

22<sup>nd</sup> March 2023



## EU BAN ON PLASTICS UNLAWFUL

The case brought by Symphony Environmental Technologies Plc against the Commission, Parliament, and Council of the European Union was heard on 20<sup>th</sup> March 2023 in the General Court of the EU in Luxembourg. Symphony's case is that Art. 5 of the Single-use plastics Directive 2019/904 is unlawful.

Symphony's case was heard by five judges, including the President of the General Court, and the President of the Fifth Chamber, which indicates the importance the Court attaches to the issues in this case. There is no time limit for the delivery of judgement, but Symphony's lawyers estimate 12 to 15 months after the hearing, but it could be earlier.

Symphony was represented by Josh Holmes KC and Jack Williams, Barristers from Monckton Chambers, leading specialists in EU law.

This case is not just about harm done to Symphony – it is about harm done to the environment. Symphony's d2w technology was invented to reduce plastic pollution by causing the plastic to biodegrade rapidly, leaving no microplastics or harmful residues, if it escapes into the open environment (particularly the oceans), from which it cannot realistically be collected for recycling or anything else.

Symphony does not accept that Article 5 applies to its d2w technology, but the confusion caused by the wording of the legislation is obstructing the adoption of the technology outside the EU as well as inside. For every day it remains in force ordinary plastic continues to be used, and thousands of tons of it are getting into the open environment worldwide, where it could persist for 50 years or more.

Symphony's CEO, Michael Laurier said "The EU ought to be encouraging plastic which will biodegrade in the open environment, and I have never been able to understand how it was possible to impose a ban without any dossier from the European Chemicals Agency (ECHA) showing any justification for a ban. The Commission had asked ECHA to study the technology under Art 69 of REACH, and ECHA received hundreds of pages of scientific evidence, but were instructed to terminate the study."

"The EU then proceeded to legislate and ignored all the safeguards against arbitrary legislation provided by Arts. 69-73 of REACH, and the Charter of Fundamental Rights. In October 2018 Symphony were informed by the leader of the scientific team at ECHA after ten months study, that they had not been convinced that microplastics were formed."

Addressing the court, Josh Holmes KC said that the scientific evaluation ought to have been left to ECHA, as they are the experts, and he drew attention to “the serious breach of Union law which has regrettably occurred in this case.”

“...the prohibition is arbitrary. The institutions proceeded without sufficient scientific evaluation of the supposed risks and solutions and failed to take account of all relevant considerations.”

“the prohibition unlawfully fails to conform with the requirements of proportionality, equal treatment and good administration. Those are fundamental aspects of the judicial control of the Union and are a key protection for individuals and businesses against arbitrary acts.”

In their Claim submitted in December 2020, Symphony estimated maximum damages at £82 million if the court finds in their favour, but this could be higher given time elapsed until judgement and would nevertheless be at the discretion of the court. Furthermore, if the court finds in favour of Symphony, their directors consider that this would result in accelerating d<sub>2</sub>w sales not only in the EU but worldwide.

FOR FURTHER INFORMATION see

<https://www.symphonyenvironmental.com/additives/biodegradable-plastic/> or Contact:

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## **NOTE TO EDITORS**

### ABOUT SYMPHONY

Symphony has a diverse and growing customer-base and has established itself as an international business with 74 distributors around the world. Products made with Symphony's plastic technologies are now available in nearly 100 countries and in many different product applications. Symphony itself is accredited to ISO9001 and ISO14001.

Symphony is a member of The BPA ([www.biodeg.org](http://www.biodeg.org)) and actively participates in the Committee work of the British Standards Institute (BSI), the American Standards Organisation (ASTM), the European Standards Organisation (CEN), and the International Standards Organisation (ISO).

Further information on the Symphony Group can be found at [www.symphonyenvironmental.com](http://www.symphonyenvironmental.com) and twitter @SymphonyEnv See also Symphony on Instagram and facebook. A Symphony App is available for downloading to smartphones.

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