



EXTENDED PRODUCER RESPONSIBILITY FOR PACKAGING CONSULTATION

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Response by email to packaging@defra.gov.uk
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The Fresh Produce Consortium is the UK's trade association for the fresh produce sector, including fresh fruit, vegetables, cut flowers and plants. We have over 600 members, representing 80% of the UK fresh produce supply chain. Members include multiple retailers; importers; wholesale markets; food service businesses; processors; packers; distributors; growers; and other business supporting the UK fresh produce industry.

In our response to the earlier consultation in 2019 we stated:

'The FPC supports the ambition to create a circular economy for packaging and encourages the UK Government to develop a system which truly engages all partners, including UK and devolved governments, local authorities, packaging manufacturers, processors, recyclers, packaging users and citizens.'

Where possible the fresh produce industry strives to reduce the use of 'unnecessary' packaging and introduce innovations in packaging. However, the UK fresh produce industry has a responsibility to maintain the integrity and safety of its products and this cannot be compromised by changes in packaging. Appropriate packaging can play an essential role for highly perishable products, maintaining good hygiene and maximising shelf-life, and reducing food waste. Any Impact Assessment of these proposals should include consideration of food safety and food waste.'

The introduction of these subsequent proposals for Extended Producer Responsibility will have a significant economic impact on the UK fresh produce industry. There is still insufficient information to understand how under this system the costs will be covered across the supply chain. We welcome the phased introduction of some of the key elements but still have concerns about the burden on our members and request more engagement with our sector in the development of more detailed plans for delivery.

Need for accountability for a cost-effective and efficient service

The consultation document states: *'A key underpinning principle of Extended Producer Responsibility is that the costs paid by producers support a **cost-effective and efficient system** for managing packaging waste, including the collection of a common set of packaging materials for recycling. **Costs to producers should not exceed those necessary to provide packaging waste services in a cost-efficient way and in a way that maximises the quantity and quality of packaging material which is recycled.***

It is not clear if and how the Scheme Administrator will regulate this and their own accountability to those who are paying for them. It is not sufficient for the Scheme Administrator to merely produce an annual report. There needs to be a proper establishment of accountability to producers via a body which is fully representative of all types/sizes of businesses and sectors.



Costs borne by producers should be reasonable and proportionate – we do not have confidence that this will be the case and we remain uncomfortable with an open ended financial responsibility. If producers are paying for this service then they should have a say in it and regular independent reviews should be carried out that this is an efficient cost-effective service.

Burden of additional data collection and quarterly reporting

Additional data will need to be collected with far more complex reporting on modulated fees and assessment of recyclability of packaging. The requirement to report separately to each of the devolved administrations (England, Scotland, Wales and Northern Ireland) will increase the administrative burden and increase costs for businesses.

There appears to be the potential for Environmental Permitting Regulations data to be collected in 2022 in tandem with existing PRO data. This early implementation will lead to increased data collection and reporting requirements within the same time period, putting a further burden on businesses.

The consultation and Impact Assessment focuses on the costs of development of an IT system for data collection. There will be additional costs for businesses in administration and time spent on amending their existing in-house systems which appears not to be taken into account fully. We agree that there should be a UK-wide approach, whilst recognising that Northern Ireland is required to meet the requirements of the EU Packaging and Packaging Waste Directive under the Northern Ireland Protocol. The consultation document refers to the need for *'flexibility to tailor scheme implementation to different parts of the UK where this is necessary'* but does not explain this.

The ability to meet the criteria that a packaging item can be collected and sorted, that reprocessing facilities are available and that a market exists for the reprocessed material will vary across the UK. Significant investment in recycling facilities by local authorities and waste contractors to cope with a wider range of materials is a pre-requisite to enabling businesses to meet targets within proposed timescales.

Increased requirement to move to actual packaging weights 'where feasible'

We note that the consultation is seeking to move towards reporting on actual packaging weights. Increasingly the UK fresh produce industry is using standardised packaging such as punnets. We note that the consultation refers to the exploration of a central weights database.

We would ask Defra to consider and accept the use of the UK fresh produce industry's **'Ready Reckoner'** for typical packaging types which are used extensively across the sectors. The Ready Reckoner is approved by the Environment Agency and has been reviewed annually with the publication of the *'FPC Guide to Packaging Waste Regulations'*. In 2019 we recognised the need for a comprehensive review of typical packaging types and had intended to carry out this on behalf of our members, depending on the outcome of the proposals for Extended Producer Responsibility.



Increased costs for producers

The introduction of a single point of obligation for full net costs under Extended Producer Responsibility (covering collection, recycling, disposal, litter clean-up, standardised labelling, campaign communications and the cost of running the scheme) will increase costs significantly for producers throughout the UK fresh produce supply chain. In addition, businesses will need to meet requirements for increased levels of data collection and absorb these costs.

The estimate of costs for producers is alarming, rising from £1.5 billion to £2.7 billion for the first full year of implementation according to the latest Defra Impact Assessment.

We believe that it is untenable for many businesses to absorb these significant costs. It is inevitable that there will be a consequential increase in consumer prices for fresh fruit, vegetables, cut flowers and plants on the UK market.

We note the proposed six categories of obligated producers which will have varying obligations under the scheme: brand owners, importers, distributors, online marketplaces and sellers.

We welcome the recognition that the supplier does not always have control over the type of packaging they are required to use by their customer. The brand holder has the most influence on packaging decisions and driving innovation. In addition, specifications and sourcing of packaging is dictated by the brand holder to the supplier. We believe that whilst brand owners are intended to carry the legal obligation to cover full net costs many will, however, pass down the costs to their suppliers.

Importers

Importers are one of the categories of obligated producers. Many importers will have limited control over the type of packaging used by their suppliers.

Importing own label products on behalf of a retailer

The position for importers who are processing own-label products on behalf of the retailer overseas and importing them to the UK is not sufficiently clear from the proposals in the consultation document and whether they or the brand owner is expected to cover full net costs.

Given that any decisions on packaging are primarily made by the retailer it would be unfair for the importer to have to cover this and it would have significant cost implications for the importer.

Impact on small producers

We are concerned about the impact on small producers who may be included for the first time within the scheme with the proposed lowering of the de minimis threshold. It appears likely that a significant number of businesses within our sector could need to come on board with new obligations and increased costs.



Labelling requirement for primary packaging with 'recycle'/'do not recycle'

We note the requirement that all primary packaging (in immediate contact with the product), and shipment packaging direct to consumer must be labelled with recycle/do not recycle.

We note that importers of filled packaging for sale into the UK will be expected to comply with the labelling requirements and follow the approvals process for the labels they want to use on their packaging. We note that the Impact Assessment does not include the cost of labelling on products imported for sale, yet this cost is likely to be passed on to importers.

We note that there will be a requirement for labelling of plastic film and flexible packaging to instruct consumers to take their used film and flexible packaging to their nearest front of store collection point or check whether their local authority includes it in their collections.

We support option 1: use of approved labels.

Compostable/biodegradable material

Fully certified compostable, recyclable labels are used by many UK suppliers in the fresh produce sector.

Under the proposals most compostable and biodegradable plastic packaging will be considered as not recyclable, and will be required to be labelled as 'do not recycle'.

We are concerned that compostable/biodegradable material will have a potentially higher cost as it is deemed to be not recyclable.

Compostable PLU labels

The UK fresh produce industry uses the International Federation of Produce Standards' Price Look Up labels on fresh fruit and vegetables which are sold loose in store, enabling the retailer to eliminate packaging on these products but still identify the product and correct charge the consumer at the till.

We are concerned that there could be unintended consequences of reducing the consumption of fresh fruit and vegetables by resulting in retailers reducing the selection of varieties in store. Without this capability, produce will need to be packaged to capture the required produce identification, thereby introducing additional packaging into the environment or increasing the produce department labour in retail stores to weigh, bag and determine the price and variety of the consumer purchase.

Requirement to use food contact materials

Regulated food contact materials have to be authorised before they can be used and placed on the UK market.



Modulated fees will see producer compliance costs increase, with packaging which is difficult to recycle, not recycled or unrecyclable incurring higher costs to comply with the reformed Packaging Waste Regulations.

Plastic films and flexible packaging

Annex 5 of the consultation document acknowledges:

'There are no mechanical recycling processes that are currently accepted by the UK Food Standards Agency as suitable for producing recyclate for incorporation into food contact plastic film packaging. This is an important issue as a significant proportion of film and flexible plastic packaging is food contact.'

The consultation recognises that more time is needed to resolve this. This requires urgent resolution with the FSA to enable regulatory acceptance, investment in recycling facilities capable of accepting plastic films, and end market for recycled plastic films.

Whilst there have been immense strides to reduce unnecessary packaging within the UK fresh produce supply chain there is still a requirement for packaging to protect certain highly perishable products, protect the product and maintain food safety, as well as extending shelf-life and minimising product wastage.

Litter collection, fly tipping and consumer communications

We believe that the transfer of costs from local authorities to individual businesses for litter collection and awareness raising campaigns for the public is unfair and unreasonable, going far beyond contributions currently made by businesses for waste recovery. Whilst the consultation document states that charges on businesses should be reasonable, there appears to be a lack of robust data on litter costs. There appears to be no mechanism for the producers who are expected to pay for these activities to have any say in how these operations should be delivered and operated. Scrutiny of the efficiency of local authority service provision must be part of the scheme's aims, with monitoring of services, sharing of good practice and incentives for engaging consumers in recycling activities to tackle this social issue.

We remain concerned that businesses are expected to pay the costs of clean up (littering and fly tipped packaging). This is totally unreasonable and should remain an enforcement matter for the Environment Agency and local authorities, with the polluter paying the cost of clean-up of illegal activities.

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