

FDF Response to Defra Consultation on Recycling Targets for Packaging for 2008 and Beyond

1. Introduction

The Food and Drink Federation (FDF) represents the UK's food and drink manufacturing sector which is the UK's largest manufacturing sector. FDF's membership comprises manufacturers of all sizes as well as trade associations and groups dealing with specific sectors of the industry.

2. Key Points

2.1. FDF believes that there remains a significant degree of free-riding non-compliance that needs to be investigated and tackled by the Government in spite of the efforts of the Environment Agencies. Whatever assumption is made on the proportion of free-riding companies, amongst the 14% not registered under the regulations, the numbers and tonnage handled are large. This situation is most acute regarding the glass target where about 25% of the tonnage is not registered. It is clearly not satisfactory if one business gains commercial advantage by not fulfilling its regulatory responsibilities.

2.2. A financial penalty should therefore be considered, eg £200 per tonne when recycling is avoided, particularly on glass. The Government should also include a target to reduce free-riding as part of the scenarios. It is also apparent that further work needs to be done on the legal framework for pub companies, franchised businesses, bonded goods, etc. to plug loopholes. A proper publicity campaign is needed.

2.3. The management of the Regulations should be outsourced to an independent body, including the collection and analysis of statistics and the management of targets. This body would therefore need to be suitably empowered and close to the Government's policy making functions.

2.4. FDF supports Options 2 and 4 for the 2008-10 and 2011-12 targets respectively, including the increase of the obligated tonnage percentage, as they seem to be the most realistic models. This implies that the packaging tonnage handled by businesses above the threshold would be a constant percentage of the total tonnage.

2.5. Whilst the PRN and PERN mechanisms should remain the cornerstone of the UK system, Government should give consideration to including in returns to the EC estimates of packaging recovery undertaken by non-registered, overseas reprocessors. Moreover, the 'broadly equivalent' evidence, currently required by the Government, should be taken out of the protocol tonnage.

3. Response to specific consultation questions

Q1. Do you agree with our assessment and proposals? Are you aware of any other factors which may affect the levels of packaging entering the waste stream? Please provide us with as much evidence as possible to support your answer.

FDF agrees with Defra's assessment and proposals in respect of the amount of packaging being placed on the market. Furthermore FDF is not aware of any other factors that may affect these figures.

Q2. Do you agree with our assessment? Are you aware of any other factors which may affect the levels of obligated tonnage reported? Please provide evidence to support your answer.

FDF considers it is more logical to expect the overall tonnage of packaging placed on the market to be mirrored by the percentage of obligated tonnage. This implies that the tonnes of packaging handled by businesses above the threshold would be a constant percentage of the total tonnage. We can suppose that some large manufacturing capacity will emigrate over time to be replaced by smaller importers. However this scenario would be a long-term trend, and such importers would, in the main, be registered.

Scenario 1 shows an increase in the tonnage handled by non-obligated business increasing by 16% over two years. FDF believes there is no basis for such an assumption.

For these reasons FDF considers that Scenario 2, involving some growth in the obligated tonnage, represents the most realistic assessment. However FDF considers that the 2007 data included in Table 7 for the obligated tonnage (and which in turn goes on to inform Table 9 for Scenario 2) is out of date. This data should therefore be recalculated according to the latest National Packaging Waste Database (NPWD) figures and any other missing tonnages to avoid businesses being required to recycle more than necessary and thereby subject to additional costs. It is also disappointing that the obligated tonnage is shown as static from 2010. FDF believes that Government must review the regulatory framework to achieve year-on-year increases in the percentage of the market that is obligated. It is patently inequitable for a decreasing proportion of business to have to bear ever increasing targets.

Q3 Do you have information on the number of free-riders and the estimated levels of obligated tonnage affected? (Please note that all comments will be treated confidentially)

FDF strongly believes there are significant numbers of free-riders, especially in glass, who are undermining the nation's ability to fulfil its environmental responsibilities.

FDF also believes there is a need for Government to reduce the non-registered tonnage year-on-year. It is therefore disappointing that, despite the efforts of the environment agencies, this has not been achieved.

FDF is aware that at least one compliance scheme has carried out investigations of non-obligated businesses to obtain further information about the level of free-riding. Therefore FDF believes that the Government should carefully examine the results of these investigations

and take the necessary actions to bring more producers and hence tonnage into the Regulations.

There could also be an impact resulting from the complexity of bonded warehouses and bonded goods, in particular on the amount of glass from the import obligation. There might be confusion amongst retailers, who pay to take it out of the bond and therefore believe they are not the importer. FDF believes that the Government should address further clarification on bonded goods to clarify the situation.

The Government should include a target to reduce free-riding as part of the scenarios, as well as taking all necessary actions to bring more producers, and hence more tonnage, into the Regulations.

Q4. Do you agree with the Government's recommendation? Please provide evidence/rationale for any comments submitted. We also welcome any comments you may have on the accompanying Impact Assessment.

FDF agrees with the Government's recommendation and supports Option 2 for the 2008-10 targets. In particular we would underline the importance of having some tolerance in the national plan for changes in the market, particularly the influence of global commodity markets. The existence of the carry-over mechanism is also both essential for the functioning of the year-end realities, but also helps to smooth year-on-year supply and demand.

FDF would ask the Government to consider including estimates of the tonnage recovery undertaken by unregistered, overseas reprocessors when making returns to the EC. Whilst we continue to fully support the UK system being built around the PRN and PERN as evidence of recovery for business to meet its obligation, we believe there is a case for considering packaging recovery taking place outside the regulatory framework when reporting on the amount of recovery achieved to the EC. For instance, the unfortunate and unintended consequences of the 'broadly equivalent' status for overseas reprocessors have been that recently exported aluminium packaging waste has not generated PERNs. Nonetheless, the material has been sold to export reprocessing markets and has actually been recovered. Therefore, FDF believes that the Government should not require this 'broadly equivalent' evidence on the protocol, in order to take all recovered metals into account.

The increases in targets for some materials under both options are very considerable. The glass tonnage to be recovered in 2008, under the previously proposed targets, was an uplift of 5.8% over 2007. With the new target, this means the total increase is now of 12.9%, which will be extremely difficult to achieve. This is also the case for aluminium where it is proposed, under Option 2, to increase the target from current 31% in 2007, to 38% in 2008, an increase of 23%. This scale of increase risks compromising the achievement of the overall metals target. Instead, and as the aluminium tonnage represents a small proportion of the metals tonnage, FDF would advocate a small, further increase in the steel target to help balance the targets and achieve the overall metals targets.

Although this situation was apparent in 2006, the Government chose not to increase the 2007 targets to give a longer ramp-up. We believe this was due to the effort involved in passing such a change through the Governmental processes. It is our opinion that the management of the national recovery programme is an operational task, and would be better conducted by a body suitably empowered and at arms length from Government's policy making functions.

Q5. Are the targets proposed for 2011 and 2012 set at an appropriate level? Please provide evidence for any proposals to increase/reduce the levels indicated.

FDF agrees with the Government's decision to set targets through to 2012, in order to establish the certainty needed for investment and change. In this respect, FDF supports Option 4 on the basis that this follows on from Option 2 which was our preference for the earlier targets. Whatever targets are chosen, they should be subject to annual review as part of the ongoing management process.

We would reiterate that there ought to be an enforcement and regulatory intent to reduce the proportion of non-obligated packaging. It is clearly not satisfactory if one business gains commercial advantages by not fulfilling its regulatory responsibilities, or by adjusting its business terms to avoid these duties.