

Reforming the UK Packaging Producer Responsibility System

Lead department	Department for Environment, Food and Rural Affairs
Summary of proposal	The proposal reforms existing regulations to introduce a full net cost (FNC) recovery system that requires producers to pay the full costs of household packaging they place on the market. The proposal also introduces mandatory labelling as well as mandatory takeback requirements for fibre-based composite cups.
Submission type	Impact assessment (IA) – 20 December 2021
Legislation type	Secondary legislation
Implementation date	2024
Policy stage	Final
RPC reference	RPC-DEFRA-4343(3)
Opinion type	Formal
Date of issue	30 March 2022

RPC opinion

Rating¹	RPC opinion
Fit for purpose	Following the Department's response to our IRN, the RPC now considers the IA fit for purpose. Overall, the IA is well-structured, and the discussion of impacts are broken down by the key market players affected in the supply chain. The evidence supporting the EANDCB and SaMBA is now considered sufficient.

Business impact target assessment

	Department assessment	RPC validated
Classification	Qualifying regulation provision (IN)	Qualifying regulation provision (IN)
Equivalent annual net direct cost to business (EANDCB)	£1,172.9 million (initial IA estimate) £1,206.8 million (final IA estimate)	£1,172.9 million (initial estimate) £1,206.8 million (final estimate) <i>(2019 prices, 2020 pv)</i>
Business impact target (BIT) score	£6,003.0 million	£6,003.0 million
Business net present value	-£9,949.8 million	

¹ The RPC opinion rating is based only on the robustness of the EANDCB and quality of the SaMBA, as set out in the [Better Regulation Framework](#). The RPC rating is fit for purpose or not fit for purpose.

Overall net present value	-£1.3 million
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RPC summary

Category	Quality	RPC comments
EANDCB	Green	The IA provides sufficient evidence to support the EANDCB. The counterfactual position appears reasonable and correctly accounts for other proposed regulations in the waste sector. The classification of direct impacts now appears reasonable and based on proportionate evidence. The IA also provides a clear explanation of why the EANDCB figure has increased since the consultation stage.
Small and micro business assessment (SaMBA)	Green	The IA provides a detailed breakdown of the number of small and micro businesses (SMBs) in scope and explains why exemption is only appropriate for some requirements. It addresses the disproportionality of impact and proposes <i>de minimis</i> thresholds that are supported by external research evidence.
Rationale and options	Satisfactory	The IA presents a clear rationale for intervention, including market failure arguments. The consideration of options could be improved by providing a stronger rationale for the preferred option and drawing upon consultation evidence.
Cost-benefit analysis	Satisfactory	The cost-benefit analysis appears to be based on a good range of data sources and the evidence base has been improved since the consultation stage. The IA provides a good discussion of risks and uncertainties, including sensitivity analyses.
Wider impacts	Satisfactory	The IA includes a good assessment of impacts on greenhouse gas emissions, consumers and competition. The IA would be strengthened significantly by providing an assessment of impacts on innovation and on imports of packaging.
Monitoring and evaluation plan	Good	The IA states that the Department commits to producing a post-implementation review (PIR) of the policy in 2029/30. The IA sets out a clear monitoring and evaluation (M&E) plan, identifying the key external factors that may influence the outcome of the proposal.

Response to initial review

As originally submitted, the IA was not fit for purpose due to issues with both the EANDCB and the SaMBA.

The EANDCB previously included the following benefits to business:

- net collection cost savings to producers from reduced residual collection and disposal costs and lower compliance costs;
- net household-like business waste savings to businesses from more efficient recycling due to mandatory labelling; and
- fibre composite product disposal savings to reprocessors, relating to the revenue earned from the sale of any additional packaging material sent for recycling.

The initial IA provided limited discussion of these benefits and did not provide sufficient evidence to support their classification as direct impacts. The RPC considered these benefits to be indirect because they did not appear to be immediate and unavoidable (i.e., first-round impacts) but instead depended on changes in consumers' and packaging producers' behaviour. The IA now correctly identifies these benefits as indirect and removed them from the EANDCB estimate. In addition, the revised IA now provides more clarity on the data sources used for the EANDCB calculation, including a discussion of data robustness (pages 82-98).

The initial SaMBA did not provide sufficient evidence to robustly support the Department's estimate of the number of producers below the proposed *de minimis* threshold (£1m turnover and 25t of packaging). The SaMBA now includes a more detailed explanation of the methodology, including the key risks and uncertainties. It also makes use of additional data sources from key stakeholders to increase the robustness of the estimate. As a result, the estimated number of producers below the *de minimis* threshold has been revised from 1,900 to 3,100 under the central scenario. The IA also provides sufficient evidence to support the assertion that small and micro producer will not be disproportionately impacted by the additional reporting obligations.

The RPC acknowledges that the revised IA addresses both the IRN points and the points raised under areas for improvement, in particular relating to reporting obligations on small and micro businesses (pages 109 to 111). As a result of these amendments, the RPC now considers the IA to be fit for purpose.

Summary of proposal

A packaging producer responsibility system has been in place since 1997 to help the UK meet their packaging waste recycling obligations. However, the IA explains that the system has not been designed in a way that incentivises producers to exceed the recycling targets or produce more recyclable or reusable packaging. The UK Government and the Devolved Administrations are working together to reform the Producer Responsibility Obligations (Packaging Waste) Regulations 2007 to address several issues identified in the current system.

At present, packaging producers in the UK do not bear the FNC of managing the waste streams of packaging that they place on the market. This lack of accountability imposes external costs on society, including dis-amenity impacts from littering and higher greenhouse gas emissions. The proposal reforms the current system, including the introduction of the Extended Producer Responsibility (EPR) scheme which requires producers to cover the FNC for managing packaging waste from households through

modulated fees. This approach is consistent with the polluter-pays principle and is intended to incentivise producers to limit packaging waste and influence packaging design to be more eco-friendly. The IA explains that the reforms, which also includes mandatory labelling, will also address other issues including lack of transparency and lack of support to encourage consumers to recycle packaging waste. In addition, the proposal also introduces mandatory collection of fibre-based composite cups, additional reporting requirements and recycling targets for fibre-based composite packaging.

The IA explains the key objectives of the proposal are to:

- increase packaging recycling;
- increase the recyclability of packaging;
- reduce unnecessary packaging;
- improve the environment;
- increase domestic recycling and reprocessing capacity; and
- enhance reporting of the volume and type of packaging placed on the market.

This proposal is part of the wider set of government initiatives to tackle littering, increase recycling rates and to incentivise producers to take greater responsibility for the environmental impacts of their products. Other such initiatives include: the Consistent Municipal Recycling Collection; and the Deposit Return Scheme (DRS) for drinks containers. The RPC has issued an opinion on the DRS IA and is awaiting submission of the Consistent Recycling IA.

Defra consulted on these reforms in 2019² and 2021³ and explains that the current IA updates the analysis from the previous IAs to reflect the final policy decision. The IA estimates a net present value and EANDCB of £1.3 million and £1,207 million (2019 prices; 2020 present value base year), respectively, over a 10-year appraisal period. Most of the key impacts have been monetised and costs are estimated to be £10,470 million, mainly accounted for by the FNC payments from packaging producers. Benefits are estimated to be £10,471 million, with savings to local authorities being the largest benefit.

EANDCB

The RPC considers the EANDCB estimate to be fit for purpose and based on sufficient evidence. The IA explains that the proposal will impact businesses across the packaging supply chain and summarises the direct costs and benefits included in the EANDCB on pages 12-13.

Evidence to support assumptions

The EANDCB estimate appears to be informed by a wide range of evidence sources, such as external research and engagement with key stakeholders. The IA helpfully highlights the key risks and uncertainties affecting the main assumptions underpinning the EANDCB figure and explains how the Department has sought to mitigate these uncertainties, such as by presenting a costs range and conducting sensitivity analysis (pages 96-98). The RPC

² https://consult.defra.gov.uk/extended-producer-responsibility/consultation-on-reforming-the-uk-packaging-produce/supporting_documents/packagingepconsultimpactassessment.pdf

³ https://consult.defra.gov.uk/extended-producer-responsibility/extended-producer-responsibility-for-packaging/supporting_documents/Extended%20Producer%20Responsibility%20Impact%20Assessment.pdf

considers that the IA has presented proportionate evidence to support the proposal. The IA would be strengthened by discussing the Department's plan to address the key evidence gaps in the future.

Direct and indirect impacts

In line with Green Book guidance, the IA classifies the FNC cost to producers as a transfer cost from local authorities. This has been excluded from the NPSV estimate and correctly included in the EANDCB figure.

The IA has appropriately reviewed the direct costs and benefits of the proposal on businesses, including sufficient justification of why these impacts are direct, a summary of the data used and an assessment of the robustness of these estimates (table 59, pages 81-88). The IA has now correctly classifies the benefits to businesses as indirect (table 60, pages 89-90), and the EANDCB estimate has been revised appropriately. The RPC is content with the classification of these impacts and commends the clear structure.

Differences from the consultation stage IA

The IA explains that the EANDCB estimate has increased since the consultation stage IA and provides a clear comparison of these estimates (table 61, pages 90-91). It also highlights the main changes to the costs and explains the reasons for these differences. These include the reclassification of benefits as indirect, the removal of several costs due to policy changes and the incorporation of costs that the Department had been unable to quantify in the consultation stage IA. The IA identifies EPR communications campaign costs as one of the areas where costs have increased significantly, from £1m per year in the consultation IA to £38m per year in the final-stage IA. It explains that this is due to the proposal changing from only household communications campaigns to include one-to-one support for businesses disposing of packaging waste. The IA explains that cost has increased to reflect a tailored communication approach. The IA would benefit from setting out the rationale for this change and clarifying whether stakeholders support it. More broadly, the IA would benefit from explaining how it has used the consultation to improve the robustness of the EANDCB estimate.

Counterfactual

The counterfactual appears to be supported by proportionate evidence and reasonable assumptions. It captures the expected decline in use of plastic polymers by 2024, which is driven by the anticipation of the EPR measure and other incentives, such as the UK Plastics Pact. The counterfactual also accounts for other waste regulations that are expected to be in place by 2024, including the Deposit Return Scheme and the Consistent Municipal Recycling policy. The IA provides a detailed discussion of the methodology used to estimate the baseline and the key sensitivities. The counterfactual position for each packaging material is clearly set out in table 1 in the IA (page 29). The IA helpfully considers how the market has changed due to the Covid-19 pandemic and the increase in online shopping. The IA would benefit from assessing the extent to which some producers may have already made changes to their packaging ahead of policy implementation, and the potential impact of this on the EANDCB estimate.

SaMBA

The IA includes a detailed SaMBA for the different requirements of the proposal. The SaMBA considers whether exemption or mitigation for small and micro businesses (SMBs) would be appropriate. The IA sets out a *de minimis* threshold for some requirements but not others and provides clear justification for this approach.

Mandatory labelling

The IA does not propose a *de minimis* threshold for mandatory labelling as the estimated costs to SMBs are not expected to be disproportionate. The IA explains that 75% of businesses in scope of labelling requirements are SMBs and that they are estimated to face 40% of the overall labelling costs. The IA explains that ensuring all packaging is labelled will maximise the effectiveness of the policy.

Fibre-based composite cups

The IA explains that a full SMB exemption would exclude a third of the market share (£1.1bn of the £3.2bn market) but provides evidence that an exemption for micro-businesses (less than 10 full-time employees (FTEs)) would still meet policy objectives without imposing excessive costs on these businesses, whilst explaining that the cups purchased from micro-businesses could be dropped off at other stores. The IA would be strengthened by explaining whether the exemption is supported by consultation evidence and assessing the willingness of other businesses to process these additional cups.

EPR and data reporting

The policy proposal intends to introduce two *de minimis* thresholds for the EPR scheme; an “upper” threshold (50 tonnes of packaging and £2 million turnover a year) and a “lower” threshold (25 tonnes of packaging and £1 million turnover a year). Only businesses above the upper threshold will be required to pay disposal cost fees; those that fall between the two, including distributors, will only face reporting obligations. The IA provides clear justification on why it is important to collect data from these producers and why these requirements would not impose disproportionate costs. The IA would benefit from a more detailed discussion on the potential risks and unintended consequences of these *de minimis* thresholds - for example, whether these thresholds might discourage businesses from growing in order to avoid additional regulatory burdens.

Rationale and options

Rationale

The IA provides a clear rationale for intervention that is supported by market failure arguments and a good range of evidence. It explains that, under the current system, taxpayers pay most of the costs of managing packaging waste from households through council tax. As producers do not bear full financial responsibility for the packaging that they place on the market, they are not accountable for the negative externalities this imposes. Under the proposals, producers will internalise the costs of managing packaging waste through the EPR scheme.

The IA provides sufficient evidence to demonstrate that the problem will persist in the market despite voluntary initiatives, and therefore, government intervention is required to improve the rate of packaging recycling in the UK. It makes good use of comparable schemes in other countries to support the policy rationale (pages 40-42).

Options

The IA provides a qualitative assessment of alternatives to regulation, including non-regulatory options, and explains why they would not address the policy problem sufficiently.

The IA considers two options against the 'do nothing' counterfactual option. Option 1 (do minimum) reforms the packaging producer responsibility system such that producers pay the full net cost of household packaging and introduces modulated fees on packaging and mandatory recycling labelling of packaging. Option 2 (preferred option) adds compulsory fibre composite cup collection requirements, additional reporting requirements and recycling targets for fibre composites.

The Department explains, at page 24, that option 2 is the preferred option as it goes further to achieve the policy objective of increasing the packaging recycling rate. The IA would benefit from strengthening its rationale for the preferred option by drawing upon evidence from the consultations and illustrating stronger stakeholder support for option 2. The IA would be improved by explaining whether internalising the packaging waste costs to producers might influence the effectiveness of meeting policy objectives, and the potential risks of adopting different approaches for collecting waste from households and then at a later stage business.

Cost-benefit analysis

The RPC considers the cost-benefit analysis to be satisfactory. The IA presents the impacts of the proposal for the most-affected members of the supply chain, including packaging producers, fibre-based composite cup sellers, waste disposal businesses, material facilities, re-processors, online marketplaces and the public sector. A summary of the impacts of the proposal is set out on pages 10-11 of the IA; this helpfully includes whether there will be an impact on business and whether the impact is direct or indirect. As a result of the RPC's IRN, the IA now provides a more granular breakdown of costs and benefits, including more detail of fibre cup enforcement costs and labelling as well as a comparison of the costs against the consultation stage IA estimates.

Evidence and data

The IA provides a clear explanation for the methodology used to estimate the impacts of the policy and the evidence supporting the cost-benefit analysis is deemed proportionate to the scale of policy impact. The IA would be strengthened by clarifying whether the assumptions underpinning the costs estimate has been appropriately tested at consultation. For example, the net collection cost for the fibre-cup takeback scheme appears to be primarily informed by external research only. The IA usefully discusses comparable schemes across Europe to support key input assumptions. This includes a brief assessment of how similar those schemes are to the proposal and how successful they have been in increasing packaging recycling rates.

Modelling, risks and assumptions

The RPC is content with the methodology used to estimate the costs and benefit of the proposal, including appropriate use of appraisal period and correct price base year. The IA acknowledges a number of uncertainties in the cost-benefit analysis and uses sensitivity analysis to explore their implications. For example, to capture uncertainty in the counterfactual position, the IA provides low, central, and high estimates for the packaging in the market.

The IA explains that the proposal's two *de minimis* thresholds for the EPR and data reporting requirements will bring an additional 3,100 producers in scope of the proposal. The IA now provides a more detailed explanation of the methodology used to estimate the number of additional producers. It explains that there are still inherent uncertainty in this estimate but has provided a justification on why the approach adopted is sufficiently robust. The IA would be improved by explaining how evidence gaps and key uncertainties will be addressed in the future.

Wider impacts

The IA provides detailed assessment of potential impacts on environment, trade, consumers and competition. This includes a specific section on trade, including how the requirements of the proposal will be consistent with WTO rules, the proportion of packaging imported, and a discussion of why importers are not expected to be disadvantaged relative to domestic producers (page 117). It also assesses likely competition impacts in line with the CMA's guidance, in particular whether the impact will directly or indirectly limit the number of suppliers and the competitive impacts on key actors in the supply chain. The IA also includes a detailed assessment of potential greenhouse gas savings from higher packaging recycling. The impact on consumer affordability is also considered; the analysis suggests that lower income groups may see relatively higher price increases due to the proposal. It would benefit from explaining whether any mitigation may be necessary to ensure affordability from the lowest income decile. In addition, the IA should also consider how potential costs pass-through to consumers might affect the overall effectiveness of the policy in reducing packaging waste. In particular, if producers do not ultimately pay the FNC of the packaging they place on the market, this may weaken their incentives to reduce packaging use and improve packaging recyclability and efficiency.

The IA could be strengthened significantly by considering the impact of the proposal on innovation and importers. The rationale in the IA references the need to improve innovation incentives and therefore would benefit from more detail about expected benefits of innovation. The IA explains that importers of packaging will be responsible for ensuring that any packaged products they import for sale in the UK are appropriately labelled. Therefore, the IA would benefit from considering potential impacts on demand for imported packaging given the added complexity of ensuring compliance and how the proposal may impact businesses that currently rely on imported packaging.

In addition, the IA would benefit from considering how the regulatory reforms might affect the market price of packaging, the overall size of the UK packaging sector and any barriers to entry. It would also benefit from considering the indirect impact on sectors that rely heavily on packaging, such as in health and social care.

Monitoring and evaluation plan

The IA provides a detailed monitoring and evaluation (M&E) plan, including a commitment to undertake a post-implementation review of the proposal in 2029/30. The IA clearly sets out the M&E approach (pages 124-127), including the proposed data collection methods, current evidence gaps and a plan to improve data granularity. The Department proposes to use a range of evaluation techniques to measure the policies' effectiveness, including impact and process evaluation. The Department highlights a number of external factors that may influence the outcome of the proposal and the early indicators that indicate the policies are not working as intended. The IA would be improved by explaining these early indicators, the data that will be collected to inform these, and how potential unintended consequences will be addressed. The IA includes a comparison of the proposal with other international schemes, the Department should continue to monitor these schemes and evaluate whether there are any lessons learnt that could be applied.

Regulatory Policy Committee

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