

## **Dr Caroline Jackson Speech at EMPAC AGM in Copenhagen, 4 June 2010**

### **Dr Caroline Jackson**



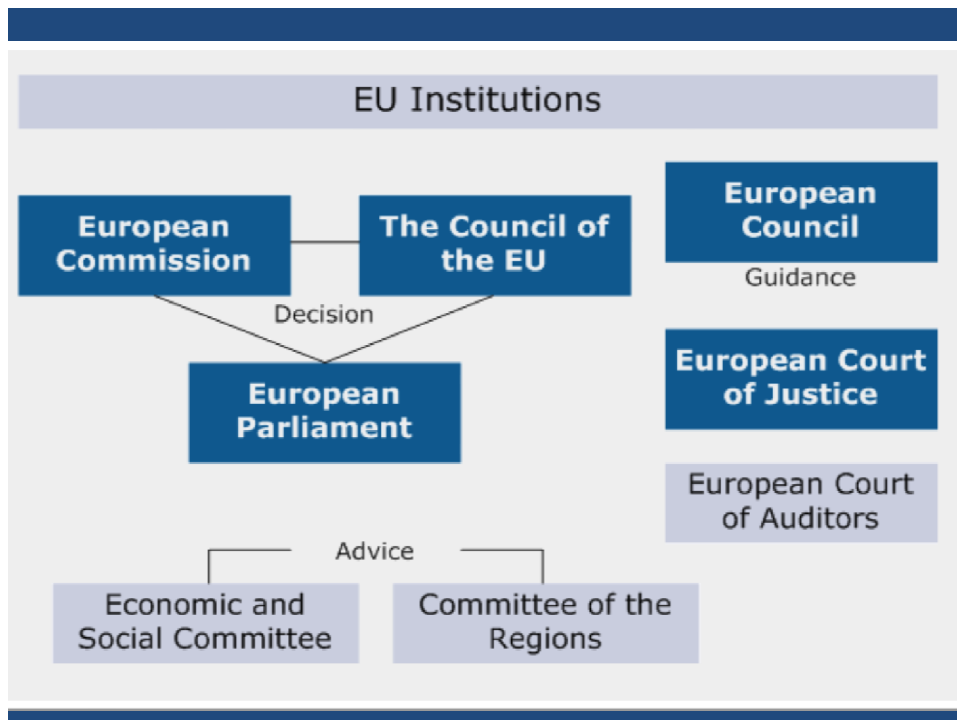
### **What you can do to influence the political agenda**

In this contribution I shall try to deal with the question of what action you can take once you have decided what the messages and points are that you want to get across. In this case, as you are a Europe-wide organisation, I shall deal with the action you need to take to influence the European political agenda. It may be that you want to persuade the powers that be at the heart of the EU that they should propose new legislation. Or you may want something amended or repealed. You may even want to stop proposed changes from going ahead. Whatever it is, you do have to remember that your points will not get across by some sort of intellectual osmosis. You have to be prepared to take action yourselves. Sad though it may be to have to remind you but, in this cruel business world, nobody is thinking of promoting you but you. So it's best to get on with it.

## Political Pressure Points

- The European Commission
- The European Parliament
- The Council of Ministers
- The Presidency of the Council
- The Economic and Social Committee
- The Committee of the Regions
- Relevant non-Governmental Organisations

**Slide 2** Here I have set out the political pressure points in Brussels. The Commission, Council and Parliament should be familiar to you. Post Lisbon the situation regarding the Presidency has changed. Mr Van Rompuy is now President of the Council of Ministers for two and a half years, starting in January 2010. But the old idea of the 6 monthly presidencies by a revolving rota of national governments has, in a typical fudge, survived. Hence the Belgians will take over in chairing all meeting of thematic councils as from 1 July – and will almost immediately celebrate the event by holding a general election. I draw your attention particularly to the need for you to take into account relevant non-governmental organisations, many of which have gathered in the shadow of the European Institutions in Brussels. The larger ones, such as the European Environmental Bureau, receive funding from the Commission – which does not prevent them from being stern critics of the organisation that supports them.



**Slide 3** This shows you how the institutions fit together. Your targets for influence are the Commission, Council and Parliament. You should not need to have contact with the Court of Justice unless something goes very wrong.

## The Council of Ministers

- Central decision-making body and now co-legislator with the European Parliament
- Made up of ministers from the 27 Member States meeting in thematic councils
- Key people are the 27 Permanent Representatives of the Member States who meet frequently in "Coreper"
- Qualified majority voting now almost universal

**Slide 4** sums up the importance of the Council of Ministers. Note under the third indent the importance of "Coreper", the meetings of the ambassadors of the 27 member states to the EU. It was thought by its originators that the Lisbon Treaty would herald the slow etiolation of

national governments as the driving force of the EU. In fact the Council survives as the dominant voice.

## The European Commission

- Initiates new laws and answers Parliamentary debates on them
- Current work on:
  - Definition of packaging
  - study on packaging deposit systems
- Is considering results of study on a Waste Implementation Agency
- Is present as “facilitator” at Co-decision meetings
- Chairs all Regulatory Committee meetings

**Slide 5** sums up the powers and position of the European commission. It is important to underline that the Commission has the sole right of initiative in terms of new EU law. The European Parliament has the right to request the Commission to come forward with a proposal, but the Commission does not have to act as the Parliament wants.

Currently the Commission is working on two initiatives in the packaging field. One is guidance on a new definition of packaging and the other, at the request of the European Parliament, which put the necessary money into the budget, is a study on packaging deposit systems in the EU. This work will be put out to tender, and the research conducted next year. The signs are that the Commission is not in favour of measures which would seek to introduce a new packaging deposit system throughout Europe but the Parliament will push for it.

Meanwhile the Commission also has up for consideration the results of the study it had done last year on the introduction of a European Waste Implementation Agency. That may impact on you too. Clearly the main focus will be on such things as the illegal export of waste, especially dangerous waste, but potentially it will cover all types of waste, and what happens to it under existing laws. The Parliament will be doing a report on the proposal. The recommendation is that such an agency should be set up with the specific tasks of monitoring waste management plans and organising training. But this agency would not have the right of inspection and control: that would remain with a small team within the Commission. We don't know what will happen to these proposals except that the Member States are very lukewarm about setting up yet another agency.

## The European Parliament

- 736 MEPs
- 7 political groups
- 20 Specialist committees
- Powers under “Co-decision” mean it is a co-legislator with the Council
- Amends and adopts EU law
- Can question Commission and Council
- Can scrutinise compliance

**Slide 6** sums up the current state of the European Parliament.

## The “power hierarchy”?

- Commission powerful at the start
- Council and Parliament equally powerful during adoption of legislation
- Commission and Council powerful in deciding subsequent detail
- Other institutions are really “background noise”
- NGOs important in creating political climate

**Slide 7** sets out what I describe as the "power hierarchy" in the European Union. Unlike the waste disposal hierarchy in EU law, it is not a simple pyramid. This is because different institutions are powerful at different points in the consideration and adoption of EU proposals. The Commission initiates action; the Council and Parliament negotiate a final text of a law; the baton then passes back to the Commission and Council, who negotiate the detailed terms of the directive through what is known as the Regulatory committee procedure.

The Parliament is not excluded from this altogether, however, because MEPs can become involved if they choose to do so. As for the other representative institutions – the Committee of the Regions and the Economic and Social Committee (neither of them directly elected) I think you can safely ignore them – unless you feel the need to lobby their members to get them on your side. Non-governmental organisations are much more important in Brussels in affecting the political climate in which you must operate.

## MEPs and packaging

- Think packaging excessive and want less
- Do not distinguish between different sorts of packaging
- Want producer responsibility
- Love “the producer pays”
- Love the precautionary principle
- Not interested in costs
- Poor at following up on compliance

**Slide 8** The European Parliament contains the directly elected representatives who should be most ready to help you. In this slide I have headlined the Parliament's characteristics from the point of view of the packaging industry. MEPs' ideas are pretty fixed and rather predictable: over the last 10 years or so we can see that they, like everybody else, utter the mantra that there is "too much packaging", and are in favour of reducing packaging and recycling more of what we do have to use. They like to add into new law references to producer responsibility and the producer pays principle, ignoring that costs are usually passed on to the consumer anyway. They are very keen on the "precautionary principle" – that is the idea that if an action or policy has a suspected risk of causing harm to the public or to the environment, in the absence of scientific consensus that the action or policy is harmful, the burden of proof that it is not harmful falls on those taking the action. They are not terribly interested in the cost of what the Commission proposes, or in the cost of their own amendments – although this situation is now changing as impact assessments are introduced. They are not interested in following up on compliance issues, and, shamefully, environmental NGOs do not urge them to take action on this area.

## Co-decision

- The usual procedure for EU law affecting you
- Without inside information very difficult to follow what happens in “trialogues” and the Conciliation committee
- Regulatory Committees deal with detail and meet behind closed doors
- Only route to greater openness is through European Parliament

**Slide 9** You will need to know how "Co-decision" works. Essentially it is modelled on the German parliamentary process. It involves Council and Parliament in two readings of new legislative proposals, carried out separately by both institutions. Where there are areas of disagreement a conciliation committee of 27 MEPs and 27 representatives of the member states convenes to hammer out an agreed text, acceptable to both sides. When they agree both institutions have to endorse the agreement. You will have difficulties with this process because many crucial deal-making meetings are held in private. The conciliation committee meetings are held in private. So are meetings known as "trialogues", that involve just the Parliamentary rapporteur and one colleague from each political group, plus a representative of the Council with the Commission as facilitator. It is in the trialogues that the deals are done before conciliation meetings and also before first and second readings in the Parliament as a way of shortening the process. No detailed minutes are published. If there is anything vital to your industry or company that is going on in such trialogues, you will need to have some way of finding out, through a well-placed MEP or other sympathetic participant.

## Transparency in the EU?

- Laws adopted under co-decision number about 50 a year
- Acts adopted under the internal committee procedure in “comitology” number about 2,500 a year
- The devil, for you, may be in details decided behind closed doors.

**Slide 10** You will find that there is a general problem of "transparency" or openness in the European Union institutions. One area where this is true is in Co-decision but another important aspect of the same tendency is evident in the Regulatory committees which settle details of a law after its main outline has been adopted. Regulatory committees are chaired by the Commission and contain representatives from all member states. Details of what they are considering are sent to the Parliament, and MEPs can insist that a proposal is withdrawn from the Committee and sent to them as a full co-decision proposal – but this rarely happens. This is partly because of the volume of proposals, which MEPs find overwhelming, but also because few organisations seem yet to have grasped that so much is going through the Regulatory Committee procedure, and that some of this will affect them. It is only very recently that a Belgian journalist drew attention to this "secret lawmaking" and pointed out that about 50 laws are adopted under Co-decision every year, but that about 2,500 acts are adopted each year under the internal (regulatory) committee procedure.



## How you can manage MEPs

- Must be taken country by country : identify a small bank of MEPs you can talk to
- MEPs WANT to visit plants and factories
- Help them with media coverage
- Familiarise them with your industry and what you are worried about
- Use them in political emergencies and for long term help

**Slide 11** Once you have decided that you want to make contact with MEPs it will not be a case of simply making contact with an MEP or MEPs who will quickly recognise what your problem is and help deal with it. They don't know you or worry about what worries you. So it is a case of finding and informing the appropriate MEPs. How can you best go about this?

My recommendation is that you should target key MEPs on the relevant committees and "educate" them about your concerns. This will be difficult. MEPs are hard to track down and very short of time because of all their travelling but

- aim to put together a bank of MEPs – no more than one or two from each country where you are active – whom you can invite to your plants, photograph with hard hats, meet the work force and familiarise with your industry. This means that they can help in emergencies (new directives) and provide long term links with what is happening in the Brussels political scene
- Decide what your message is, even when it may hang on technical details. MEPs can still help by asking questions on technical matters in written form. MEPs prefer a clear message to general introductions
- Put your concerns, if possible, in the context of wider EU policy on sustainability and climate change. This means that you should know the answers to questions about the carbon impact of your processes, and how they relate to competitor processes
- If you want MEPs to help you, then help them, by informing them but also by using visits to give them publicity

Building up contacts in this way is never wasted. When new legislation is not under scrutiny you can still use your contacts in the Parliament to help you raise issues with the Commission.

## What is your message?

- You are representing an industry that is taking a lead in sustainability
- You may have new initiatives that will lessen carbon impacts, help consumers and save money

**Slide 12** The packaging industry tends to be reactive and rather allergic to criticism. But you have a good story to tell, particularly given the very high recycling rate of metal packaging. You need to present the industry much more positively.

## Things you should not do...

- Don't complain about the activities of competitors unless you have good information that they are breaking the law: then MEPs – and others – can help
- Have too many messages

**Slide 13** These "DON'T" messages are important if your lobbying is to be successful

## Your agenda now

- Decide: do you want to put a particular point across to EU legislators, or build platform of contacts for future action. Or both?
- Draw up contact list of MEPs and arrange programmes for them
- Think about using EMPAC EU to get to know your representatives in “Coreper” and in the national embassies to the EU

**Slide 14 This is my To Do list for you. It really is time that the industry stopped arguing with itself and spent more time and effort in positioning itself in an informed and positive way.**