

CTPA welcomes the opportunity to comment on the Defra Implementing Due Diligence on Forest Risk Commodities consultation.

[CTPA, the Cosmetic, Toiletry and Perfumery Association](#), is the trade association representing the UK's cosmetics industry. [Membership](#) covers 80 - 85% of the UK cosmetics and personal care market by value, and comprises small, medium, large and multi-national companies supplying the UK market. Companies include manufacturers, distributors, ingredient suppliers, contract laboratories, contract manufacturers and own brand retailers. The UK cosmetics and personal care market was worth £8.7 billion at retail sales price in 2020 [1].

500 million people across the EU [2] use cosmetic and personal care products each day, adding to their personal self-esteem and thereby contributing positively to growth and productivity, as well as to society as a whole. The innovative and science-led cosmetics industry undertakes vital work on safety, sustainability, and self-esteem and wellbeing.

All cosmetic products placed on the market of the United Kingdom (England, Wales, Scotland and Northern Ireland) intended for sale, or to be given away for free, in the course of a commercial activity must comply with:

- [Schedule 34](#) of the [Product Safety and Metrology Statutory Instrument](#) (hereafter 'the UK Cosmetics Regulation' or UK CR) for cosmetics marketed in Great Britain (England, Wales and Scotland);
- [Regulation EC 1223/2009](#) of the European Parliament and of the Council of 30 November 2009 on cosmetic products (hereafter 'the EU Cosmetics Regulation' or EU CPR) for cosmetics marketed in Northern Ireland. This is in accordance with the terms of the [Northern Ireland Protocol](#) to the [UK/EU Withdrawal Agreement](#).

A cosmetic product is clearly defined in the UK Cosmetics Regulation as:

“a substance or mixture intended to be placed in contact with the external parts of the human body (epidermis, hair system, nails, lips and external genital organs) or with the teeth and the mucous membranes of the oral cavity with a view exclusively or mainly to cleaning them, perfuming them, changing their appearance, protecting them, keeping them in good condition or correcting body odours.”

References:

[1] The Cosmetic, Toiletry and Perfumery Association [“Cosmetics Industry in Figures”](#) Kantar Worldpanel April 2021

[2] Cosmetics Europe [“Cosmetic Products”](#)

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Implementing Due Diligence Requirements

Question 21: Should we lay secondary legislation at the earliest opportunity? If you ticked no, please state why.

• Yes

• No

CTPA welcomes and supports actions to protect the environment by implementing robust due diligence systems for forest risk commodities, to ensure materials sourcing is done in a responsible, sustainable manner. CTPA welcomes secondary legislation being implemented at the earliest opportunity; however, it is important that businesses to have adequate time to prepare for any new changes.

Question 22: What should we take into account when considering how long businesses have to prepare for regulation before it comes into effect?

CTPA would like to emphasise that businesses are currently facing huge administrative burdens, dealing with the new requirements of Brexit and the effects of COVID, as well as other significant policy developments such as the UK Plastic Packaging Tax, and the anticipated Extended Producer Responsibility.

Sufficient implementation times must accompany any new measures, and products already placed on the market should not be required to be withdrawn. This adds extra costs to companies as well as having negative environmental impacts associated with unnecessary disposal.

CTPA urges that the administrative burden placed on companies resulting from due diligence requirements is kept to a minimum, to ensure compliance is as simple and cost-effective as possible. Any burdens placed on liable businesses, must be taken into consideration when determining how long they should have to prepare for the regulation before it takes effect.

Forest Risk Commodities

Question 24: Which of the following factors do you think should be considered to determine legislative sequencing? Please tick all that apply and state your reasons.

- The commodity's impact on global deforestation
- The UK's role in this global deforestation
- Ability to deliver effective regulation
- Other (please specify)

CTPA would suggest another focus should be on those commodities where there appears to be little legislative strength at the source country or region. In such an environment, enough companies requesting additional information might strengthen the requirement for the legislative framework to be reviewed in such countries.

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Question 26: Do you have any further comments regarding the order in which we introduce key forest risk commodities?

CTPA would like to highlight that the legislation in place to protect forests varies across borders. Large areas of land might still be subject to what is locally, legal deforestation and it is important to consider the drivers of this. The purpose of introducing due diligence requirements is to prevent illegal deforestation, but there is an urgent need to ensure that commodities are not only produced legally, but also sustainably. CTPA urges that future legislation proposals take both of these issues into consideration.

Question 27: Which option for the first round of secondary legislation do you recommend? Please state your reasons.

- **Option 1**
- Option 2
- Option 3

CTPA supports regulations being introduced at the earliest opportunity, provided businesses are given adequate time to prepare. Option 1 is the most appropriate route, because allowing businesses to develop due diligence systems for one or two forest risk commodities initially, would afford them the opportunity to learn from these processes for implementing due diligence on additional commodities in future.

Furthermore, if it is possible that including key commodities through different rounds of secondary legislation “could result in regulating all seven commodities at the same point as if they were tackled together in one initial round”, CTPA supports regulating commodities through multiple rounds of legislation to provide protection against deforestation at the earliest opportunity.

Businesses in Scope

Question 28: Should businesses fall in scope of the requirements if they exceed the turnover threshold in the previous financial year?

- Yes
- No
- **Do not know**

Question 29: Should we use UK turnover as the metric to capture UK based businesses?

- Yes
- No
- **Do not know**

Question 32: Which of the following factors should be considered when setting the turnover threshold level? Please tick all that apply and state your reasons.

- **Policy impact**

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- Burden on business
- Deliverability
- Other (please specify)

CTPA supports all three factors being considered when setting a turnover threshold; it is important that the regulations deliver the greatest impact on illegal deforestation, without placing a disproportionate burden on businesses. CTPA would, however, like to strongly emphasise that the primary focus should be on the greatest users of a commodity, rather than the greatest turnover.

Question 33: For each of the following commodities, please tick where the turnover threshold for inclusion of UK based businesses should be set.

For the purposes of this question, we are seeking views on beef (including dairy and other derived products) and leather separately, as opposed to 'cattle'. Whilst both are linked to cattle, the products and businesses operating in these supply chains are different, and so we would like to gather views on both. Further data on the number of businesses captured by each turnover threshold is available in the consultation impact assessment.

Cocoa:

- £50 million
- £100 million
- £200 million
- Do not know

Coffee:

- £50 million
- £100 million
- £200 million
- Do not know

Palm oil:

- £50 million
- £100 million
- £200 million
- Do not know

Soy:

- £50 million
- £100 million
- £200 million
- Do not know

Question 34: Do you have any further comments regarding businesses in scope?

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CTPA represents small, medium, large, and multi-national companies supplying the UK cosmetics and personal care market, and as such, cannot comment on the turnover threshold for inclusion of UK based businesses. CTPA would, however, like to strongly emphasise that the primary focus should be on the greatest users of a commodity, rather than the greatest turnover.

Exemption

Question 35: Should we set a single exemption threshold for each regulated forest risk commodity, combining raw commodity use with derived commodity use?

- Yes
- No

CTPA supports legislation that makes due diligence requirements straightforward, to lessen the administrative burdens on businesses.

Question 36: Should businesses be able to use conversion factors to estimate the volumes of commodities used in the supply chain to understand whether they can be exempt from due diligence requirements? Please state your reasons.

- Yes
- No

CTPA is the trade association representing the UK's cosmetics industry, which uses hundreds of derivatives of palm and palm kernel oil alone. The potential complexities of managing intricate supply chains that span multiple jurisdictions are vast, and conversion factors pose a potential solution to provide businesses with a simple method of understanding whether they are exempt from due diligence requirements.

Question 37: Should we use the proposed approach for businesses to understand whether they could be exempt? Please state your reasons.

- Yes
- No
- Do not know

CTPA emphasises that businesses should be afforded the flexibility to choose the method most appropriate for their supply chains. Businesses are currently facing huge administrative burdens, dealing with the new requirements of Brexit and the effects of COVID, as well as other significant policy developments such as the UK Plastic Packaging Tax. It is imperative that due diligence requirements are aligned to those relating to climate and environmental issues, including Streamlined Energy and Carbon Reporting requirements, and do not impose an extra administrative burden.

Question 38: Which of the following factors should be considered when setting the exemption threshold level? Please tick all that apply and state your reasons.

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- Policy impact
- Burden on business
- Deliverability
- Other (please specify)

CTPA supports all three factors being considered when setting the exemption threshold level; it is important that the regulations deliver the greatest the impact on deforestation, without placing disproportionate burdens on businesses.

Question 39: For each of the following commodities, please tick the scale at which the exemption threshold level should be set.

For the purposes of this question, we are seeking views on beef and leather separately, as opposed to 'cattle'. Whilst both are linked to cattle, the supply chains are different, and so we would like to gather further evidence on both.

1 tonne equals 1000 kilograms

Cocoa:

- 1 tonne
- 10 tonnes
- 100 tonnes
- 1000 tonnes
- Do not know

Coffee:

- 1 tonne
- 10 tonnes
- 100 tonnes
- 1000 tonnes
- Do not know

Palm oil:

- 1 tonne
- 10 tonnes
- 100 tonnes
- 1000 tonnes
- Do not know

Soy:

- 1 tonne
- 10 tonnes
- 100 tonnes
- 1000 tonnes

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- Do not know

Question 40: Please provide reasons for the scale selected for each commodity in Question 39.

CTPA represents small, medium, large, and multi-national companies supplying the UK cosmetics and personal care market, and as such, cannot comment on the exemption threshold level. CTPA would, however, like to strongly emphasise that the primary focus should be on the greatest users of a commodity, rather than the greatest turnover.

Question 41: Do you have any further comments on the exemption?

CTPA supports legislation that is applied according to the tonnage of a commodity used, to impart maximum influence on the supply chain. In time, such a threshold could be lowered to ensure enhanced awareness of responsible sourcing.

Due Diligence System

Question 45: Should businesses in scope be required through secondary legislation to 'eliminate risk or reduce risk to as low as reasonably practicable'? Please state your reasons.

- Yes
- No

Eliminating risk of illegal deforestation should be the minimum requirement for businesses using forest risk commodities. Businesses should be held accountable for the products that they place on the market, including the impact of the ingredients that they use. Businesses should also be required to ensure that the commodities they use have been sourced sustainably, which is of utmost importance in protecting and enhancing global biodiversity.

Question 46: Which of the following should we provide information on in guidance to support businesses to establish effective due diligence systems? Please tick all that apply and state your reasons.

- What is required of eligible business to comply with regulations
- Examples of best practice to support businesses in improving their systems
- Metrics and indicators to help assess where there are low, medium, or high risks of illegal land use and ownership
- Methods that businesses may use to assess and mitigate risk
- Available resources to help understand legal frameworks in producer countries
- Other (please specify)

CTPA would like to emphasise the importance of providing businesses with the best possible guidance and tools to make compliance straightforward. By reducing the need for businesses to set up their own individual systems, they are more likely to be able to implement due diligence systems quickly and efficiently and will have greater success in complying.

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CTPA also recommends that the UK Government creates clear guidance on relevant legislation in countries that supply forest-risk commodities, in which businesses may not themselves operate, in order to lessen the burden on businesses that are not familiar with local laws.

Question 47: Should we set out in guidance how businesses may use existing certifications and standards to help meet the due diligence requirement? Please state your reasons.

- **Yes**
- **No**
- **Do not know**

CTPA would like to emphasise that it needs to be made clear to companies that legislation exists and is mandatory, while highlighting that standards and certification schemes may help compliance, not the other way round.

Where relevant certifications/standards are available, detailed guidance covering all aspects of compliance will be beneficial to businesses and will help to ensure that the regulations are effective; businesses can be made aware of relevant certification schemes that are available to them and how these schemes can impact their supply chains. Many members of CTPA voluntarily adhere to certification schemes, such as the Roundtable on Sustainable Palm Oil (RSPO) and UTZ Rainforest Alliance, and recognise that supply chains should face greater scrutiny.

CTPA has an ambitious Sustainability Strategy, '[Driving Towards a Net Positive Cosmetics Industry](#)', the purpose of which is to build an understanding of the issues and challenges faced by the industry, to increase its transparency and responsibility. Whilst palm oil in particular has been a reasonably long-standing concern for the cosmetics and personal care industry, an audit conducted on behalf of CTPA of relevant conversations on Twitter and Google over 2019, found that palm oil is dominant in the debate around sustainability in the cosmetics sector, and it is the perceived lack of transparency that is central to this discussion.

CTPA is encouraging all members to move to sustainable palm oil and provide more information on the ingredients they use; however, it is important to recognise that this issue cannot be solved in isolation and needs a collaborative approach involving all relevant stakeholders.

Question 48: Which of the following criteria should we set out in guidance to support the use of existing certification schemes and standards? Please tick all that apply and state your reasons.

- **Proof of legality**
- **Chain of custody**
- **Robustness**
- **Transparency**

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- **Other (please specify)**

CTPA would like to highlight that all criteria listed represent important considerations for assessing whether a certification scheme is meaningful, reliable, and effective. It is imperative that schemes are robust and transparent to avoid any potential greenwashing or ambiguity.

The Competition and Markets Authority's [Green Claims Code](#) sets clear guidelines on what businesses must comply with when making environmental claims; a similar checklist could be developed to assess whether a certification scheme meets the standards required by due diligence regulations.

Annual Reporting

Question 56: Should non-commercially sensitive information about businesses' due diligence exercises be made public to increase sector transparency and accountability?

- **Yes**
- **No**

Enforcement

Question 58: Which criteria should the enforcement authority fulfil? Please tick all that apply and state your reasons.

- **UK-wide remit**
- **Capacity to regulate**
- **Capability and experience to deliver**
- **Other (please specify)**

The enforcement authority should have UK-wide remit, to harmonise implementation across the devolved administrations. It is essential that the enforcement authority possesses the capability and experience to deliver, otherwise the legislation may be rendered ineffective.

CTPA also seeks clarification over the meaning of 'capacity to regulate' in this context, so that it is not confused with possessing the power to implement regulations.

Question 59: Should the maximum variable monetary penalty be £250,000?

- **Yes**
- **No**
- **Do not know**

Question 60: Do you have any further comments on the enforcement regime?

CTPA would like to emphasise that the enforcement authority should have sufficient powers to deter businesses from non-compliance. The enforcement authority must also be accountable to an independent body to maintain credibility.

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