

Summary: Intervention & Options

Department /Agency: Defra	Title: Impact Assessment of proposal to amend Regulations to improve the transparency of producer funding	
Stage: Initial	Version: Final	Date: March 2010
Related Publications: Producer Responsibility Obligations (Packaging Waste) Regulations 2008; Directive 2004/12/EC (amending Directive 94/62/EC on packaging and packaging)		

Available to view or download at:

<http://www.defra.gov.uk/environment/waste/topics/packaging/index.htm>

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What is the problem under consideration? Why is government intervention necessary?

The Packaging Strategy identified the lack of transparency of funding as a key issue for producers and Local Authorities. Currently, producers are unable to report (e.g. to their boards or shareholders) on how the funding they provide is spent. Similarly, local authorities need better information about financial flows, so they are able to make informed planning decisions, or have informed discussions with their waste contractors. Without intervention, this situation will not be remedied.

What are the policy objectives and the intended effects?

The proposed amendments to the Regulations are intended to provide more detailed reporting and greater clarity regarding the amount of funding and the uses to which it is put, thereby highlighting how the revenue contributes to increasing recycling capacity.

This will allow more informed planning decisions to be made.

What policy options have been considered? Please justify any preferred option.

The Advisory Committee on Packaging produced a series of recommendations; some of will not be pursued. The proposed options, which can be implemented together or separately, are

- Option 1: Optimising the effectiveness of the existing reporting system
- Option 2: Revised categories for reporting PRN/PERN revenue expenditure
- Option 3: Automatic reconciliation of revenue against expenditure
- Option 4: Reports on expenditure in percentage terms for each accredited reprocessor/exporter

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects?

Progress will be monitored annually as part of the environment agencies reporting requirements

Ministerial Sign-off For consultation stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister:

..... Date:

Summary: Analysis & Evidence

Policy Option:
Adoption of
options 1-4

Description: Amendments to the Packaging Regulations and IT systems to deliver greater transparency

COSTS	ANNUAL COSTS		Description and scale of key monetised costs by 'main affected groups' Cost of IT system changes to the environment agencies
	One-off	Yrs	
	£ 0.2m	1	
	Average Annual Cost (excluding one-off)		
	£ 0	3	Total Cost (PV) £0.2m

Other **key non-monetised costs** by 'main affected groups'

BENEFITS	ANNUAL BENEFITS		Description and scale of key monetised benefits by 'main affected groups' .
	One-off	Yrs	
	£ 0		
	Average Annual Benefit (excluding one-off)		
	£ 0		Total Benefit (PV) £ 0

Other **key non-monetised benefits** by 'main affected groups'

Contribute to Local Authorities' ability to get best value for the packaging they collect for recycling. Can also help obligated producers in contract negotiations.

Key Assumptions/Sensitivities/Risks

Price Base	Time Period	Net Benefit Range (NPV) £ 0	NET BENEFIT (NPV Best estimate)(£0.2m)		
What is the geographic coverage of the policy/option?		GB			
On what date will the policy be implemented?		Summer 2009			
Which organisation(s) will enforce the policy?		Environmt			
What is the total annual cost of enforcement for these organisations?		No change			
Does enforcement comply with Hampton principles?		Yes/No			
Will implementation go beyond minimum EU requirements?		No			
What is the value of the proposed offsetting measure per year?		£ 0			
What is the value of changes in greenhouse gas emissions?		£ 0			
Will the proposal have a significant impact on competition?		No			
Annual cost (£-£) per organisation (excluding one-off)		Micro	Small	Mediu m	Large
Are any of these organisations exempt?		No	No	N/A	N/A

Impact on Admin Burdens Baseline (2005 Prices)

Increase £ Decreases £ **Net** (Increase - £ 0)

Key: **Annual costs and benefits:** (Net) Present

[Use this space (with a recommended maximum of 30 pages) to set out the evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Ensure that the information is organised in such a way as to explain clearly the summary information on the preceding pages of this form.]

1. Introduction

- 1.1 This Impact Assessment (IA) applies to businesses obligated under the Producer Responsibility Obligations (Packaging Waste) Regulations 2007 (henceforth “the Packaging Regulations”).
- 1.2 The Packaging Regulations requires businesses which handle more than 50 tonnes of packaging and have an annual turnover in excess of £2 million to carry out recovery and recycling of packaging waste, to enable the UK to meet its legally binding targets under the EC Directives on Packaging and Packaging Waste 94/62/EC and 2004/12/EC.
- 1.3 This IA accompanies a Government consultation document on ‘Implementing the Packaging Strategy: recovery and recycling targets, funding transparency and other technical changes’. The consultation considers new recovery and recycling targets for 2011-20; new reporting provisions for accredited exporters and reprocessor, to promote transparency in how producer funding is spent and technical changes to improve the clarity and operation of the Regulations.
- 1.4 This IA deals with proposed changes to the Packaging Regulations with a view to increasing the transparency of PRN/PERN revenue and expenditure. It presents the overall costs and benefits of the proposals. **The Government welcomes responses from as wide an audience as possible with respect to the issues outlined in the consultation paper and this IA.**

2. PROPOSAL

Purpose and intended effect of measure

- 2.1 In June 2009, *Making the most of Packaging: a Strategy for a Low Carbon Economy* was published. The key aim of the Strategy is to minimise the environmental impact of packaging over its whole life cycle, without compromising its ability to protect the product¹. This can be achieved through optimising packaging, and through maximising the recycling of packaging waste.
- 2.2 Packaging waste constitutes about 10% of the commercial and industrial (C&I) waste stream and about 20% of the household waste stream in the UK. Packaging recycling and recovery rates therefore have an important role to play in meeting municipal landfill diversion targets, increasing the diversion of commercial waste from landfill, meeting overall recycling targets, and recovering energy from waste. All of which contributes to reducing greenhouse gas emissions.
- 2.3 The Packaging Strategy describes how producer funding (the money producers will have to invest in their own recycling activities, or what they will have to pay to acquire for PRNs/PERNs) goes to accredited reprocessors and exporters, and why its effects are not be visible to local authorities (who are responsible for the management of household

¹ www.defra.gov.uk/environment/waste/producer/packaging/documents/full-packaging-strategy.pdf

packaging waste), or indeed to the producers.

- 2.4 Chapter 6 of the Strategy commits government to making the system more transparent. This chapter examines a variety of options for doing so, formulated in consultation with the ACP.
- 2.5 This lack of visibility matters for two reasons:
- producers are unable to show (eg to their boards or shareholders) on what the funding they provide goes towards, beyond the mere fulfilment of a legal obligation. They need assurance that their money is going where it is needed to make a difference to recycling and recovery rates, especially in the context of rising targets, when their compliance costs will rise.
 - Similarly, local authorities need better information about financial flows, so they are able to make informed planning decisions, or have informed discussions with their waste contractors. If nothing is done, the extra producer funding which should result from higher packaging recycling targets will remain invisible. Without this source of funding, it is unlikely that local authorities would consider making the changes to their service necessary for recycling targets to be achieved.
- 2.6 Wider discussion of the rationale behind the proposed changes are set out in Chapter 2 of the accompanying consultation document, and are not repeated here.

Background

- 2.7 The EC Directive on Packaging and Packaging Waste (94/62/EC, as amended – hereafter referred to as ‘the Packaging Directive’) aims to harmonise the management of packaging waste by minimising the impact of packaging and packaging waste on the environment and by avoiding obstacles to trade and distortion and restriction of competition within the Community.
- 2.8 The Directive is implemented in the UK by (i) the Producer Responsibility Obligations (Packaging Waste) Regulations 2007; and (ii) the Packaging (Essential Requirements) Regulations 2003 (as amended).
- 2.9 The Directive as amended² sets minimum recovery targets of 60% (of which a minimum of 55% recycling) to be met by 31 December 2008, as well as material-specific recycling targets. These are 60% for glass, 60% for paper and board, 50% for metals, 22.5% for plastics, and 15% for wood.
- 2.10 After 2008, Member States must continue to meet these minimum targets, but they have the freedom to set higher targets if they so choose. The Commission has noted that the 60% recovery rate in the Directive is a minimum and has indicated that Member States will be encouraged to exceed this level.
- 2.11 The Directive targets have been met in 2008 and the ACP and industry have recommended once again that targets should be set for a minimum of the next 5 years in order to provide industry with greater certainty for planning and future investment purposes.
- 2.12 Government sees an increase in the recovery of packaging waste as an essential part of its strategy, in particular, of meeting and exceeding landfill diversion targets, increasing the diversion of commercial waste from landfill, and increasing recycling and energy

² By Directive 2004/12/EC

recovery from waste, using a mix of technologies; and in reducing greenhouse gas emissions.

- 2.13 To achieve these aims, there will be a need for increased producer support for investment in infrastructure and increased collection.

Risk assessment

- 2.14 Previous changes to the Regulations have been to ensure the effective functioning of the Regulations and largely to ensure that the UK was on course to achieve the Directive targets in 2008.
- 2.15 Apart from the clear risk of infraction, not meeting the targets would tarnish the UK's reputation with EU partners, and would be misaligned with the ambitions of the Waste Strategy. All proposed action was intended to mitigate the risk of the Directive targets not being met, although it could not completely eliminate this risk due to market uncertainties.
- 2.16 In 2008 the UK has met, or in most cases exceeded, these targets³. This was a significant achievement and represented a key milestone in the UK's progress on packaging recycling. In 2008 the UK recovered 65% of packaging placed on the market, compared with 30% in 1998.
- 2.17 Transparency of revenue and funding has a significant impact on the ability of obligated producers meet and future targets, whether they are increased or kept at 2010 levels. It is assumed that, in order to meet any future targets, further investment will be required and that this may not be forthcoming, or be as targeted, unless key stakeholders have visibility regarding how the funding arising from PRN/PERNs is used.

3. OPTIONS

- 3.1 This section discusses the Government's proposed amendments, based on recommendations from the environment agencies, the Advisory Committee on Packaging and informal industry consultation.

The baseline

- 3.2 The proposals are compared to a baseline scenario of no change to the requirements in the regulations. This is the "business as usual" scenario.

Option 1: Optimising the effectiveness of the existing reporting system

- 3.3 A reprocessor or exporter of packaging waste who wishes to be accredited is required to submit a business plan. If the relevant agency is not satisfied with the business plan they may refuse the accreditation. In order to make it easier to assess the content of business plans, we propose to amend the Regulations to require a business plan to be submitted in a format agreed by the relevant agency and will include projections for PRN / PERN revenue, planned expenditure on each of the new reporting criteria and timescales for such expenditure.
- 3.4 It is a condition of accreditation that reproprocessors and exporters must as far as possible implement the business plan. In order to make it easier to reconcile expenditure against the business plans, we propose that the categories that the business plan should include be changed to match the revenue report. Further, any unspent revenue should be shown to roll over into the following year's report. We propose an amendment to paragraph 1 (o)

³ Insert link to website

(ii) of Schedule 5 to include a requirement for the revenue report to include a written explanation of any deviation from the business plan. The proposed amendment will have a cost implication for the required amendments to NPWD.

- 3.5 Under the terms Regulation 24 (2) of the Packaging Regulations the environment agencies may suspend the accreditation of exporters and reprocessors if these have not complied with PRN/PERN reporting requirements throughout the year. This enforcement approach only works if reprocessors and exporters re-accredit from one year to the next. In practice, some of the businesses will make a decision on the basis of market conditions at the time. A proportion of them will not seek re-accreditation at the start of the year, and therefore no meaningful action can be taken against them.
- 3.6 To address this, the introduction of a fixed penalty for non-reporting of expenditure under the Regulatory Enforcement Sanctions Act in England and Wales has been suggested.

Option 2: Revised categories for reporting PRN/PERN revenue expenditure

- 3.7 As described in the accompanying consultation document, it is believed that better defined expenditure categories and better guidance are needed to better capture how revenue derived from the producer responsibility is spent by reprocessors and exporters.
- 3.8 This would require changes to be made to the functionality of the National Packaging Waste Database (NPWD) and require greater detail from reprocessors/exporters when reporting.
- 3.9 The proposed new reporting categories are described fully in the consultation document (see Chapter 2).
- 3.10 This proposal may be implemented independently, excluding the option for automatic reconciliation. If it is, reprocessors or exporters would not be required to report the total value of their PRN/PERN income or precisely to reconcile this with the information categories above.

Option 3: Automatic reconciliation of revenue against expenditure

- 3.11 At the end of each compliance year, accredited reprocessors and exporters are required to complete a return, via NPWD, to let the relevant agency know how much PRN/PERN revenue they have received and how much of it has been spent on developing collections, processing capacity of markets for UK packaging waste in that year.
- 3.12 Reporting on this at the end of the compliance year is already a legal obligation and the proposed mechanism for obtaining better data is to build into the reporting form an automatic validation function, which would:
- Prompt users to have to enter a value for each of the reporting categories (even if it is zero).
 - Add up all the entries and compare with the reported total PRN/PERN revenue raised for each material by that reprocessor/exporter. The system would not allow the user to complete the reporting until the two sets of figures matched.
- 3.13 This would require changes to be made to the functionality of the NPWD and require greater detail from reprocessors/exporters when reporting. This should not be a new burden on

reprocessors or exporters. The majority already comply with the requirement to complete this return.

- 3.14 The environment agencies already chase exporters and reprocessors for this information as part of their normal practice in order reconcile the data. I

Option 4: Reports on expenditure in percentage terms for each accredited reprocessor/exporter

- 3.15 If the Agencies are given power to specify the common format of business plan / annual returns, it may be possible, with suitable modification of NPWD to automatically generate a report indicating, for each reprocessor / exporter the percentage of funds committed in each category set out in paragraph 4.1 of the Consultation document (including money that has not been spent).
- 3.16 Commercial confidentiality would be maintained, since this approach would not disclose any absolute amounts of revenue or any other absolute amounts. At the same time, if automatic reconciliation is adopted (Option 3 above) this would help producers and local authorities see where their money is going, help their planning and may allow them to consider the decisions of reprocessor/exporters in applying PRN/ PERN funding when they are negotiating contracts.

4. COSTS AND BENEFITS

- 4.1 This cost benefit analysis attempts to identify and quantify the range of social, environmental and economic impacts of increasing the recovery and recycling of packaging waste. No specific social impacts have been identified; however the environmental and economic impacts identified are discussed below.

Option 1

Benefits

- 4.2 The proposal would allow producers, as well as Local Authorities, to have a much improved overview of where producer funding is flowing. This would allow better and more informed decisions to be made regarding future investment.

Costs

- 4.3 There would be no anticipated additional costs associated with this option.

Option 2

Benefits

- 4.4 The proposed categories would allow producers, as well as government, to have a much improved overview of where producer funding is flowing. Coupled with the proposal for the functionality for automatic reconciliation, it should give a better view of the extent to which various parts of the recycling chain are benefiting from producer funding.
- 4.5 It would facilitate greater accountability for the use of the funds at all levels in the packaging recycling chain. We expect that the increased visibility would make it more likely that producer funding would flow to activities which will build the capacity of the recycling system.
- 4.6 The information on PRN/PERN spend for individual reprocessors and exporters would not be published by the Agencies, but producers and compliance schemes could make its availability a condition of their contract. For reprocessors and exporters, this could be a way of differentiating their PRN/PERN offer from the competition's.

Costs

4.7 The additional reporting would increase administrative burdens on accredited reprocessors and exporters, at least for the first year in which this proposal comes into operation. Reprocessors and exporters could choose to pass down any financial costs accruing from the extra requirements to producers in whole or in part, in the form of slightly higher PRN/PERN prices. However, this is not expected to be an onerous task because most reprocessors will only deal with one or two types and will have this data readily available.

Option 3

Benefits

4.8 The proposal would allow producers, as well as government, to have a much improved overview of how much money is flowing through the system. Coupled with the proposal for new reporting categories (above), it would provide a better view of which parts of the recycling chain are benefiting from producer funding. This could facilitate greater accountability for the use of the funds at all levels in the packaging recycling chain.

Costs

4.9 This proposal would not result in new burdens on accredited reprocessors and exporters, as they are already required to provide the data and the reconciliation would be performed automatically.

4.10 This proposal would not, on its own, address current concerns about the accuracy of the data reported. It is acknowledged that unless it is made mandatory for PRN/PERN revenues to be accounted for separately from other business revenues, it will be difficult for businesses to be totally accurate about what the money was used for.

NPWD Costs

4.11 The costs associated with option 2 and 3 in terms of changes required to NPWD are expected to be around £210,000.

4.12 The additional administrative burden on the agencies in terms of providing additional guidance and taking appropriate action from the outcome of the reconciliation has not been modelled.

Option 4

Benefits

4.13 As in Option 3, with the added benefit for producers and local authorities that they would be able to consider reprocessors' and exporters' investment decisions in contractual decisions.

Costs

4.14 There would be a small cost to the Environment Agency of developing the appropriate reports on NPWD.

4.15 There would be no additional costs on businesses.

Option assessment

4.16 Government is consulting on the basis that these options may work as a package or separately. Options will be assessed again in the light of responses to the consultation.

5. Equity and Fairness

5.1 The proposed changes have no undue effect on rural areas, racial groups, income groups, gender groups, age groups, people with disabilities, or people with particular religious views.

6. Consultation with small businesses: the small firms impact test

6.1 Businesses that do not simultaneously satisfy the two threshold tests in the Regulations (i.e. an annual turnover in excess of £2m and handle more than 50t of packaging) are excluded from the producer responsibility obligations in the Regulations. The proposed changes do not affect small businesses below these thresholds.

7. Competition assessment

7.1 The proposals will principally affect accredited exporters and reproducers. NPWD records show that there were 382 accredited companies in 2009.

7.2 The Government does not expect the proposals to affect the current market structure or change the number or size of firms. New businesses will not face higher charges than existing companies and the proposals should not restrict businesses choice of products..

7.3 The Government have examined competition in the recycling market, material specific market (e.g. glass and plastic) and the end user market (e.g. the market for bottles). In general, the Government has been unable to identify markets where there are serious competition concerns. Competition in the recycling market is unlikely to be adversely affected as a result of adopting any of the proposed options and related targets. Indeed, the setting of future targets for recycling of particular materials may well increase demand for recycling and this could lead to new entry in the market and increase competition in recycling services.

7.4 The proposal sets material specific targets and may therefore cause a distortion in the market for particular types of packaging. An example of this is the market for bottles where glass currently faces a higher recycling target than plastic. This recycling differential could put glass manufacturers at a disadvantage, for example when fillers are selecting the container for their goods, although plastics have greater difficulties in terms of collection, sorting and end-use markets. However, the proposed new targets will the targets for all the materials to similar levels and so will counter-act this effect.

7.5 It is anticipated that the increased cost of this regulation will be small in relation to a manufacturers total costs. Therefore, the Government does not believe that competition will be significantly affected in either this or other sectors with potentially high or differing recycling rates e.g. the aluminium and steel markets.

8. Enforcement and Sanctions

8.1 The Packaging Regulations are enforced by the Environment Agency in England and Wales, by the Scottish Environmental Protection Agency in Scotland and by the Northern Ireland Environment Agency.

8.2 The proposed changes to the targets and this Impact Assessment do not include proposals for additional sanctions.

9. Monitoring and Review

- 9.1 The UK packaging system is monitored continually by Government, the Agencies, the Advisory Committee on Packaging and industry generally.
- 9.2 The Advisory Committee on Packaging, which represents the packaging industry, also monitors the effectiveness of the Packaging Regulations and advises Government as and when changes are needed. The Government expects the Committee to continue to provide input in the future.
- 9.3 Accredited reprocessors and exporters are required to provide quarterly returns to the Agencies, which include data on the amount of reprocessing that has taken place that quarter. This enables the Government to track progress throughout the year against packaging targets. This data is also published on the Environment Agency website so that industry too can monitor the UK's performance.
- 9.4 Each year, the Department produces a Data Note which shows current and historical packaging data including for instance the amount of reprocessing that has taken place each year and the corresponding information on PRN and PERN revenue.
- 9.5 Furthermore, the UK is required to provide the European Commission with data, 18 months after the end of each year obligation year.

10. Consultation

Within Government

- 10.1 The Department for Business, Innovation and Skills (BIS), Treasury, DECC, CLG, Scottish Government, Welsh Assembly Government, Department of Environment Northern Ireland, Environment Agency, Northern Ireland Environment Agency (NIEA), Scottish Environmental Protection Agency (SEPA) have all been consulted.

Public Consultation

- 10.2 This Impact Assessment accompanies a government consultation document and presents overall costs and benefits of the proposals. Government welcomes responses from as wide an audience as possible with respect to the issues set out in the consultation paper.
- 10.3 Informal consultation with the ACP, key materials organisation and trade bodies, other government departments and regulators took place in developing a number of the proposals contained within this Impact Assessment and consultation document.

Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.

Type of testing undertaken	<i>Results in Evidence Base?</i>	<i>Results annexed?</i>
Competition Assessment	Yes	No
Small Firms Impact Test	Yes	No
Legal Aid	No	No
Sustainable Development	No	No
Carbon Assessment	Yes	No
Other Environment	No	No
Health Impact Assessment	No	No
Race Equality	Yes	No
Disability Equality	Yes	No
Gender Equality	Yes	No
Human Rights	Yes	No
Rural Proofing	No	No