

Distributor Guidance

Under the EPR Regulations, distributors are defined as manufacturers or importers of unfilled packaging. The 'distributor' producer function should not be confused with terminology used to describe other parties in a supply chain such as wholesalers, resellers, merchants, third party logistic organisations etc.

If a large or small producer manufactures or imports unfilled packaging, that producer must report the unfilled packaging that it supplies, unless they can evidence that the packaging will become the responsibility of a large producer who should report the packaging as the packer/filler and/or brand owner (Reg 15(5)).

This guidance is intended to:

- assist businesses in determining whether they must report the unfilled packaging that they supply.
- provide examples of the type of evidence that an organisation may use to prove that they are not required to report packaging under the distributor producer function.
- assist distributors to comply with their reporting obligations under the Regulations

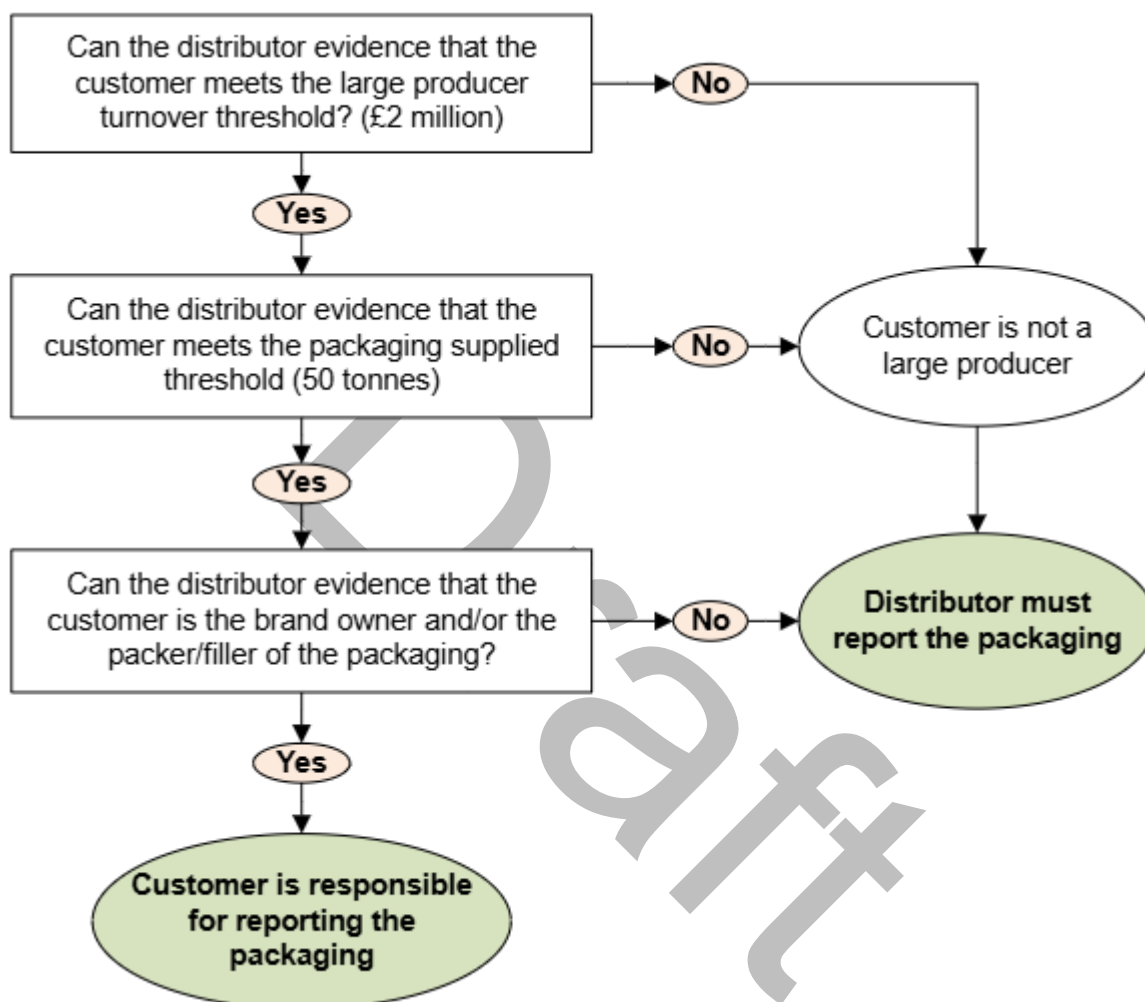
Note: Examples of evidence are not exhaustive.

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How to determine that someone else is responsible for reporting the unfilled packaging that you supply

Below is a flowchart that outlines the questions that a distributor must ask to determine whether they are required to report the unfilled packaging that they supply.



Please note: In cases of indirect supply, where packaging passes through one or more intermediaries, the distributor may apply the same reporting approach if they can obtain robust evidence of the supply chain to the final user, and this confirms that the final user is a large producer packer/filler or brand owner.

A manufacturer or importer of unfilled packaging (a distributor) must be able to evidence that a large producer will report the packaging they supply as either a brand owner or a packer/filler. If a distributor cannot prove that another large producer is required to report the packaging as a brand owner or packer/filler, the distributor must report the packaging.

How to establish whether someone is a large producer

An organisation is a large producer if both of the following apply:

- The organisation has an annual turnover of £2 million or more
- The organisation supplies more than 50 tonnes of packaging in the UK

Examples of evidence that a producer can provide to prove that their customer is a large producer include:

- The list of large producers at [Find large producers on the 'report packaging data' service - GOV.UK](#) can be used to check if the organisation you are supplying is a large producer
- Public Register (when available)
- A written customer declaration confirming that they satisfy the large producer thresholds for both turnover and packaging supplied
- A declaration or clause in a purchase agreement or contract with the customer, that confirms they are a large producer and provides their producer registration number

It is important to note that businesses can fluctuate above or below the large producer threshold over time, so it cannot be assumed that a business will always remain a large producer. As a result, distributors are expected to routinely review their customers' status prior to reporting data to the environmental regulators.

If you are unable to obtain any of the information described above, you can provide evidence that your customer satisfies the regulatory thresholds themselves. Below is a non-exhaustive methods of determining whether your customer satisfied the two threshold tests.

How to establish whether someone meets the £2 million turnover threshold

- Companies House accounts confirming the turnover of the relevant producer
- Financial information received directly from the customer
- A written customer declaration confirming that they exceed the £2 million turnover threshold

Please note your customer may be part of a corporate group and may be a large producer by virtue of being part of that group; this may need to form part of your assessment.

For further information about assessing the turnover of groups of companies, please see [section 3.15 of the Regulators' agreed positions and technical interpretations guidance](#).

How to establish whether someone exceeds the 50 tonne packaging threshold

- Sales records demonstrating you supply more than 50 tonnes of unfilled packaging to the customer in a relevant year.
- A written customer declaration confirming that they exceed the 50 tonne packaging supplied threshold.

How to establish whether someone is a packer/filler or a brand owner

- A written customer declaration confirming that they will pack/fill the empty packaging that you supply to them, or that they will apply their brand to the packaging.

Producers must ensure that such customer declarations are product specific and regularly reviewed to verify their accuracy. For example, a distributor may validate a customer declaration by checking the customers' business activities and that they do not supply the unfilled packaging on (for example, online checks of customer websites that clearly show the business does not supply empty packaging). Producers must retain evidence of any checks performed.

Where unfilled packaging is supplied via an intermediary such as a wholesaler, a distributor can use information obtained from the intermediary to prove that a large producer will report the packaging as either a brand owner or a packer/filler. It is important to note that information obtained from intermediaries must be verifiable and so it cannot be anonymised.

- Assessment of the nature of the unfilled packaging and the customer's business activities, where the outcome of the assessment supports the conclusion that all unfilled packaging supplied to the customer will be their responsibility as a large producer brand owner or packer filler.

For example, where a distributor supplies burger boxes to a large fast-food restaurant, the restaurant will clearly pack/fill the burger boxes and use them to supply burgers to consumers. If a distributor documents the nature of its customer's business and the type of packaging supplied to them, the distributor can assume that the packaging will be pack/filled by the fast-food restaurant and it does not need to report the burger boxes it supplies to them.

The distributor must keep details of its customers and be able to explain the reason for not reporting any unfilled packaging that it supplies.

If the distributor's customer supplies any amount of the unfilled packaging on to another organisation, the distributor will be responsible for reporting all of the packaging they supplied to that customer, unless they can obtain evidence from the customer of the proportion of packaging that they supplied on unfilled (*alternatively... that they pack/filled or branded*).

What a distributor must report

All reports made to the environmental regulators must be as accurate as reasonably possible. Supporting information and evidence must be retained for 7 years and made available upon request (for example at audit).

A producer who performs the distributor function in relation to unfilled packaging must report the following information in relation to the unfilled packaging that it supplies.

Packaging category

Producers must report the weight of the packaging they supply in kilograms (kg). This information must be broken down into the following materials:

- aluminium
- fibre-based composite
- glass
- paper or cardboard
- plastic
- steel
- wood
- 'other'

Producers may need to report under additional subcategories that are introduced by the Scheme Administrator, PackUK., For further information regarding packaging category/subcategory reporting requirements, please see <https://www.gov.uk/guidance/how-to-collect-your-packaging-data-for-extended-producer-responsibility#report-packaging-material-and-weight-data>

Packaging class

Producers must specify the class (sometimes referred to as packaging type) of packaging that they supply. The Regulations define the four packaging classes as follows:

Primary packaging, is packaging conceived so as to constitute a sales unit to the final user or consumer at the point of purchase;

Secondary packaging, is packaging that—

- (i) is conceived so as to constitute at the point of purchase a grouping of a certain number of sales units, whether that grouping is supplied as such to the final user or consumer or whether it serves only as a means to replenish the shelves at the point of sale; and
- (ii) can be removed from the product without affecting the product's characteristics;

Tertiary packaging, is packaging that—

- (i) is conceived so as to facilitate the handling and transport of one or more sales units, or secondary packaging, for example by preventing damage from physical handling and transport damage; and
- (ii) is not a road, rail, ship or air container.

Shipment packaging means tertiary packaging on, or that is used to contain, items which are supplied or are intended to be supplied to a consumer.

To correctly identify the class of packaging, a distributor must determine how the unfilled packaging will be used when it is filled. This will enable the distributor to align the intended use with the appropriate packaging class. It is important that the correct packaging class is reported, as some packaging classes attract different obligations under the Regulations.

When determining the intended use of the unfilled packaging, distributors should consider things such as:

- The nature of the unfilled packaging itself – is the packaging of such a nature that it will only ever be used for a specified purpose? For instance:
 - An empty bottle: This type of packaging is designed to contain a fluid that will be decanted by the end user or consumer - it is primary packaging.
 - A takeaway food container: This packaging is designed to contain a food sales unit to a user or consumer - it is primary packaging.
 - Display packaging: Packaging such as cardboard boxes used to house stock on shelves in shops is used to group sales units together at the point of purchase - it is secondary packaging.
 - Plastic tote: This type of packaging is designed to facilitate the transport of goods, protecting them from harm. This packaging is not generally supplied to consumers - it is tertiary packaging.
 - A carrier bag: This type of packaging will be used to facilitate the transport of goods to consumers and protect them from harm - it is shipment packaging.
- The nature of the customer's business - do the customer's business activities indicate how the unfilled packaging will be used? For instance:
 - A supply of empty shoe boxes to a shoe manufacturer -this packaging is likely be primary packaging.
 - A supply of 50L beer kegs to a brewery - this packaging is likely to be primary packaging.
 - A supply of large unbranded cardboard boxes to a manufacturer of hairdryers - this packaging is likely to be secondary packaging.
 - A supply of large paper bags to a fast-food takeaway restaurant - this packaging is likely to be shipment packaging.
 - A supply of wooden pallets to a clothing retailer - this packaging is likely to be tertiary packaging.
 - Large cardboard boxes supplied to a self-storage business - these cardboard boxes will not perform a packaging function and must not be reported.

Distributors must identify the packaging class for each item of unfilled packaging they supply, with this requirement extending to individual SKUs (stock keeping units).

Household or non-household (large producers only)

Large producers must report whether the primary or shipment packaging they supply is household or non-household packaging. Where a producer cannot evidence that its packaging is non-household, it must be reported as household packaging.

Any indirect supply (via a third party or intermediary) of primary or shipment packaging must be reported as household packaging, unless it is packaging for a product designed only for use by a business or a public institution end user, and the packaging is not reasonably likely to be disposed of in a household bin or a public bin. For further information regarding the classification of household packaging, please see: [Extended producer responsibility for packaging: how to assess household and non-household packaging - GOV.UK](#)

Producers do not need to classify secondary or tertiary packaging as household or non-household packaging. All secondary and tertiary packaging must be reported as non-household packaging.

Drink containers

Producers who supply empty drink bottles or cans must report the weight and number of units that they supplied during a reporting period. This reporting requirement only applies to drink containers that:

- Are made wholly or mainly from PET plastic, glass, steel or aluminium
- Have a capacity between 150ml and 3 litres
- Are designed to be sealed at the point of sale to a consumer
- Are not conceived, designed or marketed to be refilled or reused

For further information about drink container reporting, please see: [Packaging data: what to collect for extended producer responsibility - GOV.UK](#)

Commonly binned packaging

Producers must also report the weight and category of household packaging that commonly ends up in public bins. For more information on packaging that commonly ends up in public bins, including a list of the packaging this covers, please see: [Packaging data: what to collect for extended producer responsibility - GOV.UK](#)

Nation data

Producers must report information about which nation in the UK packaging is supplied in. For further information about nation reporting, please see: [Packaging data: what to collect for extended producer responsibility - GOV.UK](#).

The environmental regulators have each published a regulatory position statement (RPS) (or regulatory decision (RD) in Wales) in relation to the collection and reporting of nation data*.

Self-managed organisation waste

Producers that collect and send packaging waste for recycling must report the weight and category of the packaging waste. The producer must also report which nation of the UK the waste was collected and the nation in which it was sent for recycling. For further information about the collection and reporting of self-managed organisation waste, please see: [Packaging data: what to collect for extended producer responsibility - GOV.UK](#).

The environmental regulators have each published a regulatory position statement (RPS) (or regulatory decision (RD) in Wales) in relation to the collection and reporting of self-managed organisation waste*.

*For more information about RPS/RDs, please see the 'Links to Guidance' section of the Regulators' agreed positions and technical interpretations, Version 6 (Page 3).

Self-managed consumer waste

Producers that collect packaging waste from consumers and send it for recycling, must report the amount sent for recycling as self-managed consumer waste if it consists of the following:

- Reusable packaging, that has been reused at least once before it becomes waste, or
- Packaging waste that is not commonly collected by local authorities.

For further information regarding self-managed consumer waste, including a list of packaging that is commonly collected by local authorities, please see: [Packaging data: what to collect for extended producer responsibility - GOV.UK](#).

Please note that producers must also collect and retain evidence detailing the amount of self-managed consumer waste that was recycled.