



## **ACS Submission – Reforming the UK Packaging Producer Responsibility System**

ACS (the Association of Convenience Stores) welcomes the opportunity to respond to the Department for Environment, Food and Rural Affairs' consultation on reforming the UK packaging producer responsibility system. ACS is a trade association which represents over 33,500 convenience stores across the UK. Our members include Spar UK, Nisa Retail, Costcutter and thousands of independent retailers. More information about ACS and the convenience sector is available in Annex A.

ACS welcomes the government's consultation to reform the UK packaging producer responsibility system. We understand that its core purpose, for more packaging to be designed as recyclable, must be strengthened. We do not believe all convenience retailers need to be obligated producers in order to be accountable, as noted in the consultation, "small businesses have much less control over the design of packaging." Convenience retailers have very limited influence on producers to reformulate packaging, especially as 72% of the convenience sector are independent retailers<sup>1</sup>. Therefore, the system should ensure that retailers can be accountable for their plastic packaging while placing the obligation further up the supply chain to incentivise change.

To do this and achieve the outcomes listed in the consultation, we believe that the obligation should be placed at the highest point of the supply chain where they have the most influence in changing packaging decisions. Therefore, the packaging producer responsibility system should move from a shared responsibility system to a single point of compliance at brand owner. The single point of compliance being applied at the brand owner, or even higher up the supply chain, will incentivise the outcomes that the government are looking to achieve as part of the packaging responsibility system as they have the most influence in packaging decisions.

Under this system, we anticipate that retailers will be accountable under the packaging responsibility system through increased prices of products coming through the supply chain after the full net recovery costs have been applied at the brand owner. There will be additional costs associated with products which are more difficult to recycle which will be passed down the supply chain, rather than lowering the de minimis under a shared responsibility model. Lowering the current de minimis would place significant administrative burdens on small retailers to understand how much packaging is being placed on the market by their business. Especially as nearly a third (31%) of retailers do not even have the means to track stock through their business as they do not have electronic point of sale (EPoS) systems<sup>2</sup>.

Please see below for ACS' response to the relevant questions in the consultation.

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<sup>1</sup> ACS Local Shop Report 2018

<sup>2</sup> ACS Local Shop Report 2018

**3. Please provide information about the organisation/business you represent**

Business representative organisation/trade body.

ACS (the Association of Convenience Stores) is a trade association which represents over 33,500 convenience stores across the UK.

**4. Please provide any further information about your organisation or business activities that you think might help us put your answers in context.**

For information, please see Annex A.

**5. Would you like your response to be confidential?**

No.

**6. Do you agree with the principles proposed for packaging EPR?**

Yes.

We generally agree with the overarching principles for packaging EPR. We would welcome clarity regarding principle 2 'businesses will be incentivised to reduce unnecessary and difficult-to-recycle packaging, and to design and use packaging that is recyclable'. We believe that the principles should distinguish between businesses and obligated business. For instance, not all businesses will be incentivised to reduce unnecessary packaging, only those that are obligated by the regulations. However, all businesses will bear the full net cost of managing the packaging they handle as costs will be passed down the supply chain.

**7. Do you agree with the outcomes that a packaging EPR should contribute to?**

Yes.

We generally agree with the outcomes that a packaging EPR should contribute. However, the government should consider whether the outcomes are proportionate to the impact that it would have on the convenience sector and should not be to their detriment. If the system moved to Single Point of Compliance at brand owner, the government would be able to minimise any burden on small businesses.

**8. Do you think these types of items not currently legally considered as packaging should be in scope of the new packaging EPR system?**

Neither agree or disagree.

If the government are to include items not currently legally considered as packaging within the new packaging EPR system, this must be clearly set out for businesses to be able to comply.

**9. Which of these two classifications best fits with how your business categorises packaging?**

Consumer facing and distribution/transit

**10. Do you agree with our definition of full net cost recovery?**

No, we believe that it goes beyond the Polluter Pays Principle.

The definition of full net cost recovery covers fly-tipped items, which are not typically packaging related items caught within the scope of the regulations. Moreover, we would like to clarify how would the costs for communication materials for local authorities be calculated and requested? We would have concerns if local authorities were able to request an infinite amount of funds. There should be a definition regarding how much communication campaigns would cost and what this process to request funds should look like.

**13. We would welcome your views on whether or not producers subject to any DRS should also be obligated under a packaging EPR system for the same packaging items.**

No, they should not.

If shared responsibility is retained, producers should not be obligated under a packaging EPR system for the same packaging items as a DRS. The government must consider how the change to extended producer responsibility including the introduction of a deposit return scheme and reforms to the packaging producer responsibility system will interact to avoid double taxation on businesses. This should also consider what obligations are being placed on different parts of the supply chain under each of the measures set out in the Resources and Waste strategy.

**15. Do you think the payment of modulated fees or the payment of deposits with the prospect of losing some or all of the deposit would be more effective in changing producers' choices towards the use of easy to recycle packaging?**

Modulated fees.

**18. What do you consider to be the most appropriate approach to a single point of compliance, the Brand-owner or the Seller approach?**

Brand-owner.

To achieve the outcomes listed in the consultation, including more packaging to be designed to be recyclable, for unnecessary packaging to be moved altogether, and for packaging materials that are difficult to recycle to be reduced or no longer used, we believe that the obligation should be placed at the highest point of the supply chain where they have the most influence in changing packaging decisions. Therefore, the packaging producer responsibility system should move from a shared responsibility system to a single point of compliance at brand owner. The single point of compliance being applied at the brand owner, or even higher up the supply chain, is the most influential point of the supply chain for packaging decisions and will incentivise the outcomes that the government are looking to achieve as part of the packaging responsibility system.

The government should apply the Single Point of Compliance at brand-owner, which will mean that the full net cost will be passed down through the supply chain through increased

prices of products which means that the whole supply chain can be accountable for the plastic is places on the market. Unlike a flat fee, this approach would take into account the amount of packaging that the business places on the market and be in keeping with the current framework of the packaging EPR system which aims to reduce the amount of packaging produced, reduce how much packaging waste goes to landfill, and increase the amount of packaging waste that's a recycled and recovered.

We do not agree that Single Point of Compliance should be applied at the seller. First and foremost, applying the Single Point of Compliance at the seller would not support the government in achieving its outcomes for packaging EPR as convenience retailers have limited influence in incentivising packaging decisions further up the supply chain, especially as the majority of the convenience sector (72%) are independent retailers, which means they do not own their supply chain or control the manufacture of goods they supply to customers. Where convenience retailers have own brand products, they still rely on their own brand supplier to instigate change on the packaging of products as they have limited buying power. Applying the Single Point of Compliance further up the supply chain, at brand-owner or higher, will mean that the full net cost can be passed down through the supply chain through increased prices of products which have difficult to recycle packaging which means that the whole supply chain can be accountable for the plastic is places on the market. Under this system, the market will incentivise the supply chain to purchase products in more recyclable packaging due to the price differential on those products.

Moreover, applying Single Point of Compliance at the seller would be challenging and add further complexity to the system. There are 46,262 convenience stores in mainland UK, the majority of which (72%) are independent retailers. These include 31% which are affiliated to a symbol group and 36% which are unaffiliated retailers<sup>3</sup>. Any new data requirements on small businesses, including independent convenience retailers, may be difficult to gain due to the number of small businesses which would be obligated and the expertise involved in reporting packaging data.

One of the reasons that it would be difficult for independent convenience retailers to comply with packaging EPR, if they are obligated, is that they do not have systems already in place to track packaging through their business. 31% of the sector do not even have EPoS system to track their stock take<sup>4</sup>, this increases to 53% when only taking into account independent convenience retailers. As such, retailers are most likely to outsource which means that they would face additional costs on top of compliance costs. For those retailers that do not have an EPoS system in place, even if the collection of packaging data was outsourced it would not be feasible to track packaging data in their business.

The government should also consider that smaller retailers will not have resources at a head office to fulfil reporting obligations, it will be the retailers themselves that would be required to report if they are obligated. 24% of shop owners work more than 70 hours per week, 19% take no holiday per year, and 45% of their employees work less than 16 hours a week. Therefore, it would also be challenging for an independent convenience retailer to have the time (as well as resources) to record packaging data.

For the reasons listed above, it would also be challenging for convenience retailers to comply with the requirement to report under the government's current proposals for Single

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<sup>3</sup> ACS Local Shop Report 2018

<sup>4</sup> ACS Local Shop Report 2018

Point of Compliance for Brand-Owners in order to collect packaging data based on the country it was sold in. We believe the government should consider whether it is proportionate to require every retailer (including those not obligated by packaging EPR) to report their sales and packaging data to obtain nation specific data. If the government wishes to obtain this data without burdening small businesses, they should explore whether packaging data can be recorded through the supply chain, which would obligate far fewer businesses, and very few small businesses, from reporting their packaging use for the purposes of understanding which country it was sold in. If this is not feasible, the government should reconsider whether it is necessary to understand nation specific data or explore whether Brand-Owners could fund and provide infrastructure for smaller retailers to record packaging through their store as a potential solution to filling the data gap.

**19. If a single point of compliance approach was adopted, do you think the de-minimis should be:**

Other, please state.

If packaging EPR moves to a Single Point of Compliance, it must be applied at Brand Owner. As such we do not have a view on the level the de minimis should be set at. However, if the government does proceed to a Single Point of Compliance at Seller, the de minimis must be retained at its current level. As set out in response to Question 21 the flow of packaging could be measured and recorded higher up the supply to avoid changing the de minimis. But while this reduces the administrative burden of smaller retailers, it does add complexity to the process and if this approach is to be considered more seriously there should be further consultation.

**20. Should small cafés and restaurants selling takeaway food and drinks whose packaging is disposed 'on the go' be exempt from being obligated?**

Yes.

30% of the convenience sector has a customer operated coffee machine in-store, 12% have a serve over coffee machine, and 10% have a food-to-go concession in their store<sup>5</sup>. This means some convenience stores will also be caught under this definition. While these businesses would not be incentivised to change their behaviour if they are exempt from being obligated, if packaging EPR moves to a Single Point of Compliance at Brand Owner, they will be incentivised to purchase more recyclable packaging once the full net cost has been passed through the supply chain due to the price differential.

**21. If shared responsibility is retained, is Option A or Option B preferable for including smaller businesses or the packaging they handle in the system?**

Option B (De-minimis threshold remains as is and obligations extended to distributors of packaging or packaged products)

We have concerns that lowering the de minimis (currently set at 50 tonnes) threshold significantly would place disproportionate administrative and cost burdens on small businesses for minimal benefit in terms of increased recovery levels and funding. Therefore, we believe that if shared responsibility is retained, then the de-minimis threshold should

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<sup>5</sup> ACS Local Shop Report 2018

remain as is. The packaging EPR system is complex and requiring small businesses to comply would be administratively difficult.

Applying the Single Point of Compliance at brand-owner, will mean that the full net cost is will be passed down through the supply chain through increased prices of products which means that the whole supply chain can be accountable for the plastic is places on the market. If shared responsibility is retained, packaging data should be measured and recorded higher up the supply to avoid changing the de minimis. But while this reduces the administrative burden of smaller retailers, it does add complexity to the process and if this approached is to be considered more seriously there should be further consultation.

**23. Overall, do you have a preference for maintaining a shared responsibility compliance approach, or moving to a single point of compliance?**

For the reasons stipulated in our response to Question 18, we would support moving to a single point of compliance at the brand owner.

**24. Do you have a preference for how small businesses could comply?**

Other, please describe.

The government should apply the Single Point of Compliance at brand-owner, which will mean that the full net cost will be passed down through the supply chain through increased prices of products which means that the whole supply chain can be accountable for the plastic is places on the market. Unlike a flat fee, this approach would take into account the amount of packaging that the business places on the market and be in keeping with the current framework of the packaging EPR system which aims to reduce the amount of packaging produced, reduce how much packaging waste goes to landfill, and increase the amount of packaging waste that's a recycled and recovered.

The government should apply Single Point of Compliance at brand-owner which will mean that the full net cost is passed down through the supply chain through increased prices of products which may have more difficult to recycle packaging, rather than lowering the de minimis under a shared responsibility. We understand that there are calls for the de minimis to be lowered under the current system, and while we believe that all businesses should contribute under the packaging responsibility system, not all should be obligated. Lowering the current de minimis would place significant administrative burdens on small retailers to understand how much packaging is being placed on the market by their business. Especially as nearly a third (31%) of retailers do not even have the means to track stock through their business as they do not have electronic point of sale (EPOS) systems<sup>6</sup>.

**34. Do you agree that provision for the take back of single-use disposable cups for recycling should continue to be developed a voluntary basis by business prior to a government decision on whether disposable cups are included under an EPR scheme or DRS?**

Yes.

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<sup>6</sup> ACS Local Shop Report 2018

**35. Do you think the recycling of single-use disposable cups would be better managed through a DRS or EPR scheme?**

EPR.

We believe that the recycling of single-use disposable cups would be better managed through the EPR scheme. A deposit return scheme must ensure that the products in scope are manageable in the operation of the system. Disposable cups would not be able to be accepted by most RVMs and therefore would have to be accepted manually which has a significant impact on retailers, including space to store drinks containers in-store, pressures on staff and food hygiene implications.

**36. Do you think a recycling target should be set for single-use disposable cups?**

Neither agree or disagree.

We welcome the government exploring a recycling target for single-use disposable cups but would like further clarity on how the recycling target would be determined. Would it consider the recyclability of disposable cups as well as how it has been recycled? We would welcome more information on plans to measure the recycling rate for single-use disposable cups.

**40. Do you agree it should be mandatory for producers to label their packaging as Recyclable/Not Recyclable?**

Neither agree or disagree.

When considering mandating producers to label their packaging as recyclable/not recyclable, the government should take into account that the OPRL scheme is well established and may be a good starting point for mandatory labelling. If recycling labelling is to be mandatory, it should be straightforward and easy to understand by the consumer. Therefore, the government should ensure that there is consistent recycling by local authorities to ensure that the labelling is not confusing to the consumer, for example, currently recycling labelling will state that consumers should check their local area recycling collections.

**51. Do you foresee any issues with obtaining and managing nation specific data?**

Yes.

Recording nation specific data would require obligating every retailer to report the packaging through their business. Given the complexity of the convenience sector, which the majority (72%) is made up of independent retailers, we believe this would be far more challenging than currently anticipated. For more information, please see Question 18 and Question 80.

We believe the government should consider whether it is proportionate to require every retailer (including those not obligated by packaging EPR) to report their sales and packaging data to obtain nation specific data. We believe that if the government is to obtain national specific data they should take a top down approach, obtaining the sales information as it goes down the supply chain, which would obligate far fewer businesses, and very few small businesses, from reporting their packaging use for the purposes of understanding which country it was sold in.

**56. Overall, which governance model for packaging EPR do you prefer?**

The governance model for packaging EPR should continue to be based on competition but also be accountable to a Packaging Advisory Board.

**61. Should a Packaging Advisory Board be established to oversee the functioning of the EPR system and the compliance schemes in the competitive compliance scheme model 1 or do you think other arrangements should be put in place?**

Packaging Advisory Board.

The Packaging Advisory Board should include representatives from the whole supply chain, including those who are not obligated producers.

**62. Please let us know your thoughts as to whether the proposed single management organisation should be established on a not-for-profit basis or as a government Arm's Length Organisation.**

Not-for-profit basis.

**76. Under a reformed system do you think compliance schemes should continue to be approved by the existing regulators or do you think a different approach is required?**

Yes.

Compliance schemes should continue to be approved by the existing regulators.

**80. Is there a specific material, packaging type or industry sector whereby producing accurate data is an issue?**

Yes.

It will be challenging for the convenience sector to produce accurate packaging data if they are obligated to do so under packaging EPR. There are 46,262 convenience stores in mainland UK, the majority of which (72%) are independent retailers. These include 31% which are affiliated to a symbol group and 36% which are unaffiliated retailers<sup>7</sup>. Any new data requirements on small businesses, including independent convenience retailers, may be difficult to gain due to the number of small businesses which would be obligated and the expertise involved in reporting packaging data.

One of the reasons that it would be difficult for independent convenience retailers to comply with packaging EPR, if they are obligated, is that they do not have systems already in place to track packaging through their business. 31% of the sector do not even have EPoS system to track their stock take<sup>8</sup>, this increases to 53% when only looking at independent convenience retailers. As such, retailers are most likely to outsource which means that they would face additional costs on top of compliance costs. For those retailers that do not have

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<sup>7</sup> ACS Local Shop Report 2018

<sup>8</sup> ACS Local Shop Report 2018



an EPoS system in place, even if the collection of packaging data was outsourced it would not be feasible to track packaging data in their business.

The government should also consider that smaller retailers will not have resources at a head office to fulfil reporting obligations, it will be the retailers themselves that would be required to report if they are obligated. 24% of shop owners work more than 70 hours per week, 19% take no holiday per year, and 45% of their employees work less than 16 hours a week<sup>9</sup>. Therefore, it would also be challenging for an independent convenience retailer to have the time (as well as resources) to record packaging data.

**94. Do you have further comments on the associated Impact Assessment, including the evidence, data and assumptions used? Please be specific**

We welcome that the proposals and the Impact Assessment recognise the impact that changes to packaging EPR could have on small businesses. Under a Single Point of Compliance at Brand Owner, we expect the costs administered will be passed through the supply chain to SMEs. We believe this is proportionate rather than introducing a packaging EPR system which would obligate every SME to introduce new processes in place to be able to track the packaging through their business and report the data to the compliance scheme. As acknowledged in the consultation document and in the impact assessment, there have been calls for the de minimis to be reduced and to include SMEs as obligated producers. However, the de minimis does not necessarily need to be lowered to make SMEs accountable for the packaging they place on the market

**For more information, please contact Julie Byers, ACS Public Affairs Manager by emailing [Julie.Byers@acs.org.uk](mailto:Julie.Byers@acs.org.uk) or calling 01252 533008.**

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<sup>9</sup> ACS Local Shop Report 2018

ABOUT ACS

The Association of Convenience Stores lobbies on behalf of over 46,000 convenience stores across mainland UK on public policy issues that affect their businesses. ACS' membership is comprised of a diverse group of retailers, from small independent family businesses running a single store to large multiple convenience retailers running thousands of stores.

Convenience stores trade in a wide variety of locations, meeting the needs of customers from all backgrounds. These locations range from city centres and high streets, suburban areas such as estates and secondary parades, rural villages and isolated areas, as well as on petrol forecourts and at travel points such as airports and train stations.



WHO WE REPRESENT

INDEPENDENT RETAILERS



ACS represents over 19,000 independent retailers, polling them quarterly to hear their views and experiences which are used to feed in to Government policy discussions.

These stores are not affiliated to any group, and are often family businesses with low staff and property costs. Independent forecourt operators are included in this category.

SYMBOL GROUPS AND FRANCHISES



ACS represents over 14,000 retailers affiliated with symbol groups. Symbol groups like SPAR, Nisa, Costcutter, Londis, Premier and others provide independent retailers with stock agreements, wholesale deliveries, logistical support and marketing benefits.

Symbol group forecourt operators and franchise providers like One Stop are also included in this category.

MULTIPLE AND CO-OPERATIVE BUSINESSES



ACS represents over 12,000 stores that are owned by multiple and co-operative retailers. These businesses include the Co-Operative, regional co-operative societies, McColls and others.

Unlike symbol group stores, these stores are owned and run centrally by the business. Forecourt multiples and commission operated stores are included in this category.

THE CONVENIENCE SECTOR



In 2018, the total value of sales in the convenience sector was £39.1bn.

The average spend in a typical convenience store transaction is £6.50.



There are 46,262 convenience stores in mainland UK. 72% of stores are operated by independent retailers, either unaffiliated or as part of a symbol group.



The convenience sector provides flexible employment for around 365,000 people.

24% of independent/symbol stores employ family members only.



24% of shop owners work more than 70 hours per week, while 19% take no holiday throughout the year.

70% of business owners are first time investors in the sector.



Convenience stores and Post Offices poll as the two services that have the most positive impact on their local area according to consumers and local councillors.

81% of independent/symbol retailers have engaged in some form of community activity over the last year.



Between August 2017 and May 2018, the convenience sector invested over £814m in stores.

The most popular form of investment in stores is refrigeration.

OUR RESEARCH

ACS polls the views and experiences of the convenience sector regularly to provide up-to-date, robust information on the pressures being faced by retailers of all sizes and ownership types. Our research includes the following regular surveys:

ACS VOICE OF LOCAL SHOPS SURVEY

Regular quarterly survey of over 1,200 retailers, split evenly between independent retailers, symbol group retailers and forecourt retailers. The survey consists of tracker questions and a number of questions that differ each time to help inform ACS' policy work.

ACS INVESTMENT TRACKER

Regular quarterly survey of over 1,200 independent and symbol retailers which is combined with responses from multiple businesses representing over 3,000 stores.

ACS LOCAL SHOP REPORT

Annual survey of over 2,400 independent, symbol and forecourt retailers combined with responses from multiple businesses representing 7,669 stores. The Local Shop Report also draws on data from HIM, IGD, Nielsen and William Reed.

BESPOKE POLLING ON POLICY ISSUES

ACS conducts bespoke polling of its members on a range of policy issues, from crime and responsible retailing to low pay and taxation. This polling is conducted with retailers from all areas of the convenience sector.