based approach. The position of smaller players is weak in such a situation which some of our members have already been confronted with and endured in other jurisdictions.</p> <p>This clearly disadvantages smaller players who pay considerably more when the cost contribution is made per filter instead of by weight. This goes as far as it subsidizes bigger players with heavier filters. Then, the burden is undeniably placed upon smaller companies.</p> <p>Suggestion: Incorporation of a weight-based approach for tobacco filters containing plastic.</p> <p>Alternative suggestion: Should such a pre-determination of a specific calculation by weight not be favoured by the Government of Malta, we suggest the following insertion in Regulation 4 (5):</p> <table border="1" data-bbox="504 730 1272 1374"> <thead> <tr> <th data-bbox="504 730 887 794">03.09.2024</th> <th data-bbox="887 730 1272 794">Suggestion</th> </tr> </thead> <tbody> <tr> <td data-bbox="504 794 887 1374">5) In order to achieve the objectives of this regulation in a cost-effective manner, producers and authorised representatives shall fulfil their extended-producer responsibility obligations collectively and, to that end, shall set up a producer responsibility organisation which shall be authorised in accordance with regulation 7, covering the single-use plastic products listed in Schedule 1 and the whole territory of Malta. Such producer</td> <td data-bbox="887 794 1272 1374">5) In order to achieve the objectives of this regulation in a cost-effective manner, producers and authorised representatives shall fulfil their extended-producer responsibility obligations collectively and, to that end, shall set up a producer responsibility organisation which shall be authorised in accordance with regulation 7, covering the single-use plastic products listed in Schedule 1 and the whole territory of Malta. Such producer</td> </tr> </tbody> </table>	03.09.2024	Suggestion	5) In order to achieve the objectives of this regulation in a cost-effective manner, producers and authorised representatives shall fulfil their extended-producer responsibility obligations collectively and, to that end, shall set up a producer responsibility organisation which shall be authorised in accordance with regulation 7, covering the single-use plastic products listed in Schedule 1 and the whole territory of Malta. Such producer	5) In order to achieve the objectives of this regulation in a cost-effective manner, producers and authorised representatives shall fulfil their extended-producer responsibility obligations collectively and, to that end, shall set up a producer responsibility organisation which shall be authorised in accordance with regulation 7, covering the single-use plastic products listed in Schedule 1 and the whole territory of Malta. Such producer	<p>Therefore, while the draft LN establishes a number of control mechanisms, it provides a significant level of flexibility for all the actors involved - including government entities – as to ensure that the most appropriate methodology for all the actors is applied.</p>
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5) In order to achieve the objectives of this regulation in a cost-effective manner, producers and authorised representatives shall fulfil their extended-producer responsibility obligations collectively and, to that end, shall set up a producer responsibility organisation which shall be authorised in accordance with regulation 7, covering the single-use plastic products listed in Schedule 1 and the whole territory of Malta. Such producer	5) In order to achieve the objectives of this regulation in a cost-effective manner, producers and authorised representatives shall fulfil their extended-producer responsibility obligations collectively and, to that end, shall set up a producer responsibility organisation which shall be authorised in accordance with regulation 7, covering the single-use plastic products listed in Schedule 1 and the whole territory of Malta. Such producer					

		<p>responsibility organization shall allow all producers and authorised representatives to fulfil their extended-producer responsibility obligations under non-discriminatory conditions:</p>	<p>responsibility organization shall allow all producers and authorised representatives to fulfil their extended-producer responsibility obligations under non-discriminatory conditions: <i>It shall be ensured that the contribution of each producer of the producer responsibility organization is fair and does not disadvantage producers due to but not exhaustive their size, their product characteristics (Tobacco Filters Containing Plastic) or their market share.</i></p>	
		<p>Rationale:</p> <p>It shall be safeguarded that smaller players organized in the producer responsibility organisation can actively position their interests against the bigger players and that a level playing field is provided for all players.</p>		
		<p>f. Schedule 3 Part B, 9th bullet point</p> <p>This part reads as follows: “Proposals for an adequate guarantee referred to in regulation 7(3), intended to cover the costs established in sub-regulations (6) and (7) of regulation 4 in case the authorisation is revoked or in case of permanent cessation of its operation or insolvency...”</p>		<p>Your suggestion has been duly noted.</p>

	<p>In our understanding regulation 7 (3) does not mention a guarantee. It is therefore suspected that an editorial mistake has been made. The reference to a guarantee is contained in regulation 7 (9).</p> <table border="1" data-bbox="501 328 1272 743"> <thead> <tr> <th data-bbox="501 328 887 392">Draft of 03.09.2024</th> <th data-bbox="887 328 1272 392">Suggestion</th> </tr> </thead> <tbody> <tr> <td data-bbox="501 392 887 743">Proposals for an adequate guarantee referred to in regulation 7(3), intended to cover the costs established in sub-regulations (6) and (7) of regulation 4 in case the authorisation is revoked or in case of permanent cessation of its operation or insolvency</td> <td data-bbox="887 392 1272 743">Proposals for an adequate guarantee referred to in regulation 7(3) (9), intended to cover the costs established in sub-regulations (6) and (7) of regulation 4 in case the authorisation is revoked or in case of permanent cessation of its operation or insolvency</td> </tr> </tbody> </table> <p>Rationale:</p> <p>Correction of an editorial error.</p> <p>We remain at your disposal to explain the proposition in detail to you. Please do not hesitate to contact us at any time of your convenience.</p> <p>Thank you very much for the opportunity to submit our position and add insights on the draft proposal of the ENVIRONMENT PROTECTION ACT (CAP. 549) Extended Producer Responsibility (Tobacco Filters Containing Plastic) Regulations, 2024.</p> <p>In addition to our position that we have sent earlier today, we would like to point out the following aspect:</p>	Draft of 03.09.2024	Suggestion	Proposals for an adequate guarantee referred to in regulation 7(3), intended to cover the costs established in sub-regulations (6) and (7) of regulation 4 in case the authorisation is revoked or in case of permanent cessation of its operation or insolvency	Proposals for an adequate guarantee referred to in regulation 7(3) (9) , intended to cover the costs established in sub-regulations (6) and (7) of regulation 4 in case the authorisation is revoked or in case of permanent cessation of its operation or insolvency	<p>Your feedback is much appreciated.</p> <p>As rightly pointed out in your feedback, in such situations where a PRO has not been yet set up/authorised, the competent authority may allocate the costs amongst producers based on their market share. Furthermore, should studies be necessary as to quantify these costs, e.g. a market research, the competent authority may commission such studies which would be at the expense of producers.</p>
Draft of 03.09.2024	Suggestion					
Proposals for an adequate guarantee referred to in regulation 7(3), intended to cover the costs established in sub-regulations (6) and (7) of regulation 4 in case the authorisation is revoked or in case of permanent cessation of its operation or insolvency	Proposals for an adequate guarantee referred to in regulation 7(3) (9) , intended to cover the costs established in sub-regulations (6) and (7) of regulation 4 in case the authorisation is revoked or in case of permanent cessation of its operation or insolvency					

	<p>We have noted that the Regulation 4 (5) of the Extended Producer Responsibility (Tobacco Filters Containing Plastic) Regulations, 2024 refers to the market share.</p> <p>The provision reads as follows:</p> <p><i>“Provided that until such producer responsibility organisation is set up and authorised in accordance with regulation 7, or if for a period there is no authorised PRO, the Authority may allocate the costs referred to in sub-regulation (4) to producers in accordance with the requirements of this regulation and their market share.”</i></p> <p>While the market share of tobacco products with banderols can easily be calculated and precisely be determined, our products do not carry banderols and therefore, the market share cannot be calculated.</p> <p>We doubt that it is fully known how many single-use filters and filter tubes to be used in combination with tobacco products are placed on the market on Malta annually.</p> <p>Therefore, the market share is an impossible basis to calculate the fees arising from the extended producer responsibility.</p> <p>Suggestion: Incorporation of a weight-based approach for tobacco filters containing plastic with regards to the extended producer responsibility.</p> <p>We remain at your disposal to explain the proposition in detail to you. Please do not hesitate to contact us at any time of your convenience.</p>	<p>With regards to your comment concerning the incorporation of a weight-based approach, ERA would like to reiterate our previous feedback on this matter.</p> <p>The draft LN does not prescribe a methodology as to provide a significant level of flexibility to all the actors involved - including government entities in charge of clean-up litter and management of waste collected in public collection systems – as to ensure that the most appropriate methodology for all the actors is applied, i.e. based exclusively on the weight of filters placed on the Maltese market, on the number of filters, or a hybrid approach.</p>
2	Joanne Vella	<p>To introduce this text: These regulations shall be without prejudice to the regulations enacted under the Tobacco (Smoking Control) Act and other laws and regulations enacted to protect further the health of the community from the effects of exposure to tobacco smoking.</p> <p>The Environmental Health Directorate’s participation is much appreciated.</p>

	<p>Environmental Health Directorate</p> <p>25/09/2024</p>		<p>With regards to your first proposal, it is not considered necessary to make reference to the Tobacco (Smoking Control) Act since the proposed regulations do not replace the Act nor any other regulations in this regard.</p>
		<p>To amend this text: Provided further that such campaigns shall be subject to the prior approval of the Authority in consultation with the Superintendent of Public Health.</p>	<p>ERA would like to clarify that the campaigns prescribed under the proposed LN will not touch upon health issues, but will focus solely on environment elements aiming at incentivising responsible consumer behaviour in order to reduce litter from tobacco filters containing plastic.</p>
<p>3</p>	<p>Yasmin Schembri</p> <p>AIS Environment</p> <p>30/09/2024</p>	<p>We are pleased to announce that tobacco importers have tasked AIS Environment to setup and operate a Producer Responsibility Organisation (PRO) in anticipation of the Extended Producer Responsibility (Tobacco Filters Containing Plastic) Regulations, 2024. These economic operators place some 85% to 90% of the tobacco products on the Maltese market.</p> <p>On their behalf, AIS conveys their desire to comply with the proposed regulations, and acknowledge their responsibility for the post-consumer waste management of tobacco products with filters containing plastic by setting up and maintaining dedicated bins and collection services. These economic operators are also amenable to run and finance awareness raising measures, data gathering and reporting.</p>	<p>Comment is well noted.</p>
		<p>However, the economic operators question the logic behind paying or financing clean-up litter costs arising from illegal dumping by the public. Manufacturers cannot be held liable for a misuse of their products, especially when such actions are illegal. The tobacco producers contend that, irrespective from where the illogical notion to hold companies responsible for the illegal misuse of their products arises, such obligations should not be part of the local legislation.</p>	<p>The proposed legal text and this obligation is fully in line with Directive (EU) 2019/904 (the SUPD), which has been subject to intensive legal assessment before adoption. ERA is not aware of any legal challenges against such requirement emanating from the Directive.</p>

		<p>With regards to the quantity metric, the economic operators assert that this should be by weight in all instances, a metric widely used by their industry.</p>	<p>Comment is duly noted. The draft LN does not prescribe any methodology for the calculation of costs to be borne by a producer responsibility organisation (PRO) on behalf of producers, but requires the PRO to propose a methodology as part of the Work Plan to be submitted to the competent authority upon application for authorisation to operate.</p> <p>Therefore, the draft provides enough flexibility to PRO(s) and therefore, to the industry, for the said methodology to be based exclusively on the weight of filters placed on the Maltese market, alternative, on the number of filters, or a hybrid approach.</p> <p>Kindly also note that while the methodology is to be designed and proposed by PRO(s), it needs to be to the satisfaction of the competent authority.</p>
		<p>On a final note, the tobacco producers thank ERA and its dedicated staff to have found the time to reach out, inform and consult with the sector on these legislative proposals.</p>	<p>ERA would like to thank you for your active participation in this public consultation.</p>
4	<p>Kevin Mizzi</p> <p>The Malta Chamber of Commerce, Enterprise and Industry</p> <p>30/09/2024</p>	<p>Introduction</p> <p>The Malta Chamber welcomes the Authority's intention to develop a solid and concrete legislative framework regarding Extended Producer Responsibility for Tobacco Products with Filters, which is aligned with the mandate and provisions imposed by Directive 2008/98/EC on waste and with Directive (EU) 2019/904 on single use plastics. In the framework of this public consultation, The Malta Chamber consulted with its members, most notably BAT Malta, Charles Grech & Co, NM Arrigo and Interbrands Limited.</p> <p>Recommendations</p> <p>The following points of concern were raised, accompanied by proposals, aimed to further improve the implementation of the proposed regulation.</p> <p>1. Regulation 4, sub-article (5), second paragraph:</p>	<p>Thank you for participating in this public consultation. You might wish to find below replies from end to your queries/feedback.</p> <p>Your comment has been noted and the text of the LN has been amended as appropriate.</p>

	<p>The Regulation attributes power to the competent Authority, acting at its sole discretion, to allocate all the EPR costs directly to the producers in accordance with their market share for the period until such a PRO is authorised.</p> <p>Given the fact that a reasonable period is necessary for the set-up and authorisation of a PRO, it would be reasonable to allow a transitional period from transposition date to enforce, also taking into consideration that a PRO license may be revoked and a new PRO has not been authorised to operate within a reasonable period.</p> <p>We would therefore propose the amendment of Regulation 4 (5) second paragraph as follows:</p> <p><i>“Provided that such a producer responsibility organisation is not set up and authorised in accordance with regulation 7 within a period of six (6) months after the entry into force of the present Regulations, or if the license of an authorised PRO is revoked and no new PRO is set up and authorised in accordance with regulation 7 within a period of six (6) months after the decision that revokes the license, then the Authority may allocate the costs referred to in subregulation (4) to producers in accordance with the requirements of this regulation and their market share.</i></p> <p><i>Provided further that in such cases the Authority may commission studies, at the expense of producers, to quantify such costs or part thereof.”</i></p>	
	<p>2. Regulation 4, sub-article (8) final paragraph: According to the Regulation, in order to minimise administrative costs, the authority may determine financial contributions towards the costs of cleaning up litter by setting appropriate multiannual fixed amounts. This provision is in line with the EU SUP Directive, literally</p>	<p>Thank you for your feedback. ERA would like to clarify the intention of the legislator for this proviso, namely, that where such multiannual fixed amounts are set, it is done in consultation with</p>

	<p>transposing the last sentence of Article 8(4) of the Directive. Nevertheless, when fixing such amounts, the following should be kept in mind:</p> <ul style="list-style-type: none"> • The methodology must take into account the impact of the other measures undertaken by the PRO in the framework of their obligations, namely the impact of awareness raising measures. The latter aim – inter alia – to minimise littering, based on the principle of waste prevention. Therefore, it must be reasonably assumed that the amounts of litter shall reduce significantly over the course of the years. • The methodology must also acknowledge that one of the key requirements of the SUP Directive is to ensure that producers pay no more than what is necessary to deliver services in a cost-efficient manner. 	<p>all relevant actors concerned. To clarify this, the text has been amended accordingly.</p>
	<p>3. Regulation 7, sub-article (5): Although not explicitly required by EU legislation, the validity period of the PRO permit in most Member States is already predetermined by legislation. In the case of Malta, the validity period shall be determined ad hoc, at the sole discretion of the competent authority. The Malta Chamber recommends a minimum validity period, which may six (6) years, to ensure adequate business planning time and forecasting.</p> <p>Pre-determining a validity period also fosters legal clarity, especially since, according to Schedule 3, the PRO, when applying for an authorisation, must submit - inter alia - a business and financial plan. Therefore, establishing a validity period also determines the duration of the business and financial plan to be submitted.</p>	<p>Your feedback has been noted and will be considered in the practical implementation of this provision.</p>
	<p>4. Regulation 7, sub-article (9) According to the proposed provision, within four (4) months of the issuance of the authorisation, the PRO shall be required to submit an adequate financial guarantee in accordance with the</p>	<p>Comment has been noted and the text of this LN has been amended as appropriate.</p>

	<p>criteria established by the Authority, covering the costs established in sub-regulations (6) and (7) of regulation 4 with respect to the products placed on the market by its producers in any given year, in case of failure of the producer responsibility organisation to fulfil such obligations.</p> <p>The imposition of a financial guarantee constitutes a disproportionate measure, for the following reasons:</p> <ul style="list-style-type: none"> • It does not contribute to one of the main objectives of the SUP Directive, namely, to provide services in a cost-efficient manner; • It actually keeps a huge amount of money “locked up” and totally inert, without streamlining this amount to the activities which constitute the main objectives of the PRO and the SUP Directive; • Does not reflect an “instrumental fit”. Each instrument used must be assessed against the expected impact it will have relating to a specific objective. Financial guarantees constitute appropriate instruments for cases where EPR obligations are fulfilled through sectoral agreements, as for example in the case of fishing gear. The relevant new proposed regulations regarding fishing gear provide that the EPR objectives may be covered through agreements with the economic sectors concerned. In this case, where the obligations are covered through voluntary agreements, a financial guarantee constitutes indeed an appropriate measure, since it aims to ensure enforceability. In the case of tobacco filters, where no voluntary agreements apply and the whole framework is determined through strict legislation, where all parameters are regulated in detail (obligations of producers, obligation for the formulation of only one 	
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		<p>4. Regulation 8, sub-article (1) Imposing an obligation to report both quantities and weight of items and waste is too onerous and unnecessary bureaucratic. The administrative burden and subsequent cost should be kept as a minimum. It is therefore proposed to limit reporting to weight only, since:</p> <ul style="list-style-type: none"> • The majority of waste management activities are quantified with a weight in tons; • EPR schemes for tobacco filters (and also other products) in other Member States are reported on the basis of weight and not on quantitative items; • Reporting on the basis of weight constitutes the most used and commonly accepted method across the tobacco industry worldwide; • Reporting post-consumption waste collected based on units, is practically impossible, especially for waste collected through the public collection system. 	<p>It is to be clarified that the draft LN does not prescribe any methodology to calculate the costs (including units), as it depends on the proposal made by a PRO submitted as part of its application for authorisation to operate a PRO. Consequently, the units for reporting cannot be specified as the methodology in question might be by weight, number of units or a hybrid approach.</p> <p>In addition, please note that the reporting obligations established under the draft LN for a PRO to report to the competent authority are fully in line with equivalent obligations imposed on authorised packaging PRO for the provision of data concerning the single-use plastic products (SUPs) placed on the Maltese market by their members.</p> <p>Particularly, S.L. 549.149 (the Single-Use Plastic Framework Regulations), requires that producers of food containers, packets and wrappers, beverage containers, cups for beverages, lightweight plastic carrier bags, wet wipes and balloons, join a packaging waste recovery organisation authorised in accordance</p>

		<p>For these reasons, The Malta Chamber recommends limiting reporting to weight.</p>	<p>with S.L. 549.43 (the Waste Management (Packaging and Packaging Waste) Regulations), in order to fulfil their EPR obligations. Packaging PROs are to report data by weight and by number of items to the competent authority.</p> <p>Kindly also note that such information is not only necessary to allocate certain EPR costs amongst producers of tobacco filters containing plastic but amongst all producers of SUPs subject to EPR (e.g. clean-up litter). Furthermore, reported data by producers/PRO is necessary for Malta to be able to fulfil its different reporting obligations.</p>
		<p>Conclusion On behalf of its members, The Malta Chamber remains committed to cooperate with the regulator and share knowledge from an industry perspective. The Malta Chamber reiterates the importance of adopting a concrete, fair, proportionate and enforceable legal framework regarding EPR for tobacco products with filters, which ensures environmental protection and sound waste management in a proportionate, responsible and cost-efficient manner.</p> <p>The Malta Chamber impacted members are committed to fully adhere to their EPR responsibilities as soon as the Regulations enter into force, either through the establishment of a new collective PRO for tobacco filters in Malta, or through the expansion of the scope of an existing collective PRO in Malta.</p>	<p>ERA would like to thank you for actively participating in this public consultation.</p>
5	<p>Joe Attard Green MT</p>	<p>THE CURRENT SCENARIO The single use plastics directive has now been in place since 2019. the said draft legislation will bring into effect Article 8 of Directive 9EU) 2019/904. Currently producers of tobacco already have obligations towards the Packaging Directive for which they are in compliance via</p>	<p>ERA would like to thank you for your active participation in this public consultation. Kindly refer to ERA’s replies as provided below to your detailed feedback.</p>

	30/09/2024	<p>membership with PRO's or collective organizations already operating the EPR legislation</p> <p>The current scenario included for producers of packaging to be either members of such PRO's or else comply on an individual basis, always in line with ERA's legislation requirements.</p>	
		<p>It is noted that currently no set practices are in place so that producers of tobacco filters containing plastics recover any volumes of such waste, although most are disposed in a number of unethical ways and there is no organised structure of collection albeit for sporadic bins in a number of localities or places like public gardens. There is also no mathematical structure in place as to how many bins should be in place or of which size or any population criteria allotted to the number of bins. This leads to a situation whereby no benchmarks are in place to establish a future mathematical approach to a problem which has been with us over the years. From an NSO point of view we could only be aware of the importation over the years. However this could be a starting point for future use.</p>	<p>With regards to costs pertaining to appropriate receptacles and management of waste collected from public collection systems, the draft LN requires that the PRO in caption makes the necessary arrangements with the Department for Local Government and the Cleansing and Maintenance Department. Any information pertaining to receptacles, such as the number of currently installed bins, bins per capita, emptying rate, etc., can be discussed directly with the Department and the Division with a view to establish costs and terms of payment. ERA shall be notified of such terms of payment within 1 month after the conclusion of the arrangements.</p>
		<p>Currently filters are found in the following places :</p> <ol style="list-style-type: none"> a) Thrown away directly on the streets once cigarette is finished. This seems to be the order of the day as pavements remained filled with such filters in most places and mainly in areas where footpath is quite extensive b) Disposed in an appropriate bin for cigarettes which might be found once one finishes smoking c) Disposed with black bag if he/she is a home smoker and uses an ashtray and only disposes the full ashtray once it is full. This as thus finishes in the black bag d) In the commercial catering sector, many bars still have outside premises to smoke and disposal is either in a large bin but initially in an ashtray which is then disposed off also in a black bag. 	<p>While ERA notes these different discarding routes, ERA would like to point out that the draft limits the costs to be financed by producers in relation with treatment of waste generated from tobacco filters containing plastic to:</p> <ul style="list-style-type: none"> • Clean-up litter; and • Waste collection for those products that are discarded in public collection systems. <p>In other words, the costs of the treatment (including transport) of cigarette butts collected with MSW in the black bag are not to be borne by such producers.</p> <p>In addition, as to clarify these costs further, please note that:</p>

		<p>e) Disposal of cigarettes but throwing filters straight out of a moving vehicle which are eventually collected by street cleaners</p> <p>The disposal options at present are extensive and no control is in place to reduce such above options being chosen by cigarette smokers.</p>	<ul style="list-style-type: none"> • Costs pertaining to clean-up litter activities are limited to those undertaken by the Local Councils, the Cleansing and Maintenance Department, or on their behalf; and • Costs of cigarette butts collected in public collection systems refers to appropriate waste receptacles for their collection, including the infrastructure and operation, as well as transport and treatment of waste from tobacco filters containing plastic.
		<p>THE APPROACH OF THE AUTHORITY TO LEGISLATE</p> <p>We are of the opinion that the approach taken by the proposed legislation that of establishing a PRO in order to solve this issue was not a correct one.</p> <p>At present producers have a liability to environmentally comply to the Packaging, WEEE and batteries legislation. The ERA s current registration data clearly shows that a producer normally complies by being a member of one of the Schemes for both legislations. Adding a different PRO for just tobacco filters would firstly be an added administrative burden to the producer and also additional managements costs related to a new PRO/Scheme which would eventually be borne by the consumer as it should be.</p> <p>As thus we recommend that current PRO’s based on a pro rata of POM would be responsible for this legislation. However these PRO’s already have permits in place till 2028 and as such there should be a need for a work plan and discuss an agreement with the ERA on implementation of the legislation.</p> <p>Such a decision would also improve the implementation time frame of this legislation and there would be no need for the ERA to enter into the situation of Article 4, Para 5, b which includes for the ERA to assess market share and studies related to such to establish market share.</p>	<p>As rightly pointed out, this new EPR law is to be understood in the context of other national laws establishing EPR, where, for instance, producers of electrical or electronic equipment might be also qualify as producers of packaging and/or producers of batteries simultaneously.</p> <p>The draft LN does not necessarily prescribe the establishment of a separate PRO from the existing ones under other national pieces of legislation, but sets the EPR regime for tobacco products with filters and filters marketed for use in combination with tobacco products in Malta.</p> <p>Hence, a PRO which is already authorised under any other relevant Maltese (EPR) regulations can apply to operate as PRO under this draft LN and might be authorised by the competent authority provided that such organisation fulfil the applicable requirements.</p>

	<p>DRAFT LEGISLATION</p> <p>Article 3</p> <p>It is recommended that ‘a consumer’ has a definition included. Whilst this is an extended producer responsibility legislation, one needs to note that this emanates from the ‘polluter pays principle’ in the first place. A definition should be included and responsibilities should be placed on consumers and not be only a part of the ‘littering act’ .</p> <p>‘Regional Councils’ should also be included as they are today a source of collection and not just the ‘Cleansing and Maintenance Department’. This in order so that they will be able to recuperate costs attributed to waste related to plastic filters and filters.</p> <p>Definitions for ‘retailers’ and ‘distributors’ are to be included accordingly. Retailers and distributors should have legal obligations even though they should not bear any financial burden. They should be obliged to register as such with the Competent Authority so that the Authority has a visual holistic view of a market in that waste stream.</p> <p>From a generic point of view we would also consider that legislation be put in place stating that a PRO would need a minimal POM representation of 20% for it to be considered to obtain an operating permit to operate any Scheme in any waste stream.</p>	<p>Your suggestions are much appreciated.</p> <p>With regards to your suggestion to include a definition of ‘<i>consumer</i>’, this is not being considered necessary since this term is used in multiple EU legal instruments and their relevant transpositions without a specific definition.</p> <p>Concerning the other terms, ERA is of the opinion that such definitions are not needed since these actors are not mentioned in the draft.</p> <p>Particularly, ERA would like to clarify that ‘Regional Councils’ are not being defined since they do not play any role in the context of these Regulations. The costs to be borne by PRO(s) on behalf of producers of tobacco filters containing plastic that require agreement with government entities (i.e. Department for Local Government and Cleansing and Maintenance Department) are the following:</p> <ul style="list-style-type: none"> - Clean-up litter from activities exclusively undertaken by these entities or on their behalf, such as e.g. road/street sweeping or specific clean-up campaigns; and - Management of waste collected from public collection systems, such as street bins as well as specific receptacles for cigarette butts.
	<p>Article 4</p> <p>Whilst the obligations of the PRO is quite exhaustive, the ERA would need to delve deeper with PRO’s to establish current costs emanating from third parties currently defined as ‘entities’</p> <p>From experience we have always been aware that the devil is in the detail and as such the ERA together with existing two PRO’s needs to sit down and discuss in detail the following</p>	<p>ERA would like to point out that the draft LN requires that a PRO makes the necessary arrangements with the Cleansing and Maintenance Department and the Department for Local Government, through written agreements in order to cover the costs pertaining to clean-up litter and waste discarded in public collection systems.</p> <p>More information on the amounts of cigarette butts currently being collected in litter and in public waste collection systems</p>

	<p>a) The extent of costs related to public awareness measures, ie the quantum. Whilst regulation 12 of the SUP Directive has a framework it does not deliver a quantum, and as one might be aware PRO's need to have a quantum to distribute between producers.</p> <p>b) As for the cost of cleaning up litter resulting from these products, we would require to know the extent of such a responsibility in order to be able to assess costs. This relates to transport and treatment.</p> <p>c) The data gathering although time consuming might not be as costly as any of the other obligations of this legislation and as such would require minimal discussions and implementation processes although there would be additional reporting requirements by both producer and also the PRO.</p> <p>d) The costs by other entities who are already involved need at least a technical / financial study to ascertain that producers do not finally pay for inefficiencies in systems which are not under their control. The Cleansing and Maintenance Division currently has no tender or has not been awarded a tender for any collection and it is just an entity that provides a service as the need requires. Such studies need to be tendered out to third parties before the ERA face PRO's with related costs and such costs cannot be borne by Schemes at this stage.</p> <p>e) In relation to costs of infrastructure, or new infrastructure the ERA would need to discuss with PRO's what it has in mind and a financial assessment made of such costs too.</p> <p>As one can see the detail of each individual cost is required for this legislation to be a success from producer to PRO.</p>	<p>(road/street bins), number of bins installed and location, the need for technical/financial assessment(s), etc., are details to be discussed with the Department and the Division. ERA is to be notified within one month after the conclusion of such agreements about the terms of execution of payments.</p> <p>we hope the above clarifies your concerns reflected in points b), d) and e).</p> <p>Concerning your comment in point a), please note that a PRO applying for authorisation to operate as such, is to submit a work plan which details need to be agreed by the Authority. The said plan should include – amongst other – information on the intended public awareness campaigns to be financed and/or organised by the proposed PRO. Thus, whilst the draft LN does not set a specific amount, the proposal made in this regard by the organisation will be subject to review by the competent authority.</p> <p>With regards to point c), ERA remains always available for discussing these matters with PROs and/or producers, as to clarify which information/data is required.</p> <p>Concerning your proposal to include a given timeframe for PRO(s) and the Department for Local Council and the Cleansing and Maintenance Department to reach an agreement to cover the costs pertaining to clean-up litter and management of waste collected from public collection systems, the current version is purposely flexible to provide enough time to the relevant actors involved to discuss the terms of their agreement.</p> <p>In relation to your last comment, kindly refer to reply to previous comment where the roles of the different government entities involved is being clarified.</p>
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		<p>Article 5 In relation to Article 5 (1) the requirement of the registration number to be clearly visible on invoice and fiscal receipts is quite cumbersome. Producers now have a Packaging, WEEE, Batteries and now also a tobacco filter registration number other then VAT and all other requirements, including BCRS.</p> <p>Discussions should take place between stakeholders to find a solution to this burdensome and costly requirement. The ERA could establish an online app which shows whether a company or trader has a registration number for any EPR obligation and henceforth the buyer of the product (namely a distributor or a retailer) would be obliged to check that he is buying from authorised registered producers. (ie like the app now currently used by BCRS where you register an EAN and the consumer or anyone in the chain would know whether it is an acceptable product or not).</p>	<p>The second paragraph of regulation 5(1) address this concern since it contemplates that producers which already hold a registration number in line with S.L.549.43 (the Waste Management (Packaging and Packaging Waste) Regulations), shall be issued with an unique registration number for both packaging and tobacco products with filters and filters marketed for use in combination with tobacco products.</p> <p>Please note that this formula is in line with S.L.549.149 (the Single-Use Plastic Framework Regulations) for producers of certain single-use plastic products who are also producers of packaging.</p>
		<p>Article 7 IN relation to Article 7 (5) the authorisation should be granted for no less then five calendar years. This would ascertain planning of infrastructural costs based on a long tern period instead of 'one year' test authorisations which would not allow space for the PRO to</p>	<p>Your feedback has been noted and will be considered in the practical implementation of this provision.</p>

		<p>establish procedures and collection systems on an ongoing basis, inclusive of collection contracts to third parties if required.</p>	
		<p>Article 8 In relation to Article 8(5) (b) the ERA should determine whether the financial contributions paid by the PRO's members are to be listed as per unit or per tonne. This difference in methodology is cardinal to ascertain that no free riding in the market will result. We recommend a payment per unit placed on the market.</p>	<p>The draft LN provides flexibility to PRO(s) to decide certain details, including whether the financial contributions shall be based on weight or on number of items placed on the Maltese market. Indeed, it requires that an organisation submits, upon application for authorisation to operate PRO, a work plan which needs to include – amongst others – a proposal for the calculation of the EPR cost and details of the membership fee structure. Should this proposal be to the satisfaction of the competent authority, the authorisation will be granted.</p>
		<p>Article 10 In relation to Article 10 the fines for a first conviction or a second conviction are counter productive and should be increased radically. A structure for fines should be imposed on the following</p> <ul style="list-style-type: none"> a) A producer not registered with the ERA : Major offence b) A producer under declaring POM to the PRO after an ERA audit ; Major offence c) A retailer buying products from an un registered producer : Major offence d) A PRO who fails to honour its financial obligations to agreements with third parties Major offence e) Any reporting delays : Minor offence f) A consumer not disposing properly: Minor offence g) Non registration with ERA of a retailer or Distributor : Minor offence <p>The current fines outlined should be for the 'minor offences' and fines for major offences should be minimally four times as much.</p>	<p>The structure and quantities of penalties set under the draft are in line with the penalty regime established in other national regulations of similar nature, such as those establishing EPR for e.g. packaging and packaging material, single-use plastic products as per S.L. 549.149 or electrical and electronic equipment.</p> <p>Furthermore, please note that S.L. 549.40 (Abandonment, Dumping and Disposal of Waste in Streets and Public Places or Areas Regulations) sets also penalties, particularly relevant to point f).</p>
		<p>In relation to Schedule 7 (Regulation 5) , these administrative penalties should be much simpler.</p>	<p>Similarly to previous reply, the administrative penalties for non-registration and non-renewal are aligned with national regulations of similar nature. Such administrative penalties are not based on a flat rated fine, but established in such a way that are proportionate</p>

	<p>Any producer who fails to apply for registration shall be liable to a fine of Euro 5000 and a daily administrative fine of Euro 30 daily until he complies.</p> <p>Any producer who fails to renew his registration by the end of the year shall be liable to an administrative penalty of Euro 3000 and a Euro 30 daily penalty until he complies</p>	<p>to the amount of products placed on the market – in this case, tobacco filters containing plastic.</p>
	<p>Enforcement Fees to PRO's The legislator has omitted enforcement fees to the PRO's or to the producer. These should be in place with an agreement between the parties and any income from fees of administrative penalties should be part of a specific fund for enforcement operations only.</p>	<p>ERA notes that the draft LN already contains two effective mechanisms in this regard:</p> <ul style="list-style-type: none"> - An administrative penalty for non-registration and non-renewal that ERA may apply in line with regulation 5 and Schedule 7; and - The Authority may resort to allocate EPR costs directly to producers in certain specific instances as per regulation 4. <p>ERA may also resort to administrative action through other established avenues, in line with the Act and its Subsidiary Legislation, such as the imposition of daily fines, or the taking of direct action.</p> <p>Hence, ERA feels that enforcement provisions are already adequately covered through the draft LN and existing procedures.</p>
	<p>Conclusion Green Mt as an authorised PRO in both Packaging and WEEE has over the years gone through phases of implementing the EPR principle but we continue to advocate strongly the PPP , 'Polluter Pays Principle ' and an 'All Actors Approach' . We advocate for all actors to be part and parcel of the legislation even though the producers are financially responsible for market placement. However one is to note that unless the public at large does not present a responsible approach, the producer would finally burden the cost of the EPR implementation or any other expense for all that matters. Public awareness campaigns in may waste streams have for quite a long while been the order of the</p>	<p>As per above, a separate piece of legislation (S.L.549.40, Abandonment, Dumping and Disposal of Waste in Streets and Public Places or Areas Regulations) sets penalties for any person throwing down, drop, leave, spill or deposit any litter in any public place. These penalties are applicable to cigarette butts not being thrown in appropriate receptacles.</p> <p>Promotion of responsible consumer behaviour is crucial, indeed awareness raising measures are a key element in the context of</p>

		<p>day for Government and its entities but the issue of educating has limits and as such a more proactive approach which should include fines and penalties should be a way forward if the legislator, The ERA wants this legislation to be a success.</p>	<p>EPR principle, whereby producers of products are required to finance campaigns/activities targeting consumers of this products.</p> <p>Having said so, Maltese public entities, including ERA are aware of the importance of raising awareness within citizens, and consequently, numerous campaigns and activities have been organised during the past months, for instance, concerning mandatory waste separation. These actions have surely made consumers aware of the importance of discarding their waste accordingly, including that originated from product subject to EPR.</p>
<p>Comments submitted during stakeholder consultation meeting on 18th September 2024</p>			
<p>1</p>	<p>James Dalli Charles Grech & Co. Ltd. 18/09/2024</p>	<p>In the draft law, there are multiple references on the word treatment. What does it mean exactly in practice? Would we be obliged for the separation of the filters?</p>	<p>The scope in terms of cost coverage emanates from the Directive. When referring to treatment, especially in the case of cigarette filters, there are 2 main methods: incineration with energy recovery and landfilling. There is very little capacity for recycling. Producers are not expected to set up different systems. What is obliged from the producers are the street bins. The proposed LN requires that PRO through agreements with the department or division, they finance installation of dedicated bins in litter hotspots for collection of cigarette filters.</p>
		<p>Referring to Lisa Esser, focusing on preference of filters being by weight and not by pieces. Is reference made to the actual cigarettes or for the filters that are used for the roll your own cigarettes? Not all filters have the same weight (example: filter weight from a company differs from another).</p> <p>Lisa Esser was referring to roll your own filters. She added that she has a concern due to no market share evaluation on these. She added that in Germany, an exercise was made to weigh the different filters from different companies.</p>	<p>Current draft LN requires reporting both by weight and also by number of units since all methodologies are being kept available. However, this may change to keep either one or both together as a combination.</p>

2	<p>Lisa Esser</p> <p>European Rolling Paper Association</p> <p>18/09/2024</p>	<p>We find it very important that the cost for the tobacco filters is calculated by weight since there are so many different tobacco filters in size, in dimension, in weight, in substance and not by piece/number of items because the weight defines the amount of litter. Will provide official statement latest by end of September. When each producer has to register for the amount that has been placed on the market. The amount registered should be based on the weight because the producers know themselves what each filter weighs. Heat not burn filters is much heavier and much more litter than a small roll your own cigarette filter. In terms of quantifying the picking of the items (the actual clean up litter), it is very hard to define.</p>	<p>Comment noted, ERA looks forward to additional feedback, as applicable.</p>
3	<p>Clinton Bajada</p> <p>British American Tobacco (Malta) Ltd.</p> <p>18/09/2024</p>	<p>Last year had couple of meetings with ERA and with the tobacco industries in Malta. We are preparing for the set-up of the PRO. If someone is not intending to join the PRO, is that possible or the EPR is the only solution for this SUP Directive?</p>	<p>The draft LN does not allow producers to self-comply. Fulfilment of this EPR obligations will have to been done through a PRO. The draft does not restrict the number of PROs but have to factor in limited number of PROs due to smallness of Malta.</p>
		<p>Could you kindly clarify more about the bank guarantee?</p>	<p>As part of the application process, ERA needs to determine the financial coverage of the bank guarantee. In addition, the PRO will also be required to submit proposals in that regard. The coverage will ultimately depend on the costs that will be incurred to fulfil those EPR obligations for that period of time.</p>
4	<p>Elpo Thomagianni</p> <p>British American Tobacco (Malta) Ltd.</p> <p>18/09/2024</p>	<p>Is there an indication of the timeline when this PRO should be set up and when the obligations are official?</p>	<p>The time depends on the legal approval proves, which also entails assessing the feedback from the public consultation processes. Depending on feedback and agreement of certain provisions, the draft LN might be amended accordingly. Once done, normal legislative procedure of Malta applies.</p> <p>For the setting up the PRO, it is in the best interest of producers to set up the system and this should be done as soon as practically feasible. In case the PRO is not established, the authority may allocate the PR costs amongst the producers. In order to quantify</p>

			such costs, the authority may commission studies at the expense of producers.
5	Mario Schembri AIS Environment 18/09/2024	Question regarding the costs (he mentioned in other fora) discussing EPR and PROs for other waste streams. Costs which are being bundled under the costs that need to be paid by the PRO. This relates to the clean up litter. This means that the cost for cleaning streets from litter legally placed by the public has to be borne by the producers. Is this a correct interpretation of this particular cost?	Yes, clean up litter costs includes sweeping of roads. The types of costs to be covered are established by virtue of the SUP Directive. Through this LN, ERA is trying to find a way to implement this obligation in a cost effective manner. To ERA's knowledge, the legal soundness of such costs has never been challenged at union level.
		Legal challenge has not been put. No one can be made responsible to pay fines for illegalities made by others	It is noted that any legal amendments involve different consultation processes; indeed, before the legislative initiative is adopted at EU level, there are different processes at EU level, including the European Council, Commission and Parliament. ERA is not aware of any legal challenge since its adoption in June 2019.
6	Stefan Licari J.L Tobacco Company Ltd. 18/09/2024	Would cost be calculated on the size of the company and on the amount of sales of the company?	The EPR Principle is a way of implementing the Polluter Pays Principle. By its own nature, the Polluter Pays Principle is proportional. The individual causing the pollution has to pay on the basis of the environmental damage created. In terms of EPR, this means that the EPR fees are established depending on the amount of the product, in this case tobacco filters containing plastics, the producer pays according to the amount placed on the national market.