

## Reforming the UK packaging producer responsibility system

<b>Lead department</b>	Department for Environment, Food & Rural Affairs
<b>Summary of proposal</b>	The Government intends to reform responsibility for packaging waste in the UK. It proposes that packaging producers should bear the costs of managing packaging waste because they are best placed to influence the design of packaging.
<b>Submission type</b>	Impact assessment (IA)
<b>Policy stage</b>	Consultation
<b>Legislation type</b>	Secondary legislation
<b>Implementation date</b>	2023
<b>RPC reference</b>	RPC-DEFRA-4343(2)
<b>Opinion type</b>	Formal
<b>Date of issue</b>	9 December 2020

## RPC opinion

Rating <sup>1</sup>	RPC opinion
<b>Fit for purpose</b>	<p>The IA explains the rationale for intervention well, clearly identifying the need for government action to address market failures. It identifies the impacts on business to the appropriate extent for the consultation stage, which will help the Department run an informed consultation. However, the cost-benefit analysis could be improved by stating the assumptions and describing calculations more clearly to enable consultees to understand and challenge them where appropriate.</p> <p>At final stage, the IA should consider the wider impacts more thoroughly and include a monitoring and evaluation plan setting out the success criteria for the policy and the data to be collected to track its impacts.</p>

<sup>1</sup> The RPC opinion rating is based on the rational, appraisal of options, identification of impacts and quality of the SaMBA, as set out in the [better regulation framework](#). The RPC rating will be fit for purpose or not fit for purpose. Informal submissions will not have a rating and are not for publication.

## RPC summary

Category	Quality	RPC comments
Rationale and options	<b>Good</b>	<p><b>Rationale for intervention</b></p> <p>The IA identifies the rationale for government action to address market failures.</p> <p><b>Options</b></p> <p>The IA would benefit from describing any voluntary or non-regulatory approaches which the Department has already considered and dismissed, to assist consultees in their responses.</p>
Identification of direct business impacts	<b>Good</b>	The IA appropriately identifies the impacts on business for the consultation stage, which will help the Department run an informed consultation.
Small and micro business assessment (SaMBA)	<b>Good</b>	The SaMBA is fit for purpose at the consultation stage. It clearly states the assumptions made. The IA gives the numbers of businesses affected, broken down by size, which will help the Department produce a fit-for-purpose SaMBA in the final stage IA.
Cost-benefit analysis	<b>Good</b>	<p>The cost-benefit analysis sets out the costs and benefits clearly for each option. It could be improved by stating the assumptions made and describing calculations more clearly so that consultees can understand and challenge them where appropriate.</p> <p>The IA should clarify that the business-to-business transfers of waste management costs net to zero in all metrics.</p>
Wider impacts	<b>Satisfactory</b>	The IA notes potential wider impacts, such as regional/distributional impacts relating to rurality and levels of deprivation, trade and competition. The Department should expand this section in the final stage IA following consultation.
Monitoring and evaluation plan	<b>Satisfactory</b>	We note that the IA describes the overarching plan to evaluate a number of policy measures supporting the Government's Resources and Waste Strategy for England (RWS), including this measure. The final stage IA should include more detail on this area. It should also state whether or not the Department intends to undertake a specific post-implementation review (PIR) of this measure, and whether or not it is a statutory commitment.

## Rationale and options

### Rationale for intervention

The IA explains the rationale for intervention well, clearly identifying the need for government action to address market failures.

The policy is based on the 'polluter pays principle', i.e. that the party producing the packaging waste should bear the cost of the negative externalities associated with it. The chosen approach is extended producer responsibility (EPR), which will strengthen incentives for producers to reduce the environmental impacts of their packaging, e.g. by switching to easier-to-recycle material.

The IA explains that the objective of improving waste management can be better achieved by incentivising improved packaging design: requiring producers to bear this cost should reduce the amount of packaging on the market that is difficult to recycle. The IA could be improved by including stronger evidence that putting the regulatory burden on this part of the value chain will achieve the intended outcomes. The Department could seek to test this through consultation if evidence is not readily available. In particular, the consultation could be used to test how money collected from producers will be allocated to recycling centres. It might also test how impacts on packaging material makers, retailers and transporters could be managed, and how incentives to control consumers' disposal behaviour will be affected given additional burdens on consumers. Discussion around the interaction with other proposals on municipal recycling and deposit returns could support this area, as this is part of a package of related consultations.

### Options

The IA considers three cumulative options. Option 1 reforms the packaging producer responsibility system to ensure that the full net costs are covered by producers and introduces modulated fees on packaging and mandatory recycling labelling of packaging. Option 2 is the same as Option 1 but also includes plastic film packaging collected for recycling in kerbside collections from households. Option 3 – the Government's preferred option – is the same as Option 2 but includes both plastic film and single use paper cups collection, with additional reporting requirements.

The IA asserts that a voluntary or non-regulatory approach would not achieve the desired outcome of businesses that use or place packaging on the market taking adequate responsibility for that packaging when it becomes waste. The IA states that a voluntary approach is unlikely to achieve the desired outcome of producers taking on their key responsibilities (citing international examples as a comparison). The IA could be improved by describing any voluntary or non-regulatory approaches the Department has considered and dismissed, to assist consultees in their responses.

## Direct business impacts

### Equivalent Annual Net Direct Cost to Business (EANDCB)

The RPC does not validate the EANDCB in consultation stage IAs. However, we commend the Department on its efforts to quantify the EANDCB, with a value of £1,131m, which will help consultees better understand the potential impacts of this proposal. The IA appropriately identifies most direct impacts on business, which will help the Department run an informed consultation. It should test at consultation whether other businesses in the supply chain may be directly or indirectly impacted. A much clearer presentation of the EANDCB calculation must be provided in the final stage IA (including inputs, assumptions and operations).

### Baseline

The IA sets out a clear description of the ‘do nothing’ option, with the baseline reflecting current packaging placed on the market, recycling rates and packaging in residual waste. It demonstrates good use of evidence and data to quantify the baseline and provides a useful comparison for considered options.

### Costs

The IA identifies direct impacts on packaging producers and some other businesses, which is a helpful starting point for consultation. However, the final IA should describe the entire supply chain and how businesses in each part of it, and consumers, are impacted (whether through direct or indirect costs, or cost transfers). In doing so it will also need to take into account the impact which local authorities’ policies and charging mechanisms may have on the supply chain and waste distribution, as well as the impact of possible changes in consumer waste disposal behaviour.

The IA clearly sets out non-monetised costs in a proportionate way. The non-monetised costs include increased monitoring and enforcement, obligated producer changes, business transition and consumer prices. The Department should seek to use the consultation to monetise these costs where possible, so they can be included in the final stage IA.

## SaMBA

### Small and Micro Business Assessment

The SaMBA is fit for purpose at this stage. The numbers of businesses affected by the policy have been broken down by size, which will help the Department produce a fit-for-purpose SaMBA for the final stage IA.

Under current regulation, a producer is defined as ‘obligated’ if it, or a group of companies it is part of, handled at least 50 tonnes of packaging materials in the previous calendar year and has a turnover of more than £2 million a year (based on the previous financial year’s turnover). The Department states that it has already engaged with Small and Medium Enterprises (SMEs) in its previous consultation and

found no particular preference from respondents on changing the *de minimis* threshold for the exemption. The IA should clarify whether this engagement included micro businesses. The analysis assumes that the *de minimis* threshold will be lowered to 25 tonnes and £1 million turnover a year, with the obligation being passed along the supply chain to packaging distributors. We expect the Department to test these assumptions in the consultation.

The Department should also consider the impact of “dual-use” and reusable packaging on the policy, including the calculation of the tonnage for exemption purposes and on local authorities’ charging structures.

## Cost-benefit analysis

### Data and evidence

The IA draws on robust evidence and data sources, and a previous consultation, to estimate the impacts. The IA adequately describes the main costs that will be incurred by packaging producers, such as compliance costs (including modulated fees), packaging technologist costs, packaging litter costs, administrative costs, national campaign costs and adopting mandatory labelling. It also explains how the costs of recycling packaging are offset by savings (due to the fall in the amount of packaging in residual waste) and that Government expects to incur costs for establishing scheme administrators and IT system costs.

The policy’s benefits arise from increased recycling and savings to local authorities due to the transfer of waste management costs to packaging producers. However, the IA should clarify that the business-to-business transfers of waste management costs net to zero in all metrics (net present social value, business net present value and EANDCB).

### Uncertainty, risks and assumptions

The IA explores uncertainties thoroughly by providing a detailed description of the methodology and sensitivity analysis used. The sensitivity analysis tests assumptions about switching packaging to more recyclable materials and presents low, central and high estimates for impacts. The IA could be further improved by setting out more of the possible linkages, uncertainties and other points that are yet to be decided, including the values of the modulated fees and how they could vary (e.g. by material or geography). The Department should seek to test these points further through consultation.

### Consumer impacts

The final IA should discuss in more detail the impact on consumers associated with all of the recycling requirements, and the consequent impacts that changing consumer behaviour may have on businesses in the supply chain. This should consider the likely impact on consumer preferences for goods packaged differently and the impact that awareness campaigns may have on consumer behaviours, including the continuing shift towards online shopping. The consultation could help to

gather insights on these areas. The final stage IA should include consumer effects and costs arising from education initiatives in its cost-benefit analysis.

## **Wider impacts**

The IA notes potential wider impacts such as regional and distributional impacts relating to rural areas and levels of deprivation, impacts on trade (particularly with regard to labelling) and impacts on competition (the IA states no competition impacts are expected).

We recommend that the Department explore these areas further through the consultation, including testing the possibility of competition impacts arising. The final stage IA should include a much more detailed description and analysis of the wider impacts, based on evidence collected during the consultation, as they may be significant in size.

### **Innovation**

For the final stage IA, the Department should consider whether the impact of moving the incentive to manufacturers reduces the incentive on recyclers to develop new, cheaper ways of recycling material or extending recycling to currently non-recycled material. The final IA should include a more detailed analysis of the policy's possible impacts on innovation by businesses in the supply chain, particularly in relation to the further development of recycling technologies.

### **Environment**

The IA considers the environmental issue of packaging responsibilities and recycling. It also discusses greenhouse gas emissions, carbon prices and landfill in some depth. As this is an environmental policy, the final IA would benefit from a specific detailed analysis of the environment impacts, including overall waste disposal and energy use for packaging production and recycling.

## **Monitoring and evaluation plan**

The RPC notes that Section 8 of the IA describes an overarching plan, covering a series of related policy measures in the RWS, including this measure. While this is helpful, the final stage IA should contain a specific statement on whether or not the Department intends to undertake a PIR of this measure and, if so, whether or not that is a statutory commitment.

We note that the Department has done significant work on the evaluation and monitoring plan already (see p.71 of the IA and the documents referred to in footnotes 102 and 103), but this IA would benefit from including more detail. The final IA should include a specific monitoring and evaluation plan for this policy measure, setting out the detailed success criteria for the policy, and the data that would be collected to measure its impacts.

For further information, please contact [regulatoryenquiries@rpc.gov.uk](mailto:regulatoryenquiries@rpc.gov.uk).