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Trevor Staines Esq.  
Revised WFD Consultation (Stage Two)  
Waste Framework Directive Unit  
Defra  
Area 6D,  
Ergon House  
Horseferry Road  
London  
SW1P 3AL

6<sup>th</sup> September 2010

Dear Trevor,

**Stage Two Consultation on the transposition of the revised Waste Framework Directive (Directive 2008/98/EC) in England and Wales**

In response to this consultation, the following submission is made on behalf of The Packaging Federation, a not-for-profit organisation representing the UK Packaging Manufacturing Industry. As a manufacturing sector we have approximately 85,000 employees with a turnover in excess of £10 Billion. As you know, the industry is divided into a number of sectors covering a variety of packaging materials and each of these is represented by sector Trade Associations who will be responding separately to this consultation. Indeed, a necessary part of the remit for our organisation is that we should not be seen to be taking a position that appears to favour one sector of our industry over another. Accordingly, our responses to Questions raised about specific materials are necessarily general in nature and deal with issues that may or will impact on other sectors of our industry.

On the following pages, we have given our detailed responses to those questions posed in the consultation on which we feel competent to comment:

**ANSWERS TO QUESTIONS IN THE CONSULTATION PAPER**

**The Transposing Regulations**

**Question 1: Do you agree that the draft transposing Regulations Chapter 3 of the paper (page 59) fully and correctly transpose the requirements of the rWFD?**

**PF Response:** Yes

**Question 2: Do you consider that any of the provisions in the draft Regulations Chapter 3 of the paper (page 59) do more than is necessary to transpose the requirements of the rWFD (e.g. gold-plate)?**

**PF Response:** No

## Article 4: The Waste Hierarchy (Chapter 2 paragraphs 2.16-2.49)

### Stage 1 - The right waste facilities in the right places: waste hierarchy and planning

Question 3: Do you agree with the proposal to give effect to the waste hierarchy (a) by updating PPS10 in England and TAN21 in Wales; and (b) through spatial planning which will require Waste Development Frameworks (in England) and the Local Development Plans and Regional Waste Plans (in Wales) to have regard to the waste hierarchy?

**PF Response:** Yes

### Stage 3 - Managing waste as high as possible up the hierarchy: the role of waste producers and holders

Question 5: Do you agree with the proposal to give effect to the waste hierarchy, and Article 15(1) of the rWFD, by adding a declaration to the duty of care waste transfer note, so that waste holders and producers etc. are required make a short standard declaration on the transfer note certifying they have taken the waste hierarchy into account in minimising waste and in their decision about the treatment which the waste is being consigned to, having had regard to the guidance for England, or sector plan(s) for Wales? (NOTE: The requirement will not apply to householders and household waste produced on their property.)

**PF Response:** Yes

Are the assumptions made about costs reasonable (please see the accompanying Impact Assessment for more details)? Please give reasons or alternative data to support your answer.

**PF Response:** We believe that the basis of assessing costs is reasonable but that the time allowed will not be sufficient to enable full understanding of the changes in procedures required. In addition, we believe that there will be greater costs associated with the physical changes in procedures necessitated by the proposal.

## The Waste Hierarchy Guidance (Chapter 2 paragraphs 2.50-2.60 and Chapter 4 (page 60))

Question 6: Do you agree with the legislative proposals underpinning the guidance in England and Wales on the application of the waste hierarchy?

**PF Response:** Yes

Question 7: (England only): What are your views on the draft guidance on the application of the waste hierarchy in Chapter 4 of this consultation paper?

**PF Response:** We note that the intention is to review the guidance on an annual basis. We believe that this is essential as further evidence becomes available on the real hierarchy of impacts. This is particularly relevant when looking at issues of recycling vs. recovery and, indeed, current assumptions that closed loop recycling is always “better” than open loop recycling.

We also challenge the assertion that the overall hierarchy of options will not be affected by variations in “the markets to which recyclates are sent, the efficiency of energy recovery facilities etc.” We are not aware of any detailed scientific evidence for such a sweeping statement.

In particular, what are your views on:-

• whether it covers the right waste streams;

PF Response: Yes

• whether and how it could be made easier to read and use;

PF Response: The guidance appears comprehensive and is laid out in a logical manner

• the substance of the guidance;

PF Response: Considering that the WFD applies to all waste, In section 2.1 there are proportionately far too many references to examples of packaging guidance ( for instance in the section on plastics) for it to be generally useful. In addition, some of the guidance appears to have been written by schoolchildren (e.g.” businesses can use less cardboard packaging” – presumably to be replaced by wood, metal or plastics!). We believe that the whole “tone” of pages 17 to 19 of the Guidance Notes is patronizing and, in a number of instances, plain wrong and detracts from the overall authority and credibility of the document. This part needs to be re-written with better examples and at a “higher level”.

• the way Section 2 of Part 2 (Switching to better options: ideas and sources of support) is organised. Would users prefer to have it laid out by material (so it goes through the steps of the hierarchy for each material in turn), or the way it is now, which is designed to allow users to look at the same activity for several materials at a time?

PF Response: We prefer the current layout which appears simple to navigate.

Article 11(1): Separate Collection Of Paper, Metal, Plastic And Glass By 2015 (Chapter 2 paragraphs 2.101-2.119)

Question 8: Do you believe that:-

- a) civil offences and sanctions at the levels proposed are appropriate in relation to the provisions on the separate collection of commercial and industrial waste; or
- b) would you prefer to see the separate collection requirement implemented as a condition in the waste carrier registration and permitting regimes?

PF Response: We believe that Option b) is the appropriate way to proceed.

The Impact Assessment (Chapter 2 paragraph 2.224 and Annex 2 (page 66))

Question 9: Do you consider that the costs and benefits of the transposition and implementation of the provisions of the rWFD that are addressed in the Impact Assessment have been accurately assessed? If not, please provide whatever evidence you can to enable a more accurate assessment to be made in the Impact Assessment that will accompany the post-consultation draft of the transposing Regulations that is laid before both Houses of Parliament and the Welsh Assembly Government.

**PF Response: We are not in a position to comment on the detail of the assessment but we suspect that the “time allowances” for reading and understanding the regulations are significantly understated.**

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Trevor, this completes our comments on the consultation. If you need any clarification, please don't hesitate to call me on either of the numbers listed.

Best wishes,

Yours sincerely,

*Dick Searle*

Dick Searle CCMI  
Chief Executive  
The Packaging Federation