



Department of the
Environment
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SUMMARY OF CONSULTATION RESPONSES AND GOVERNMENT RESPONSE

to the Consultation published on 4 March 2010 and entitled 'Implementing the Packaging Strategy: Targets, Transparency and Technical Changes'

1. Introduction

The consultation, which ran from 4 March to 27 May 2010, received 96 responses. 87 respondents are based in England; 2 in Scotland; 5 in Wales and 2 in Northern Ireland.

27 responses were received from trade associations and representative bodies, 15 from compliance schemes representing their members, 12 from Local Authorities (including LARAC), 13 from reprocessors and exporters (only 1 exclusive exporter), with the remainder from waste management companies, individual producers/brands, environmental NGOs, voluntary sector, etc.

2. Targets

Since the consultation ended, the new administration in England announced a review of waste policy for England in July 2010.

It was therefore agreed that packaging recycling targets would be set **for 2011 and 2012 only**, at a level which would ensure that the EU minimum targets were met. The proposed targets are subject to Parliamentary approval.

Future ambitions and how they are best delivered will be considered as part of the Waste Review and discussed and agreed with the devolved administrations. Consultation responses and comments will be included in the evidence for the Review.

Waste arising and obligated tonnage data (Questions 1, 2 & 10)

40 respondents (including 10 trade associations, 9 schemes, 5 local authorities) agreed with the underlying data assessment, though often this was with the caveat that they had no better sources. 12 respondents disagreed with the base data (5

schemes; 4 trade associations), on the grounds that it conflicted with stated Government policy to halt waste growth and that making predictions beyond a 3 year horizon is unrealistic. It was also felt that the underlying data, especially the waste arisings, should reflect and be closely linked to relevant economic data, such as GDP.

27 respondents agreed with the assessment of obligated tonnages (7 schemes; 5 reprocessors; 4 local authorities; 3 trade associations), with 18 disagreeing (6 schemes; 5 trade associations; 3 reprocessors). Several respondents noted the actual 2010 figures were lower than predicted and felt that this new data should be used as a revised baseline for calculations.

12 respondents raised the issue of the drop in obligated tonnage in their response, with 30 responses providing commentary on the suspected reasons for this decline. None had any new data on the subject though some (10) suggested a review of the *de minimis* in the Regulations should be progressed. There were also suggestions of over/under-estimates by various sectors and some of free-riding, but without any supporting evidence.

Government response

The consultation used industry estimates for both of these data sets. Consultation responses, and more recent figures for the proportion of tonnage obligated for 2010 have prompted us to review some of these assumptions. Here is an explanation of what changes we have made as a result -

Paper

Predicted flow onto the market: industry estimates used in the consultation were a 0.8% growth for 2011 and 2012, reducing to 0.5% from 2013 onwards. The response from the Confederation of Paper Industries suggested that UK production for the domestic market is declining. However, this does not take imported packaging into account. HMRC data show a small but steady increase in overall imports of goods since 2007, and some of those goods will come packed in cardboard.

Predicted obligated tonnage: figures from the EA indicate a drop of 3% from 2008 to 2009, and a further drop of 2.4% from 2009 to 2010.

Adjustment: We do not have conclusive information to modify our estimated flow figures. However, we propose to reduce predicted growth rates for the obligated tonnage, based on recent EA figures, to 0% for 2011 and 0.5% for 2012 onwards.

Glass

Predicted flow onto the market: the industry estimate used in the consultation was a 1% growth per year. Consultation responses did not comment on this figure. HMRC data showed an increase in imports of wine between 2006 and 2009, which would support a view that the market is growing.

Predicted obligated tonnage: figures from the EA indicate that the obligated tonnage grew by 0.3% from 2009 to 2010, in line with expectations.

Adjustment: none.

Aluminium

Predicted flow onto the market: industry estimates used in the consultation were a growth of 0% in 2011, 0.8% in 2012, and 1% per year thereafter.

Predicted obligated tonnage: figures from the EA indicate that the obligated tonnage grew by 0.2% from 2009 to 2010, in line with expectations. Following a query by the key trade body for aluminium recycling, we have been investigating a possible mis-reporting of aluminium tonnage together with the EA. However, the information we have does not appear to suggest any anomaly in the reporting.

Adjustment: none.

Steel

Predicted flow onto the market: the industry estimate used in the consultation was a 0% growth per year from 2011 onwards. Consultation responses from steel manufacturers and trade bodies confirmed this figure or did not comment.

Predicted obligated tonnage: figures from the EA show a dramatic drop in the obligated tonnage of 8.7% from 2009 to 2010, which followed a drop of 1.8% in 2009 from 2008.

Adjustment: when the 2010 obligated tonnage figures came through, we sought more market information to test out whether this drop should be mirrored in the predicted flow figures. Commercial market data for household products coming in steel packaging show reductions in the volumes sold in the UK from 2007 to 2009, though on a lower profile than the obligated tonnage. After further consideration, industry best estimates suggest that the total volume of steel packaging in 2009 should be re-based from the expected 676,000 tonnes to 652,000 tonnes.

Plastic

Predicted flow onto the market: the industry estimate used in the consultation was a 1.5% growth for 2011 and 2012, and 2.5% thereafter. Consultation responses were mixed: some trade bodies and large recyclers and manufacturers agreed with the predictions while others felt they were too high.

Predicted obligated tonnage: figures from the EA indicate that the obligated tonnage reduced by 0.6% from 2009 to 2010; this is well below expectations. This follows a reduction from 2008 to 2009 of 3.2%. If the predicted flow figures are still correct (despite plastic trade bodies disagreeing, they have not given any alternative information), this would indicate a widening of the gap

between the tonnage used in the UK and the number of businesses caught by the Regulations.

Adjustment: We have already asked the Advisory Committee on Packaging to investigate the possible causes for this gap, and put forward options for addressing it. This work is due to report at the end of the year, and could make a difference to targets from 2013.

In the meantime, we intend to revise growth forecasts for the obligated tonnage downwards to 1.5%.

Wood

Predicted flow onto the market: the industry estimate used in the consultation was a 0.5% growth per year. The Wood Recyclers' Association agreed with this data, no comments from wood packaging manufacturers or users were received.

Predicted obligated tonnage: figures from the EA indicate that the obligated tonnage *dropped* by 11.% from 2009 to 2010. This follows a 12% drop from 2008 to 2009. Given the structure of the industry (a few big UK manufacturers, significant imports with goods), a drop in demand and better re-use seem to be likely causes. ACP feedback indicates that these figures accord with their market knowledge.

Adjustment: We sought other information to check the accuracy of flow figures. The 2009 WRAP report on the state of the waste wood market predicted a drop in the output of sectors using wood packaging of 17% from 2008 to the start of 2010, followed by a gradual recovery. Researchers were predicting that the output from those sectors would still be below their 2008 levels by 2014. ACP feedback suggests that this is consistent with their market knowledge. Therefore, it is likely that our previous estimates of wood waste arising were too high. The consultation figure for wood waste arisings already reflected a drop of 14% between 2008 and 2009. We are proposing to revise our growth prediction for 2010 to -3% to reflect the WRAP research, and peg it at 0% rather than 0.5% for 2011 and 2012. Similarly, we are proposing to revise the obligated tonnage growth prediction for 2011 and 2012 to 0%.

Paper/board (Question 3)

34 respondents (including 7 trade associations; 9 schemes; 6 local authorities) were in favour of the proposed targets for paper/board. 11 respondents (4 schemes; 4 trade associations) disagreed in favour of lower targets, while 1 respondent wanted higher targets in order to drive increased collection.

The key issues raised were that higher targets may lead to higher levels of contamination from and the perceived over-reliance on the C&I sector.

Government response

The agreed targets for 2011 and 2012 are those which were consulted on under Option 1, namely 69.5% for both years.

Glass (Questions 4 & 11)

37 respondents supported the proposed targets (9 trade associations; 7 schemes; 7 local authorities) with 2 local authority respondents expressing a desire for higher targets than proposed. 12 (4 schemes; 3 trade associations; 1 reprocessor) opposed higher target for glass. Some of the respondents were concerned about the likely levels of contamination and the need for investment in the required infrastructure to deliver the tonnages required. Local authority respondents were concerned about new burdens falling on them as part of the changes to collection to meet targets.

43 respondents (including 11 trade associations; 9 schemes; 9 local authorities; 5 reprocessors) were in favour of the proposal to split glass targets by end use. 11 respondents (including 3 aggregates reprocessors, 4 schemes) opposed the proposal, mainly on the grounds that aggregates is a useful outlet and can handle mixed colour/green glass not wanted by the re-melt sector.

Government response

The agreed targets for 2011 and 2012 are those which were consulted on under Option 1, namely 81% for both years.

The proposal to split glass recycling targets by end-use will be considered again as part the Waste Review and discussed with the devolved administrations.

Aluminium (Questions 5)

25 respondents were in favour of the proposed targets for aluminium (7 local authorities; 5 schemes; 4 trade associations; 3 waste management companies); a further 2 (schemes) favoured more ambitious targets than proposed.

21 respondents opposed the proposed targets (8 trade associations; 3 Schemes; 3 packer/fillers), with a number of these responses proposing alternative targets of 60-65%. Most respondent cited the difficulty in accessing the required levels of aluminium as a key consideration, plus the anticipated higher costs for producers, though no supporting data was provided. Three respondents warned against setting targets until the current review of protocols had been completed.

Government response

The agreed targets for 2011 and 2012 are those which were consulted on under Option 1, namely 40% for both years.

Steel (Questions 6)

32 respondents supported the proposed targets (including 8 schemes; 6 trade associations; 5 local authorities) , with 2 local authorities pressing for higher targets plus a further respondent suggesting a 90% target to drive the market.

16 respondent opposed the targets (including 6 trade associations; 3 Schemes; 3 reprocessors/exporters), with some suggesting a targets of 65% for 2020. The main

objections to the proposed targets were due to increased costs and the need to invest in waste management infrastructure to deliver the targets. Similar comments as for aluminium were received in regarding protocol tonnages.

For both steel and aluminium 2 respondents (Environmental NGOs) suggested introducing deposit schemes to increase yields.

Government response

Recent market changes have prompted us to re-base our figures for waste flow and obligated tonnage. It is possible that the actual growth profile might be less smooth than that used in the consultation. Together, this may leave the UK at risk of non-compliance with EU minimum metals recycling targets, if UK business targets were kept to their 2010 levels.

Therefore the targets for 2011 and 2012 will be set at 71% to minimise the risk of infraction.

Plastic (Questions 7& 12)

22 respondents supported the proposed targets (including 6 local authorities, 5 trade associations), while 3 respondents proposed much higher targets (in line with those for other materials). It was noted that achievement of the targets would be reliant on greater investment in MRF/PRF and sorting technology.

26 respondents opposed the targets (including 10 Schemes; 9 trade associations; 3 reprocessors). Respondents raised levels of contamination for the existing streams (i.e bottles) as a key issue, plus the lack of end markets for mixed plastics/films. Respondents suggested 40-50% as a realistic target, though this would need to be closely monitored.

40 respondents (including 10 local authorities; 10 trade associations; 6 Schemes) were in favour of split targets for plastic as a means to driving markets. However, there was concern about the likely costs and the potential for fraud within the system. 5 suggested a split by polymer type, as less complex to administer.

20 respondents opposed split targets (including 8 schemes; 7 trade associations). The main issues raised were around increased cost and complexity, as well as questioning the need for direct intervention in a market based system.

In both cases, the need for accurate, long-term data for plastic sub-categories was highlighted in order to make accurate assessments.

Government response

Using the most recent obligated tonnage data for plastic, the current 29% UK business target would not be enough to the minimum EU target for plastic packaging recycling (22.5%) in future years.

Therefore we have decided to raise the business targets to 32% for 2011 and 2012. It is hoped that this will give the UK a small safety margin.

The proposal to split plastic recycling targets by formats will be considered again as part the Waste Review and discussed with the devolved administrations.

Wood (Questions 8)

27 respondents were in favour of the proposed targets for wood (including 7 schemes; 6 local authorities; 5 trade associations; 3 waste management companies). Several noted the increased competition for wood waste from other sectors with other subsidies, such as ROCs.

10 respondents opposed the targets (including 6 schemes; 2 trade associations), on the grounds that this would put unnecessary strain on the system and lead to higher costs with no benefit (as wood targets have historically been exceeded). It would also leave no flexibility for the 'General' PRNs. A cap of 40% was suggested, allowing the market freedom for the acquisition of general PRNs.

Government response

To ensure that we meet the EU minimum target for wood packaging (15%), we will maintain the UK business targets at 22% for both 2011 and 2012, which would give an overall recovery rate of around 19% - a cushion likely to be sufficient to absorb any market changes.

Overall (Questions 9)

65 respondents were in favour of higher targets (including 11 Schemes; 10 local authorities; 19 trade associations), though many expressed caveats related to the material specific targets. However, the overall ambition was in principle supported.

10 respondents opposed higher targets (including 4 schemes; 5 trade associations), on the grounds that targets should not be set beyond a 3-5 year horizon and that higher targets are not the interest of producers (who have to bear the costs). Only 1 respondent explicitly opted for the "minimum option" of rolling forward 2010 targets.

3. Transparency (Questions 13-17)

Q13. *Do you agree with these proposals? If not, please set out an alternative which you think would work better but achieve the same results.*

Proposals were:-

- *Amend Regulations to require a business plan to be submitted in a format agreed by the relevant agency. This business plan to include projections for PRN/PERN revenue, planned expenditure and timescales.*
- *To change categories used in the business plan to match the revenue report.*
- *Include a requirement for the revenue report to include a written explanation of any deviation from the business plan.*

48 respondents agreed with the proposals, particularly as the system will need more investment in future in order to deliver on higher targets. Several respondents noted the need for better enforcement and monitoring, to go with greater transparency. Three were supportive of the implementation of civil sanctions.

8 respondents were opposed to the proposals. 2 trade associations, 1 consultant and 1 scheme argued that a PRN levy to encourage UK markets would work better. The other 4 respondents (1 reprocessor/exporter; 2 trade associations and 1 waste management company) thought that the proposals were disproportionate and at odds with a market-based system. They did not provide a rationale for their statement or an alternative.

None of the respondents provided an estimate of the likely burden.

Q14. *Do you agree with the proposed change in reporting categories? If not, please set out an alternative which you think would work better but achieve the same results.*

38 respondents supported the proposal. There were a number of comments regarding the sub-categories, such as the including the polymer type, splitting the C&I stream for plastics into rigids and flexibles, and excluding “recyclate price support” as a category for expenditure.

6 respondents opposed the proposal (4 schemes; 1 waste management company; 1 trade association), on the grounds that it would impose an additional admin burden for minimal benefit, though no cost data was provided.

Q15. *Do you agree with the proposal for automatic reconciliation? If not, is there another mechanism which in your view would work better and fulfil same objectives?*

35 respondents agreed with the proposal, with some surprised that this was not already possible. 2 respondents commented that requiring 100% reconciliation may be too onerous and suggested 90%. It was also noted that there would need to be a “carry-over” field for expenditure in future years.

4 respondents did not support the proposal (2 schemes; 1 reprocessor; 1 trade association), mainly on the grounds that the data was commercially sensitive and this change was costly without providing commensurate benefit.

Q16. *Do you agree with the proposal for percentage reports on the way individual businesses have spent PRN/PERN revenue ? If not, is there another mechanism which in your view would work better and fulfil same objectives?*

37 respondents supported the proposal. It was noted that many accredited reprocessors/exporters already do this and providing more data if the system can only be beneficial.

9 respondents opposed the proposal (including 3 schemes; 2 trade associations). 3 respondents wanted the data to be published on a sectoral basis only. Others felt that this requirement was unnecessary and that it would be simpler to approach reprocessors direct in order to obtain this data.

It was noted that any changes could discourage companies, especially SMEs and micro-businesses, from accrediting.

Q17. *Do you think any of: (a) publication of individual or sectoral PRN spend, (b) compulsory independent auditing of spend against PRN/PERN revenue, (c) two-part evidence notes and (d) permitting should be pursued? If so, what are the benefits*

and costs you think would arise? Are there any other options that would work better and fulfil the same objectives?

26 respondents agreed that none of the other options should be pursued. No new, alternative proposals were proposed in any of the consultation responses.

Government response

In view of the general support for and the small estimated one-off costs of the categories revision (Q14), we intend to implement those changes as soon as possible, subject to Parliamentary approval.

While the automatic reconciliation (Q15) and automatic proportion reports (Q16) would have negligible or no cost to businesses, they received the least support, so we will not pursue them at this stage.

The improvements to the current reporting system (Q13) had more support. The amending Regulations will include a permissive power to impose a set format, subject to Parliamentary approval. However, the use of this provision is subject to further work on the impact of such measures on businesses, especially SMEs.

4. Technical Changes (Questions 18-23)

Q18. *Do you agree with the proposal to amend the Regulations to give the relevant Agencies greater discretion in respect of what may be considered a packer/filler carrying out a final convertor operation and filling the packaging as part of the same process?*

38 respondents supported the proposal; 3 (including a major trade association representing convertors) opposed. Those respondents thought that the intention of the Regulations was clear and this would increase the burden on convertors.

Government response

We do not believe this would increase the burden on convertors, as the proposed change would merely bring the Regulations into line with existing Environment Agency guidance. We will therefore go ahead with the change, subject to Parliamentary approval.

Q.19 *Do you agree that packaging sent to offshore oil platforms should form part of the UK's recovery/recycling obligation?*

41 respondents supported the proposal; 0 opposed

Government response

Change agreed, subject to Parliamentary approval.

Q20. *Do you agree that the requirement for reprocessors and exporters to provide independent audit reports should be removed from the Regulations?*

44 respondents supported the proposal.
8 opposed, on the grounds that they believed the audit to be a useful enforcement tool.

Government response

The Environment Agencies have confirmed that they do not use this audit in their enforcement activities. The four companies which gave data on the costs of independent audit reports estimated that removing the requirement would save them between £2,500-£10,000 a year. We have revised our estimated savings accordingly. This saving across all affected accredited reprocessors and exporters represents a saving of between £214,500 and £1,430,000.

Therefore we intend to implement this change, subject to Parliamentary approval.

Q.21 Do you agree with the proposed fee structure for Part Cs?

41 respondents supported the proposal; 0 opposed

Government response

Change agreed, subject to Parliamentary approval.

Q22. Do you agree with the proposed amendment to the Regulations to allow small subsidiary companies who do not meet the threshold criteria individually to use the allocation method?

39 respondents supported the proposal; 0 opposed

Government response

Change agreed, subject to Parliamentary approval.

Q.23 Do you agree with the above technical change being made? (Various minor technical changes listed on page 56 of the Consultation document)

39 respondents supported all the proposals. Most respondents generally only commented on the changes that were relevant to their own operations. 3 respondents (1 trade association, 2 consultants) disagreed with the change regarding approved persons, 2 respondents disagreed with the change regarding updates to the public register, 2 respondents disagreed with the change regarding compliance scheme approval, 1 respondent disagreed with the change regarding definition of scheme member, 1 respondent disagreed with the deadline for scheme registration, 1 respondent disagreed with the change regarding an obligation to inform the agency if experiencing financial difficulties and 1 respondent disagreed with the change of deadline for exporter/reprocessor returns.

Government response

We have carefully reviewed the concerns raised, and are still of the view that the changes are justified.

Changes agreed, subject to Parliamentary approval

