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Commission Notice

Commission guidelines laying down criteria on the costs of cleaning up litter in accordance with Article 8(4) of Directive (EU) 2019/904 of the European Parliament and of the Council of 5 June 2019 on the reduction of the impact of certain plastic products on the environment

(C/2025/5646)

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1 Introduction

This document provides guidance on the interpretation and implementation of Article 8 ‘*Extended producer responsibility*’ of Directive (EU) 2019/904 on the reduction of the impact of certain plastic products on the environment ⁽¹⁾, also known as the Single-Use Plastics Directive (hereafter referred to as ‘the Directive’ or ‘the SUP Directive’). This guidance is coherent with Packaging and Packaging Waste Regulation 2025/40 ⁽²⁾, Directive 2008/98/EC ⁽³⁾ on waste (‘Waste Framework Directive’ or ‘Directive 2008/98/EC’) and Directive (EU) 2024/3019 ⁽⁴⁾ on urban wastewater treatment.

These guidelines are intended to assist Member States in implementing this legislation. The content, including examples, reflects the views and the interpretation of the applicable legal framework by the European Commission and as such is not legally binding. Member States can take into account national circumstances and specificities of existing systems. Therefore, Member States may not follow all the aspects described in these guidelines. The binding interpretation of EU legislation is the exclusive competence of the Court of Justice of the European Union.

Extended producer responsibility (EPR) entails a set of requirements whereby producers of products bear the financial responsibility or financial and organisational responsibility for the management of the waste stage of a product’s life cycle (see Article 3 of the SUP Directive). Article 8 of the SUP Directive requires Member States to establish EPR schemes that must comply with certain requirements which come in addition to those laid down in Articles 8 and 8a of the Waste Framework Directive. Such an additional requirement is laid down in Articles 8(2)(c) and 8(3)(b) of the SUP Directive. It concerns the requirement on the Member States to ensure that the producers of the single-use plastic products listed in Sections I, II and III of Part E of the Annex cover “**the costs of cleaning up litter resulting from those products and the subsequent transport and treatment of that litter**”. Those products are the following:

- Food containers
- Packets and wrappers
- Beverage containers
- Cups for beverages
- Lightweight plastic carrier bags
- Wet wipes
- Balloons
- Tobacco products with filters and filters for using in combination with tobacco products (referred to as “*filters*” in the guidelines)

Article 8(4) of the SUP Directive tasks the Commission with publishing guidelines for criteria, in consultation with Member States, on the costs of cleaning up litter resulting from those products and the subsequent transport and treatment of that litter.

This guidance includes the key principles regarding the costs for cleaning up litter, clarifies the scope of the EPR obligation by providing grounds for common understanding of relevant terms, and suggests appropriate methodologies for calculating the costs for collection and litter related practices and for calculating the amounts of SUP products amongst waste littered and collected in public locations, and suggests options for allocating costs to producers.

⁽¹⁾ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32019L0904> (OJ L 155, 12.6.2019).

⁽²⁾ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32025R0040&qid=1737563768222> (2025/40 OJ L 22.1.2025), repealing Directive 94/62/EC <http://data.europa.eu/eli/dir/1994/62/2018-07-04> (OJ L 365 31.12.1994).

⁽³⁾ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32008L0098&qid=1684736996001> (OJ L 312, 22.11.2008).

⁽⁴⁾ <https://eur-lex.europa.eu/eli/dir/2024/3019/oj> (OJ L 12.12.2024).

This document also provides examples of activities that were deemed by the Commission to fall within the scope of the costs to be covered by producers under the Directive. This guidance and these examples are non-exhaustive. It is also recalled that, in relation to filters, the EU and its Member States are Parties to the WHO Framework Convention on Tobacco Control (FCTC) ⁽⁵⁾ and thus have a legal obligation to apply its provisions (see section 7).

It should be borne in mind that it is the responsibility of the Member States to decide on specific litter clean-up policies. These policies have to be part of the waste management plans referred to in Article 11 of the SUP Directive and in Article 28 of the Waste Framework Directive. These policies also have to be part of the programmes of measures in Article 13 of the Marine Strategy Framework Directive 2008/56/EC ⁽⁶⁾. They could also be covered by the National Implementation Programmes referred to in Article 17 of the Urban Wastewater Treatment Directive (EU) 2024/3019. The related costs that need to be covered by the producers depend on these policies. Depending on the data available, and while taking into account proportionality, more or less detailed methodologies for the calculation of costs can be used.

In accordance with the Convention on access to information, public participation in decision making and access to justice in environmental matters, also known as the Aarhus Convention ⁽⁷⁾, Member States should ensure effective access to justice by establishing review procedures under which the public, including the producers and environmental non-governmental-organisations, are informed of these and can have access to justice regarding matters related notably to EPR aspects such as cost calculation and cost allocation.

This guidance covers only the cost of cleaning up litter, on the basis of Articles 8 (2) (c) and (3) (b). It does not cover the other provisions related to Extended Producer Responsibility under Articles 8 (2) (a) and (3) (a) (costs of awareness raising) and Article 8 (2) (b) (costs of waste collection for those products that are discarded in public collection systems) and Article 8 (3) (c) (costs of data gathering). A clear distinction is indeed operated in the Directive between ‘cleaning up litter’ and the other costs also covered by the EPR.

The guidance was developed after consultation of Member States through the Committee established by Article 39 of the Waste Framework Directive, as per Article 16 of the SUP Directive.

The work on this guidance was accompanied by the “Study to support the development of implementing acts and guidance under the Directive on the reduction of the impact of certain plastic products on the environment - WP 6 final report on developing guidelines on litter clean-up costs” ⁽⁸⁾.

2 Scope

To set the scope of the EPR obligations under the SUP Directive and thus the range of costs to be covered, certain relevant terms need to be explained at the outset.

2.1 Producer

The definition of the term ‘producer’ in Article 3(11) of the SUP Directive comprises manufacturers, fillers, sellers, or importers established in a Member State that place SUP products on the market of that Member State, or sellers in a Member State or in a third country that sell SUP products in another Member State directly to private households or to users other than private households. The costs of cleaning up litter that need to be covered should therefore be distributed among these different types of economic operators. ‘Placing on the market’ means the first making available of a product on the market of a Member State, in accordance with Article 3(6) of the SUP Directive.

⁽⁵⁾ WHO Framework Convention on Tobacco Control (WHO FCTC), <https://fctc.who.int/publications/i/item/9241591013>. See also Council Decision 2004/513/EC of 2 June 2004 concerning the conclusion of the WHO Framework Convention on Tobacco Control (OJ L 213, 15.6.2004, p. 8).

⁽⁶⁾ <https://eur-lex.europa.eu/eli/dir/2008/56/oj/eng> (OJ L 164, 25.6.2008).

⁽⁷⁾ <https://unece.org/environment-policy/public-participation/aarhus-convention/text>. See also Regulation (EC) 1367/2006 on the application of the provisions of the Aarhus Convention by which it is implemented in EU law, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32006R1367&qid=1748950217368> (OJ L 264 25.9.2006, p. 13).

⁽⁸⁾ Ramboll “Study to support the development of implementing acts and guidance under the Directive on the reduction of the impact of certain plastic products on the environment – WP6 : final report on developing guidelines on litter clean-up costs”, <https://op.europa.eu/en/publication-detail/-/publication/e9f3bf85-a706-11eb-9585-01aa75ed71a1>.

2.2 Litter

Directive (EU) 2018/851 ⁽⁹⁾, amending the Waste Framework Directive, states in its Recital 33: ‘Member States should also take measures to clean up litter present in the environment, irrespective of its source or size and regardless of whether waste has been discarded wilfully or by negligence.’ In addition, the Marine Strategic Framework Directive 2008/56/EC ⁽¹⁰⁾, states in Article 13 that “Member States shall, in respect of each marine region or subregion concerned, identify the measures which need to be taken in order to achieve or maintain good environmental status, as determined pursuant to Article 9(1), in their marine waters” which includes that the ‘properties and quantities of marine litter do not cause harm to the coastal and marine environments’ under its Descriptor 10 ⁽¹¹⁾.

In view of the objective of the Directive to reduce the negative impact of certain plastic products on the environment, ‘litter’ should be understood for the purpose of the SUP Directive as post-consumer waste that has been wilfully or negligently discarded in the air, land and water and therefore pollutes or risks to pollute the environment.

Waste that is collected at inlets of the sewer systems, such as wet wipes discarded in the system, stormwater drains, and roadside gullies should be considered as litter. Litter may also include waste that can be recovered from sewer systems, such as unit networks or rainwater networks following its draining rainwater.

The costs for litter clean-up of SUP products should not include costs of closing and remediation of illegal landfilling of household waste, even though those products may represent a certain share of littering, because these costs should be covered by the waste generator (the polluter) through enforcement measures, not by the producers.

Article 8(2) (b) and the last paragraph of the Article 8(3) of the SUP Directive refer to the costs of waste collection and the subsequent transport and treatment of that waste for SUP products listed in Sections I and III of Part E of the Annex to the Directive. These costs refer to items that have not been littered but are collected through public collection systems (e.g., bins). Being different from the costs of cleaning up litter, they are not within the scope of the guidelines.

2.3 Activities undertaken by public authorities or on their behalf

Article 8(4) of the SUP Directive stipulates that the costs of cleaning up the relevant SUP litter should be limited to activities undertaken ‘by public authorities or on their behalf’. This excludes the clean-up costs of waste that has been littered on private property (exemption described under section 2.3.2). This section explains how the terms ‘public authorities’ and ‘on their behalf’ should be understood.

2.3.1 Public authorities

‘Public Authorities’ are not defined by the Directive. However, they are defined in Article 2(2) of Directive 2003/4/EC on public access to environmental information ⁽¹²⁾. In the Commission’s view, this definition should also be used in the context of the SUP Directive.

The definition is:

- ‘(a) government or other public administration, including public advisory bodies, at national, regional or local level;
- (b) any natural or legal person performing public administrative functions under national law, [including specific duties, activities or services in relation to the environment];
- (c) any natural or legal person having public responsibilities or functions, or providing public services [relating to the environment] under the control of a body or person falling within (a) or (b).’

⁽⁹⁾ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32018L0851&qid=1684738500528> (OJ L 150, 14.6.2018).

⁽¹⁰⁾ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32008L0056> (OJ L 164, 25.6.2008).

⁽¹¹⁾ Programmes of measures under the Marine Strategy Framework Directive to achieve or maintain good environmental status, <https://data.europa.eu/doi/10.2760/7769294>, JRC139180.

⁽¹²⁾ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32003L0004&qid=1684738790587> (OJ L 41, 14.2.2003).

2.3.2 On their behalf

Litter clean-up practices not undertaken by the public authority itself but on its behalf are clean-up activities which have been subcontracted ⁽¹³⁾.

The practices covered are litter collection activities in areas under the responsibility of the public authorities. These can include privately operated areas for which the clean-up remains under public responsibility, e.g., places under concession.

These may comprise:

- Road infrastructure like roads, cycle ways, pedestrian areas and verges;
- Water sites like beaches, lakesides, riparian areas and canal towpaths;
- Areas in transport infrastructure like stations, ports, airports, car and bicycle parks;
- Recreational and green spaces like parks, nature reserves, national parks and recreation grounds;
- Public places with high probability of accumulating people like squares, city streets;
- Municipal wastewater collection networks and/or wastewater treatment plants operated by public or private/public companies on behalf of a public authority.

Activities undertaken 'on their behalf' do not include practices for which public authorities are not responsible. This would exclude volunteer activities, like beach clean-ups or neighbourhood litter picking, which are not initiated by competent public authorities. Only organised voluntary not-for-profit clean-up activities that are preceded by a contract or agreement with the relevant authority, such as the municipality, could be considered for EPR cost coverage.

2.4 Cleaning up

2.4.1 Clean-up activities

The 'cleaning up' of litter is understood as removing it from the areas where it has been wrongly discarded or from areas to which it has moved by air, land or water. Cleaning up may be manual or by mechanical means.

Clean-up activities comprise:

- Cleaning and sweeping: The undertaking of cleaning of areas under the responsibility of public authorities at regular intervals with a set minimum frequency, by powered or non-powered vehicles and manpower appropriate and proportionate to the location and in accordance with the characteristics of the areas;
- Officially organised nature clean-ups (e.g., on public beaches), carried out by competent public authorities or carried out on their behalf;
- Voluntary not-for-profit litter picking that is preceded by a contract or agreement with the relevant authority: The undertaking of litter picking by volunteers (e.g., citizens, employees), in areas under the responsibility of public authorities or carried out on their behalf;
- Mandatory litter picking: The undertaking of mandatory litter picking (e.g., by offenders as part of rehabilitation/ community service activities), in areas under the responsibility of public authorities or carried out on their behalf;
- Cleaning and removing SUP products from municipal wastewater collection and treatment infrastructure, and where necessary carrying out maintenance activities to unblock the infrastructure due to the accumulation of some SUP products, thereby ensuring the correct and continuing operation of the infrastructure.

⁽¹³⁾ In the case of filters, while outsourcing any activities, Article 5.3 of the WHO FCTC should be respected, including that the tobacco industry should not be granted incentives to establish or run their business (see section 7).

2.4.2 Outcome of the clean-up activities

The scope of the clean-up activities, and their costs, is also related to the outcome of the clean-up. Article 8(4) of the SUP Directive requires that costs 'shall not exceed the costs that are necessary to provide the services referred to therein in a cost-efficient way'.

The 'service' in question is the cleaning up of litter in areas under the responsibility of public authorities. As set out in Article 1, the objectives of the Directive are 'to prevent and reduce the impact of certain plastic products on the environment'. This can only be achieved if litter is frequently collected, and public space is kept clean. While the final aim is no litter, in practice this objective might be difficult and costly to achieve. The extent to which a public space will be regarded in need of cleaning up should be proportionate and take into account local circumstances (e.g., accessibility, population and population density, organizational set up and salary development).

The determination of the desired outcome will set the basis for calculating the costs that are necessary for cleaning up litter. The desired outcome can vary, as not all areas require the same clean-up in order to achieve the desired environmental objectives ⁽¹⁴⁾ ⁽¹⁵⁾. SUP products have to be removed from municipal wastewater infrastructure at the inlet of wastewater treatment plants and in the collection network in order to avoid blockages of the network due to the accumulation of SUP products. A categorisation of the different areas of a municipality's remit (e.g., on their character, usage, tourism value, amenity value, or traffic flow) could help with the determination. Alternatively, as a simplified approach, the desired outcome can be achieved by setting certain frequencies for the clean-up activities within a determined time period.

It is also appropriate to consider the environmental risk posed by litter remaining in some areas – for example, it may be appropriate to sweep areas adjoining rivers or the coast more thoroughly and frequently than other areas in order to reduce the risk of riparian and marine litter. Decisions based on continuous monitoring data and assessment efforts can support the identification of priority areas.

Services may need to be adapted in a seasonal context or in the event of an emergency (e.g., extreme weather conditions like floods and storms), or exceptional occasions (such as major public events like festivals, or market days, or extreme weather events).

Furthermore, the desired outcome should not imply excessive effort compared to the environmental impact, so that producers' costs do not exceed what is necessary for cost-efficient delivery. The outcome should also be subject to periodic review.

In order to provide incentives to the producers of the relevant SUP product groups under the Directive to take upstream measures to reduce litter, the level of service input and the resulting costs should be linked to the amount of waste collected and the outcome to be achieved, so that where there are reductions in litter, this translates into reduced costs of clean-up (see section 6).

2.5 Collected litter management

The costs of cleaning up litter referred to in Article 8(2) and Article 8(3) also include the subsequent transport and treatment of that litter.

2.5.1 Transport of the collected litter

To be able to include these costs under the EPR scheme, the transportation of the collected litter should be carried out by operators designated by the competent public authorities, using vehicles and/or manpower appropriate and proportionate to the quantity of litter and the location where it is to be collected. If the collected litter is transported with mixed waste, the transport costs of litter should be proportionate to its share. The transport costs for different SUP product groups might differ to their respective clean-up and treatment costs.

⁽¹⁴⁾ European coastline macro litter trends 2015 – 2021, <https://data.europa.eu/doi/10.2760/0752301>, JRC138907.

⁽¹⁵⁾ A European threshold value and assessment method for macro litter on the coastlines, JRC121707.

2.5.2 Treatment of the collected litter

'Treatment' means recovery or disposal operations, including preparation prior to recovery or disposal (see Article 3(14) of the Waste Framework Directive).

To be able to include these costs under EPR, the treatment of the litter should be carried out by operators designated by the competent public authorities, using legal waste treatment infrastructure and processes in line with regulatory requirements set forth in the relevant national legislation and in Directive 2008/98/EC. If the collected litter is treated with mixed waste, the treatment costs of litter should be proportionate to its share. The treatment costs for different SUP product groups might differ to their respective clean-up and transport costs.

Where feasible, operators should treat the collected waste according to the waste hierarchy and best practices available, including sorting and recycling, even if this gives rise to higher costs than landfilling or energy recovery. For wet wipes, balloons and filters, separate collection should not be mandatory (Recital 22 and *a contrario*, Article 9 of the SUP Directive). Revenues (e.g., obtained from selling collected litter to recyclers) should be taken into account.

For recycling into plastic intended for food contact, Article 6 of Regulation (EU) 2022/1616 ⁽¹⁶⁾ applies, which, depending on the source, likely prohibits the recycling of collected litter for this purpose. Litter collected shortly after it was littered, such as litter found in the proximity of litterboxes (from which litter is collected as municipal waste), could be regarded as of the same quality for this purpose, unless there is a risk it would be contaminated with chemicals such as mineral oil or soot. Litter that has stayed a long time in the environment, including litter collected from sewer systems and rivers, should generally not be considered suitable for recycling in accordance with Regulation (EU) 2022/1616.

3 General principles for calculating costs

Article 8(4) provides that *'the costs to be covered referred to in paragraphs 2 and 3 shall not exceed the costs that are necessary to provide the services referred to therein in a cost-efficient way and shall be established in a transparent way between the actors concerned. [...] 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.'*

Typically, public authorities (including local public authorities) ensure that cost calculations are cost-efficient, transparent and proportional. Public authorities shall also take into account revenues and supervise clean-up and litter management.

Producers and producer responsibility organisations should support the cost calculations with relevant data concerning specific SUP product groups (e.g., weight of product, waste collection, treatment options).

3.1 Cost-efficiency

The costs to be covered by producers must adequately represent the amounts necessary to ensure adequate and cost-efficient litter related operations specific to the product group. Services undertaking the litter clean-up should only receive payments that meet their relevant costs in full if they run their services efficiently.

Several methods can be used to evaluate and ensure cost efficiency of waste management services at the local level, like benchmarking, competition, efficiency reviews and output monitoring.

If costs are already included in EPR implementation (e.g., separate collection, transport and treatment) under Directives 2008/98/EC and 94/62/EC, then they should be deducted, as otherwise these costs would be claimed twice. These costs concern notably food containers, packets and wrappers, cups for beverages, beverage containers and lightweight plastic carrier bags.

⁽¹⁶⁾ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32022R1616&qid=1746621715988> (OJ L 243, 20.9.2022.)

3.2 Transparency

The producers and relevant or involved parties (e.g., environmental organizations, waste processors, wastewater treatment operators) need to be informed in a democratic and transparent manner as to how the system for the costs of the waste management operations that they are to cover is established. The data and processes used to establish the necessary costs for the clean-up, transport and treatment must be robust and transparent, including information on how costs are allocated amongst producers. Regular exchanges between the public authorities, the producers and relevant or involved parties should be held, e.g., by setting up dedicated committees ⁽¹⁷⁾.

3.3 Proportionality

The SUP Directive refers to the calculation method to be developed in a way that allows for the costs of cleaning up litter to be established in a proportionate way.

The calculation of the costs should be based on reliable data, be as precise as possible and be proportionate regarding administrative burden.

The cost to be covered by the producers for each product category listed in Part E of the Annex to the SUP Directive should be proportionate, at least to the quantity of products available on the market, the litter composition (if not available the waste composition can be used) and the actual costs ⁽¹⁸⁾, and to the share of effort/resources that is deployed to tackle the respective products.

The cost calculation should distinguish between the clean-up costs and the costs for subsequent transport and treatment. The cost calculation should cover labour, materials and machinery.

The cost calculation should be regularly updated (every 3-5 years) to take into account improvements (e.g., better waste collection infrastructure, less littering through behaviour changes in consumers, less SUP products put on the market, improved product design by the producers).

4 Calculating costs for collection and litter-related practices

Many litter clean-up practices in EU Member States are under the responsibility of local authorities ⁽¹⁹⁾. Data are therefore mainly collected at that level. A range of cost data and estimates is available at EU, national, municipal or site/activity level from published studies, reports and stakeholder survey responses ⁽²⁰⁾ ⁽²¹⁾.

The estimated costs can considerably vary, depending on the scope of costs (i.e., the activities that are included or excluded in the estimations) and the producer responsibility organisations involved. Many factors such as population awareness, waste collection infrastructure, littering rates, labour costs, outcome of the cleaning activities, level of urbanisation, or even weather, influence littering. Additionally, the representativeness of areas covered in a study (e.g., rural vs. urban) can largely impact the costs of litter clean-up. In most studies, no differentiation is made between the costs generated by general litter and costs specifically generated by product groups listed in Part E of the Annex to the Directive.

⁽¹⁷⁾ In the case of filters, Article 5.3 of the WHO FCTC should be respected, including the obligation to limit interactions with the tobacco industry and ensure the transparency of those interactions that occur (see section 7).

⁽¹⁸⁾ Study "Erarbeitung eines Kostenmodells für die Umsetzung von Artikel 8 Absatz 2 und 3 der EU-Einwegkunststoffrichtlinie" (DE) https://www.umweltbundesamt.de/sites/default/files/medien/479/publikationen/texte_132-2022_erarbeitung_eines_kostenmodells_fuer_die_umsetzung_von_artikel_8_absatz_2_und_3_der_eu-einwegkunststoffrichtlinie_0.pdf.

⁽¹⁹⁾ It is the competence of Member States to decide the engagement and responsibilities of their municipalities.

⁽²⁰⁾ MWE study "Littering in the MWE member states, An inventory of costs, amounts and assessments", p. 12, <https://www.municipalwasteurope.eu/sites/default/files/LITTER%20COST%20STUDY%20-%20MUNICIPAL%20WASTE%20EUROPE-JUNE2020.pdf>.

⁽²¹⁾ Study "Erarbeitung eines Kostenmodells für die Umsetzung von Artikel 8 Absatz 2 und 3 der EU-Einwegkunststoffrichtlinie" (DE) https://www.umweltbundesamt.de/sites/default/files/medien/479/publikationen/texte_132-2022_erarbeitung_eines_kostenmodells_fuer_die_umsetzung_von_artikel_8_absatz_2_und_3_der_eu-einwegkunststoffrichtlinie_0.pdf.

Taking into account these differences, it is not possible to establish a clear set of typical values at EU level. Member States are likely to need to conduct their own assessment based on the information already available, e.g., from producers or producer responsibility organisations, at municipal level or, where this is lacking or not considered updated or relevant, conduct their own studies, including market surveys, to determine the costs associated with the relevant litter clean-up activities.

Comparable data sets from other municipalities, regions or Member States may be used to inform about the costs of cleaning up litter (e.g., in cases in which proper data is unavailable or data gathering would be disproportionate).

When calculating the actual costs for cleaning up litter, the following aspects should be considered ⁽²²⁾:

- A representative sample of municipalities that participate in a study needs to be chosen. The sample should cover municipalities of different sizes, but also include both frontrunners and laggards. The exact sampling size depends very much on the size and the diversity of the country, including factors like the level of urbanisation, population density, traffic or tourism as these have a large effect on the amount and thus the costs of litter. This enables an accurate extrapolation to establish costs on a national level. A representative sample of locations should also be taken into account, especially the ones where the clean-up is most frequent;
- In the research design, municipalities should be asked to provide information on the main drivers of costs generated by litter. The survey could include:
 - existing and planned clean-up activities;
 - total amount of waste generated from litter clean-up per SUP product;
 - personnel costs: labour costs (including overhead-costs) of personnel collecting litter such as from streets, parks and beaches;
 - costs of machines, utilities and vehicles: annual costs of maintenance, depreciation of machines, utilities and vehicles, adding additional annual investments into machinery and vehicles;
 - costs of regular cleaning of the wastewater collection networks and removing SUP products from treatment plants and costs of emergency measures to be taken in case of blockage of the infrastructures due to the accumulation of SUP products;
 - costs of transportation (in costs per hour, multiplied by annual use of vehicles and utilities);
 - means and costs of different treatment options (analysing actual costs of clean-up activities);
 - locations and frequency of clean-up.

The activities regarding the clean-up of litter are often mixed with other activities in the public environment. For example, personnel collecting litter from streets may in the same shift sweep leaves, empty bins, maintain parks, repair property, etc. Also, the costs of removing SUP products from wastewater treatment plants should be taken into account according to the share of SUP products found in solid waste removed from wastewater before its treatment. To be able to determine which part of the costs is linked to litter that is covered by Article 8 of the SUP Directive, waste composition analysis should be conducted ⁽²³⁾. It can also be useful to look at how much time staff spend performing each activity during a typical day.

⁽²²⁾ MWE study “Littering in the MWE member states, An inventory of costs, amounts and assessments”, p. 24, <https://www.municipalwasteurope.eu/sites/default/files/LITTER%20COST%20STUDY%20-%20MUNICIPAL%20WASTE%20EUROPE-JUNE2020.pdf>.

⁽²³⁾ E.g., the guidelines for uniform waste analysis in Saxony “Richtlinie zur einheitlichen Abfallanalytik in Sachsen”, <https://publikationen.sachsen.de/bdb/artikel/23865>.

Article 8(4) of the Directive specifies that ‘to minimize administrative costs, Member States may determine financial contributions towards the costs of cleaning up litter by setting appropriate multiannual fixed amounts.’ Thus, if public authorities are unable to obtain the minimum data required to understand the costs of the activities in question or if it comes with high administrative costs, this could be an approach to apply.

If applying multiannual fixed amounts, Member States should ensure that the costs incurred by producers do not exceed what is necessary to provide the services referred to in sections 2.4 and 2.5 in a cost-efficient way and are used solely for the purpose of cleaning up the litter resulting from SUP products. Member States should encourage the acquisition of relevant data to set up a transparent system.

In order to help reach the objectives of the SUP Directive, Member States should ensure that calculated costs would motivate the producers to implement litter prevention measures, rather than covering the litter clean-up.

5 Methodologies to calculate the amounts of SUP products amongst litter collected

Once the costs associated with litter-related activities have been determined, the share of SUP products listed in Part E of the Annex to the SUP Directive amongst the litter collected must be calculated.

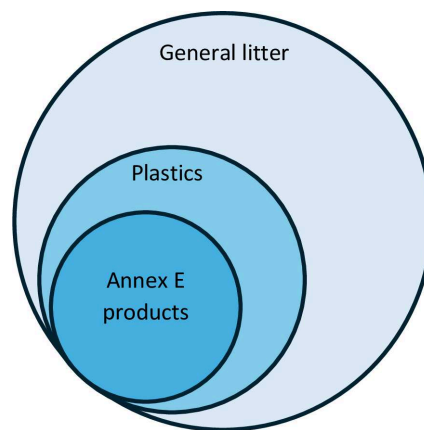


Figure on differentiation of different types of litter ⁽²⁴⁾

The Commission identified two main options (input- and output-based methodologies) to calculate the amounts of SUP products amongst waste littered in public locations ⁽²⁵⁾.

5.1 Input-based methodologies

Input-based methodologies are based on the mass (i.e., weight) or quantity (i.e., number of items) of SUP products placed on the market in a given Member State including imports and exports, for which data are needed. These data are available at industry level, either via official European ⁽²⁶⁾ or national market databases, e.g., Prodcum, existing EPR schemes, etc. This method then uses estimations of the share of SUP products consumed in public spaces, which are littered. Information on the share of SUP products that are littered can be determined through field evaluations, based on observations of individual consumer behaviour trends, market characteristics and other relevant local conditions. This information will allow an estimate of total amounts of SUP products properly disposed of (and thus collected) and littered in public spaces

⁽²⁴⁾ Based on the MWE study “Littering in the MWE member states, An inventory of costs, amounts and assessments”, figure 2, <https://www.municipalwasteurope.eu/sites/default/files/LITTER%20COST%20STUDY%20-%20MUNICIPAL%20WASTE%20EUROPE-JUNE2020.pdf>.

⁽²⁵⁾ Ramboll “Study to support the development of implementing acts and guidance under the Directive on the reduction of the impact of certain plastic products on the environment -WP 6 : final report on developing guidelines on litter clean-up costs”, p.56 ff., <https://op.europa.eu/en/publication-detail/-/publication/e9f3bf85-a706-11eb-9585-01aa75ed71a1>.

⁽²⁶⁾ Eunomia “Plastics: Reuse, recycling and marine litter”, <https://op.europa.eu/en/publication-detail/-/publication/3cda2d1-c5f2-11e8-9424-01aa75ed71a1/language-en>.

or discarded to wastewater at Member State level. However, the following points should be taken into account. Input-based methodologies are highly dependent on complete and robust market data, which is not available for all product groups. Also, available data does not always reflect the reality in a given Member State, due to factors such as cross-border movement or free-riding. This approach is also not ideally suited to differentiate costs between different municipalities. While one could look at how much relevant material is properly disposed of in a particular municipality, there will be no data available on the products placed on the market at the municipal level.

5.2 Output-based methodologies

Output-based methodologies rely on the results of litter sampling studies to determine the total amount and/or quantity of litter and the corresponding share(s) of SUP products ⁽²⁷⁾. These methodologies rely on periodic post-collection and litter clean-up composition analyses at national/regional/local level being undertaken to ensure robust data on the total amount of litter and the proportion of SUP products ⁽²⁸⁾.

The robustness of the parameters applied in the design of sampling studies is very important to ensure that measurements are as representative as possible of local conditions, highlighting the importance of pre-pilot measurements or knowledge from previous studies.

There are also aspects that require particular attention when using output-based methodologies. The number and frequency of measurements must ensure statistical representativeness. Various factors can affect sampling, such as seasonal and weather variations. Output-based methodologies must also consider the impact of external factors affecting SUP product weight, such as moisture content and food residue, which is of particular relevance when using weight-based allocation of costs.

Key parameters to consider when carrying out litter composition analyses include:

- Determining and mapping measurement locations ⁽²⁹⁾, ⁽³⁰⁾, ⁽³¹⁾

Before launching the actual composition analyses, an important step is to carry out pre-pilot measurements, to get an overview of the different environment types which exist within a given area and their characteristics in terms of littering. Pre-pilot measurements consist of litter counts, during which the amount of SUP products litter in areas of a given size (e.g., 10*10 m²) are determined. The load and composition of solid waste to calculate the SUP products in the wastewater treatment plants might represent a reliable and representative point of measurement. From these analyses, it is possible to identify several environment types, including those which have high or low risks in relation to littering. Locations should be chosen considering already existing cleaning provisions, for instance of local authorities.

- Determining the timeframe and frequency of measurements ⁽³²⁾

In terms of timeframe, litter composition analyses could be carried out year-round, to reflect potential differences in volumes of waste collected throughout the seasons, e.g., summer vs winter months, in municipalities with different characteristics (such as the level of urbanisation, density, environmental awareness of population subgroups and community-led activities, number of tourists, etc.). Weather is also a variation factor for litter sampling and should be considered when carrying out sampling measurements, as rain can flush away certain frequently littered lightweight SUP products (e.g., filters) and impact outdoor activities, which often lead to littering.

⁽²⁷⁾ EU Marine Beach Litter Baselines, <https://publications.jrc.ec.europa.eu/repository/handle/JRC114129>.

⁽²⁸⁾ VKU/INFA Study „Ermittlung von Mengenanteilen und Kosten für die Sammlung und Entsorgung von Einwegkunststoffprodukten im öffentlichen Raum“ (DE) <https://www.vku.de/publikationen/default-77511ac8ffb6d2adfc49553333c458b8/>

⁽²⁹⁾ OVAM litter fraction count, <https://ovam.vlaanderen.be/fractietelling-zwerfvuil>.

⁽³⁰⁾ Study “Erarbeitung eines Kostenmodells für die Umsetzung von Artikel 8 Absatz 2 und 3 der EU-Einwegkunststoffrichtlinie” (DE) https://www.umweltbundesamt.de/sites/default/files/medien/479/publikationen/texte_132-2022_erarbeitung_eines_kostenmodells_fuer_die_umsetzung_von_artikel_8_absatz_2_und_3_der_eu-einwegkunststoffrichtlinie_0.pdf.

⁽³¹⁾ Guidance on the monitoring of marine litter in European seas, <https://publications.jrc.ec.europa.eu/repository/handle/JRC133594>.

⁽³²⁾ <https://publications.jrc.ec.europa.eu/repository/handle/JRC133594>.

- Determining the moment of measuring to avoid stock and flow issues ⁽³³⁾

For any location selected, it is crucial to determine when it was last cleaned. If a location that has not been cleaned for a certain period of time is sampled, the sampling will measure the amount of litter, but the speed at which the waste accumulated will remain unknown. Therefore, areas that are rarely cleaned (like the verges of minor country roads), and which are sampled should be cleaned up first and then left for a defined period of time before being sampled. This will provide the rate at which litter accumulates and will ensure that the sample represents the current composition of litter, rather than an old and possibly outdated composition.

- Determining (de)composition of SUP products

If a SUP product has decomposed into several pieces, there is a risk of considering individual pieces of (the same) SUP product as different SUP products. On the other hand, similar pieces might be considered as one SUP product even when stemming from different SUP products (e.g., a set of several balloons could be taken to stem from only one balloon). When carrying out litter composition analyses, these risks should be assessed, and if applicable, be considered in the methodologies.

- Determining the unit of the measurement ⁽³⁴⁾ ⁽³⁵⁾

It is possible to measure in terms of amount, weight, and volume. Ideally, litter should be measured according to all three units. If not all metrics are known, conversion factors could be used (e.g., if the volume of beverage containers is known, a conversion factor could be used to convert this to a specific weight, and vice versa). There should be at least one common measurement unit for all the litter in a given step (clean-up, transport and treatment) to determine relevant costs for each product group taking into account common practice. Each of the three measurement approaches yields very different results on how costs are allocated to each product group in litter. Using the correct measurement method is critical to the fair apportionment of costs to each producer group, and therefore an understanding of the appropriateness of each method is also crucial. Filters or balloons, for example, have a much greater proportion when measured by amount, than when measured by volume or weight. To follow the principles of proportionality and equal treatment, it is important to find a reasonable mix of cost allocations between amount, weight and volume.

- Determining the factors for upscaling to the regional or national scale ⁽³⁶⁾ ⁽³⁷⁾ ⁽³⁸⁾

Once robust results are available for selected litter sampling points, it is possible to aggregate the results to obtain data at regional or national scale.

The scaling-up can cover the following:

- a defined set of characteristics of the different parts of the country (urban, suburban, rural, level of footfall, riparian, etc);
- a sampling method that ensures a good sample of areas with each set of characteristics to identify the corresponding annual amount and composition of litter per unit (e.g., per km² or per capita);

⁽³³⁾ <https://publications.jrc.ec.europa.eu/repository/handle/JRC133594>.

⁽³⁴⁾ <https://publications.jrc.ec.europa.eu/repository/handle/JRC133594>.

⁽³⁵⁾ A Joint List of Litter Categories for Marine Macrolitter Monitoring, <https://publications.jrc.ec.europa.eu/repository/handle/JRC121708>.

⁽³⁶⁾ <https://data.europa.eu/doi/10.2760/0752301>, JRC138907.

⁽³⁷⁾ <https://mcc.jrc.ec.europa.eu/documents/202009185110.pdf>, JRC121707.

⁽³⁸⁾ Top Marine Beach Litter Items in Europe, <https://op.europa.eu/en/publication-detail/-/publication/d1d555f4-af6f-11e8-99ee-01aa75ed71a1/language-en>, JRC Technical report.

- the number of inhabitants;
- the typical litter rate/composition of each area; and
- the litter rate/composition to apply to the extension of land (km²) with those characteristics.

6 Options for allocating costs to the producers

Following the calculation of the costs of litter clean-up activities and the share of SUP products that are listed in Annex E to the SUP Directive in total litter, the costs then need to be allocated first between the different categories of SUP products and then between individual producers in each SUP product category.

Member States should ensure that all producers (including from third countries), as defined in Article 3(11) of the SUP Directive, who place SUP products on their market are considered for the cost allocation.

6.1 Allocation of costs among the different categories of SUP products listed in Part E of the Annex to the SUP Directive

Several potential options exist to allocate costs to individual SUP product categories, including those based on weight-, volume-, or amount. As stated in section 5, at least one measurement unit should cover all the litter at a given step (clean-up, transport, and treatment). It should be noted that, since the weight, volume and amount count of different SUP products differ significantly, the approach used for cost allocation can have large impacts on the costs for some SUP products, such as filters and balloons. It is important that public authorities only charge EPR cost for the mix of cleaning activities actually done.

The choice of the cost allocation criteria should be determined at Member State level and consider local practices, but the following factors can be considered when comparing these allocation options:

— **Availability of robust and reliable data**

The allocation approach chosen by the Member States should be consistent with their post-collection waste and litter monitoring methodologies and practices. The approach should consider post-collection and litter clean-up composition analyses (when using output-based methodologies) and the number of products put on the market (when using input-based methodologies).

— **Complexity of the system for producers and Member States**

An appropriate balance is needed between a robust allocation of costs to SUP product categories and regulation which is coherent and enforceable, whilst ensuring minimal implementation costs.

— **Cost drivers for litter clean-up, transport, and treatment**

The allocation between different categories of SUP products should be determined based directly on the weight and/or volume and/or amount of the category of SUP products collected, transported and treated. A volume-based allocation could be more relevant to logistics costs (collection and transport)⁽³⁹⁾ while a weight-based allocation could be more relevant to the treatment costs⁽⁴⁰⁾, depending on the methods used.

⁽³⁹⁾ VKU/INFA Study „Ermittlung von Mengenanteilen und Kosten für die Sammlung und Entsorgung von Einwegkunststoffprodukten im öffentlichen Raum“ (DE), <https://www.vku.de/publikationen/default-77511ac8ffb6d2adfc49553333c458b8/>

⁽⁴⁰⁾ MWE study “Littering in the MWE member states, An inventory of costs, amounts and assessments”, p. 21, <https://www.municipalwasteurope.eu/sites/default/files/LITTER%20COST%20STUDY%20-%20MUNICIPAL%20WASTE%20EUROPE-JUNE2020.pdf>.

In the context of litter clean-up, the costs of some labour-intensive practices (e.g., manual cleaning) are driven by the amount of littered SUP products rather than their weight (e.g., filters). Cost allocations (by weight, volume, amount) should be differentiated per product group and per cleaning activity to minimise cost-intensive activities, where possible. To follow the principles of cost-efficiency, transparency and proportionality, cost calculations and allocations need to have a clearly defined methodology. The tables below illustrate possible methods to determine the allocation of costs to producers for litter clean-up activities.

6.1.1 Allocation of costs to producers per SUP product

- If there are limited available data, a simple breakdown and calculation of the proportion of each SUP item listed in Annex E to the SUP Directive of the total of littered items (for example, as used by OVAM Flanders) can be envisaged:

Product group	% weight	% volume	% amount	% total litter share
Food containers	X	Y	Z	$(X+Y+Z)/3$
Packets and wrappers				
Beverage containers				
Cups for beverage				
Lightweight plastic carrier bags				
Wet wipes				
Balloons				
Filters				

This allocation method simply combines all three metrics without going into detail as to every step of the clean-up process. However, if one or two common metrics are available, a similar approach could be used (dividing % total litter share by the number of used metrics (1 or 2 respectively)).

- If enough data is available, a different allocation method could be used. For instance, for each SUP product group X (e.g., packets and wrappers):

Litter clean-up technique (*)	Relevant metrics	Total Costs	Share
Cleaning and sweeping	% volume	A	% volume multiplied by A
Picking	% amount	B	% amount multiplied by B
Transport	% volume	C	% volume multiplied by C
Treatment	% weight	D	% weight multiplied by D
Total costs per product group			Sum of this column

(*) This column could be further subdivided, e.g., different clean-up techniques or treatment procedures such as wastewater collection and treatment, and other relevant metrics could be used if those that are listed here are not available or not relevant.

Metrics combining the costs for each technique of litter collection and clean-up with the relative share of SUP products of the total litter waste can be used to calculate an overall cost to be financed by producers of the specific category of SUP products concerned. A combination of weight, volume, and amount metrics may be used to allocate costs depending on the respective cost drivers for litter clean-up, transport and treatment. For example, supposed that packets and wrappers account for 6% of litter cleaned up using a cleaning technique (by volume) at a cost of A € and for 15% of litter cleaned up using manual litter-picking (by item) at a cost of B €, then costs for producers of packets and wrappers would be $A \text{ €} \times 6\% + B \text{ €} \times 15\%$. By the same method, the costs for transport and treatment can then be added to calculate the total costs that producers must bear.

A practical example can be used to set up the allocation method with a three-step approach ⁽⁴¹⁾:

Example: Clean-up costs per SUP product

1. Determine the share of each SUP product by type of cleaning or collection (e.g., street cleaning, street sweeping, green spaces sweeping, emptying road drains) according to weight, volume and/or amount (see section 6.1.1);
2. Determine the costs occurred by type of cleaning or collection;
3. Allocate the cost per type, as in point 2, and per SUP product according to their share in point 1.

For SUP product A:

- Street cleaning (using machines) – e.g., weight represents 100% of the total litter share. This would result in: cost of street cleaning multiplied with the share in weight of product A in litter;
- Street sweeping (manual cleaning) – e.g., each factor of weight, volume, and amount constitutes 33,3%. This would result in: cost of street sweeping multiplied with its weighted average of the product A in litter (the sum of 1/3 share in weight of product A in litter plus 1/3 share in volume of product A in litter plus 1/3 share in amount of product A in litter);
- Green spaces sweeping (manual cleaning) – e.g., each factor of weight, volume, and amount constitutes 33,3%. This would result in: cost of green spaces sweeping multiplied with its weighted average of the product A in litter (the sum of 1/3 share in weight of product A in litter plus 1/3 share in volume of product A in litter plus 1/3 share in amount of product A in litter);
- Emptying road drains – e.g., weight accounts for 100%. This would result in: cost of emptying road drains multiplied with the share in weight of product A in litter;

This has then to be repeated for each SUP product in the litter.

6.2 Allocation of costs between individual producers of SUP products

The next step entails allocating to individual producers the costs of practices and measures for each product group listed in Part E of the Annex to the SUP Directive. The system must ensure that the correct total amount is gathered from producers to fully cover net costs (i.e., including revenues generated from re-use, sales of secondary raw material and unclaimed deposit fees) of managing their waste within the territory of the Member State.

⁽⁴¹⁾ Study "Erarbeitung eines Kostenmodells für die Umsetzung von Artikel 8 Absatz 2 und 3 der EU-Einwegkunststoffrichtlinie" (DE) https://www.umweltbundesamt.de/sites/default/files/medien/479/publikationen/texte_132-2022_erarbeitung_eines_kostenmodells_fuer_die_umsetzung_von_artikel_8_absatz_2_und_3_der_eu-einwegkunststoffrichtlinie_0.pdf.

Fees should be charged according to the 'polluter pays' principle and should be levied from producers according to the quantity of SUP products that they place on the market. Member States may set up a fund or any other measure to collect the fees that would be used to clean-up, transport and treat the litter from SUP products. This would make the necessary resources available before the start of the clean-up activity so that public authorities would not need to finance these activities in advance.

In particular, once the total costs to be borne by producers of a SUP product category have been determined, the costs may be shared among all relevant producers based on their market share (amount of products placed on the market) – since the identification of exact product brands in the collected litter would usually be very difficult and costly.

Under an input-based methodology for calculating amounts and shares of SUP products collected and littered, costs to individual producers of a SUP product category can be determined based on the amount or quantity of products put on the market and associated costs of waste collection and treatment, and litter clean-up. However, there are limitations to this approach and data collection might be needed, particularly as data concerning the amount of products placed on the market are only available for some product groups, such as filters or those products already subject to EPR schemes.

The outcome of existing activities which are organized and/or funded by the producers to reduce litter may also be considered in the calculation of the fees. Fees should be proportionate to generated waste and litter volumes and appropriate review processes should be established to take into account progress in innovation, improved collection and recycling practices and in particular reduction in littering behaviour (e.g., due to improved waste collection infrastructure in public places, effective awareness raising campaigns, better product design etc.).

The net cost principle should be applied, implying that any revenue from the sales of cleaned up littered items should reduce the relevant producer fees for relevant litter-related practices. Any double counting of revenues (e.g., when valuable material from litter is sold several times in the value chain) should be avoided.

Member States are responsible for deciding the final modalities regarding the calculation of costs and the share of the litter clean-up costs to be covered by producers.

7 Specificities for filters

To set the rules for filters, some additional elements need to be considered.

The EU and its Member States are Parties to the WHO Framework Convention on Tobacco Control (WHO FCTC) and thus have a legal obligation to apply its provisions. In order to ensure coherence between environmental and public health policy actions, this section recalls relevant obligations and guidance under the WHO FCTC.

Article 17(3) of the SUP Directive means that agreements with economic operators regarding filters are not allowed under the SUP Directive: '*3. Provided that the waste management targets and objectives set out in Articles 4 and 8 are achieved, Member States may transpose the provisions set out in Articles 4(1) and 8(1) and (8), except as regards single-use plastic products listed in Section III of Part E of the Annex* ⁽⁴²⁾, by means of agreements between the competent authorities and the economic sectors concerned.'

The objective of the WHO FCTC is to protect present and future generations from the devastating health, social, environmental and economic consequences of tobacco consumption and of exposure to tobacco smoke. In this framework, Article 5.3 of the WHO FCTC requires that '*in setting and implementing their public health policies with respect to tobacco control, Parties shall act to protect these policies from commercial and other vested interests of the tobacco industry in accordance with national law*'. In February 2024, a decision ⁽⁴³⁾ of the 10th Conference of the Parties to the WHO FCTC was taken by consensus that urged the Parties, in accordance with Article 5.3 of the WHO FCTC, to '*protect tobacco-related environmental policies from the commercial and vested interests of the tobacco industry and those working to further its interests*'; and '*to counter the so-called corporate social responsibility activities of the tobacco industry, and to ensure that WHO FCTC objectives are not undermined through the industry's implementation of extended producer responsibility systems*'.

⁽⁴²⁾ Tobacco products with filters and filters marketed for use in combination with tobacco products. Emphasis added.

⁽⁴³⁾ Decision of the Conference of the Parties, FCTC/COP10(14), implementation of Article 18 of the WHO FCTC, <https://storage.googleapis.com/who-fctc-cop10-source/Decisions/fctc-cop-10-14-en.pdf>.

The implementation of Article 5.3. of the WHO FCTC has been supported by the WHO FCTC Guidelines ⁽⁴⁴⁾. The WHO FCTC Guidelines are not legally binding, yet they are intended to assist the Parties, including the EU and its Member States, in meeting their legal obligations under Article 5.3 of the WHO FCTC. Parties should implement the recommended measures in all branches of government that may have an interest in, or the capacity to, affect public health policies with respect to tobacco control ⁽⁴⁵⁾.

The Guidelines for implementation of Article 5.3 state that *'Parties, when dealing with the tobacco industry or those working to further its interests, should be accountable and transparent'*. The Guidelines also recommend that the Parties should *'establish measures to limit interactions with the tobacco industry and ensure the transparency of those interactions that occur'*, and *'avoid conflicts of interest for government officials and employees'*.

Further, the Guidelines highlight that *'because their products are lethal, the tobacco industry should not be granted incentives to establish or run their business.'* In this regard, the Guidelines recommend that the Parties reject partnerships and non-binding or non-enforceable agreements with the tobacco industry, and denormalise and, to the extent possible, regulate activities described as 'socially responsible' by the tobacco industry, including but not limited to activities described as 'corporate social responsibility'.

Parties to the WHO FCTC, including the EU and its Member States, should also ensure that Article 13 of the WHO FCTC is fully respected. This provision obliges Parties to undertake a comprehensive ban of all tobacco advertising, promotion and sponsorship ⁽⁴⁶⁾. Article 5 of Directive 2003/33/EC on advertising and sponsorship of tobacco products ⁽⁴⁷⁾ prohibits sponsorship of events or activities involving or taking place in several Member States or otherwise having cross-border effects. According to Article 2(c) of the aforementioned Directive, 'sponsorship' means any form of public or private contribution to any event, activity or individual with the aim or direct or indirect effect of promoting a tobacco product. This includes environmental activities used to directly or indirectly promote tobacco products.

In view of the above, it is important to ensure that also actions regarding filters are in line with the obligations stemming from Articles 5.3 and 13 of the WHO FCTC. When allocating costs to tobacco producers to cover clean-up of litter from filters, Member States should also ensure that tobacco producers pay for these costs as described in these guidelines. However, given the above, Member States should also ensure that the tobacco industry does not get, even if unintentionally, incentives or advantages ⁽⁴⁸⁾ nor should the tobacco industry get unnecessary interactions with public authorities (e.g., partnerships, agreements, contributions).

⁽⁴⁴⁾ WHO Guidelines for Implementation of Article 5.3 of the WHO Framework Convention on Tobacco Control, adopted by consensus by the Conference of the Parties to the WHO FCTC at its third session in 2008 (FCTC/COP/3/5), <https://fctc.who.int/publications/m/item/guidelines-for-implementation-of-article-5.3>.

⁽⁴⁵⁾ WHO Guidelines for Implementation of Article 5.3 of the WHO FCTC, Introduction, p. 4, paragraphs 2 and 3. See also the judgement of the Court of Justice of 4 May 2016 in Case C-547/14, paragraphs 111 and 112, <https://curia.europa.eu/juris/liste.jsf?num=C-547/14>.

⁽⁴⁶⁾ Or restrictions, where a Party is not in a position to undertake a comprehensive ban due to its constitution or constitutional principles, in line with Article 13.3 of the WHO FCTC.

⁽⁴⁷⁾ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32003L0033&qid=1728555561095> (OJ L 152, 20.6.2003, p. 16).

⁽⁴⁸⁾ For example, via clean-up or anti-litter campaigns or similar activities, showing the tobacco industry as socially responsible industry or enabling advertising, brand support or self-promotion of the tobacco industry and tobacco products, including by portraying certain products as supposedly environmentally friendly.