

Ministry of Environment and Gender Equality
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Høje Taastrup, February 6th, 2026

Consultation response – Consultation on draft act amending the Environmental Protection Act (implementation of the Packaging Regulation)

Emballageretur has read the draft with interest and thanks for the opportunity to submit a consultation response.

Emballageretur is a non-profit producer responsibility organisation that manages producer responsibility for packaging on behalf of our member companies. We are part of Retur, Denmark's largest family of producer responsibility organisations which consists of non-profit producer responsibility organisations that manage producer responsibility for electronics, batteries, packaging, single-use plastics, fishing gear and textile products for Danish business. Together we work to increase reuse and recycling so that as many valuable resources as possible are rescued from the waste stream and sent back into circulation.

Retur represents more than 3,400 companies and has since 2005, through Elretur, helped Danish companies manage their producer responsibility. Elretur has nearly 20 years of experience in administering producer responsibility for our members, which include producers and importers of electrical and electronic equipment as well as batteries. Emballageretur builds its solutions, services and knowledge on Elretur's unique experience in managing producer responsibility for Danish companies.

General remarks

Emballageretur acknowledges the need to adapt Danish legislation to the Packaging Regulation and to ensure consistency between national law and EU regulation. At the same time, we note that the actual significance for producers and producer responsibility organisations will largely depend on the forthcoming executive orders as well as on the administrative practice that is established.

It is crucial that the implementation takes place in a way that is predictable, administratively simple and practice-oriented, so that companies can comply with the rules correctly and cost-effectively.

Timing and transition towards August 2026

Emballageretur wishes to emphasise the importance of the legislative process being carried out in a timely manner, and that the national executive orders and accompanying guidance are finalised well in advance of the entry into force in August 2026.

Emballageretur is concerned that the implementation, as has been seen with previous producer responsibility schemes, once again risks being carried out too late in the process. It is crucial that both Danish companies and producer responsibility organisations know the concrete prerequisites, requirements and frameworks in sufficient time before the rules enter into force, so that there is an opportunity to adapt systems, contracts, processes and financial dispositions.

Lack of clarity close to the time of entry into force creates significant uncertainty and confusion in Danish business and among the producer responsibility organisations. When new rules only become known shortly before implementation, very limited room is left for correct and effective compliance, which increases the risk of errors, lack of compliance and unnecessary administrative burdens.

This is particularly problematic considering the significant financial obligations to which both producers and producer responsibility organisations are subject. Without timely knowledge of the concrete rules and calculation principles, it is difficult, and in practice often impossible, to budget, price and ensure responsible financial management.

Emballageretur therefore strongly encourages that executive orders and guidance are available well in advance of August 2026, and that the implementation is organised in a way that ensures predictability, transparency and a realistic transition for all affected actors.

Definitions and delimitation of producer responsibility

The legislative proposal entails that several Danish definitions are repealed, and that the definitions of the Packaging Regulation will henceforth apply directly. Emballageretur wishes to emphasise that even minor changes in definitions may have significant practical consequences for who is considered a producer, and thus who is covered by producer responsibility.

Such changes may have significant consequences in relation to the financial obligations to which both producers and producer responsibility organisations are subject, as changed delimitations may shift responsibility, payment obligations and risks between actors.

- In particular changes concerning: the new end user definition and
- The application of the so-called unpacking rule may in practice shift producer responsibility between actors and create uncertainty for both producers and producer responsibility organisations.

Authorised representatives

Emballageretur views positively the possibility of imposing requirements for authorised representatives for producers from third countries, as this may contribute to reducing the risk of free riders and strengthening the enforcement of producer responsibility.

However, it is important that clear procedures and a clear allocation of responsibility are established, so that both producers and producer responsibility organisations have certainty as to who bears the responsibility and how obligations are enforced in practice.

Commercial packaging waste and compensation model

Emballageretur would like to encourage the implementation of the producers' payment obligations for commercial packaging waste is reconsidered.

The current model for compensation for commercial packaging waste has proven to entail significant administrative burdens for both producer responsibility organisations and the business community. The way

in which the legal basis for the compensations is currently designed also entails a risk that compensation is paid to companies that are not entitled to it, without the producer responsibility organisations having real possibilities to detect or prevent misuse of the producers' funds.

Very large resources are currently used in the existing setup, both by waste-producing companies, waste collectors and producer responsibility organisations, to ensure correct administration and payment. Emballageretur assesses that the system should be able to be organised significantly more simply and at the same time with greater certainty that payments are made correctly and targeted to the entitled actors.

Emballageretur therefore proposes that the model for allocation and payment of compensation for commercial packaging waste is reconsidered fundamentally. In this connection, the Environmental Protection Act should be designed so that it does not unnecessarily limit the possibilities of changing and simplifying the rules in the packaging executive order. This may for example take place by describing the allocation mechanism and the compensation more generally in the act, including by omitting the concept "geographical" as a basis for the allocation. Such an approach will provide greater administrative room for manoeuvres to lay down more flexible and appropriate rules in the executive order.

Emballageretur is happy to participate constructively in cooperation with relevant authorities and industry actors to adjust the frameworks so that they largely address the inappropriate elements that today are linked to compensation for commercial packaging waste, and at the same time contribute to reducing the administrative burdens for the business community.

Producer fees

Emballageretur proposes that an authorisation is inserted in the Environmental Protection Act for the Minister for the Environment to lay down rules that municipal councils may be required to correct errors in producer fees, if such errors are identified by, for example the Utility Regulator or other relevant authorities.

Emballageretur experiences significant differences in the producer fees that municipalities charge, without the producer responsibility organisations having access to review or validate the calculation basis for the fees.

This is because the calculation basis is not shared with the producer responsibility organisations. A concrete example concerns producer fees for bringing schemes, where municipalities may choose to charge fees if accurate allocation keys have been prepared. Some municipalities choose to charge fees, while others do not, and for the municipalities that charge, the amounts vary significantly. In one concrete case, the producer fee for metal packaging waste from bring schemes amounts to approximately DKK 100,000 annually. The Danish Environmental Protection Agency has in a report from 2024 estimated that packaging constitutes approximately 1 % of metal waste at recycling centres. If this key figure is accurate, the fee presupposes total annual costs for metal waste of approximately DKK 10 million, which appears disproportionately high for a waste fraction that at the same time has a positive resale value.

Emballageretur therefore finds it essential that the Environmental Protection Act includes a possibility to correct errors in producer fees with retroactive effect, so that the producer responsibility organisation that has been affected by the error can be compensated by the municipal council.

The current differences in calculation basis and the lack of possibilities for subsequent correction may create distortion of competition between producer responsibility organisations. In addition, decisions on the

determination of producer fees cannot be appealed to by another administrative authority, which in practice eliminates the possibility of having errors in the determination of fees corrected.

Transfer of waste from the municipal council to producer responsibility organisations

Emballageretur would like to encourage that a duty of disclosure for the municipal council is inserted in the Environmental Protection Act in connection with the allocation of household packaging waste, including commercial packaging waste collected with household waste.

The municipal council has under the current legislation a duty to transfer the waste to the producer responsibility organisations. For the transfer to function in practice, however, it is crucial that the producer responsibility organisations receive relevant information in good time before the transfer enters into force. Emballageretur therefore proposes that the duty of transfer is supplemented with a duty to provide information on central conditions such as time of transfer, quantities, waste composition and place of transfer, within a fixed deadline.

The producer responsibility organisations currently have a duty to inform the municipal council about, among other things, recycling rates and used treatment facilities. It will therefore be reasonable and proportionate that the municipal council is correspondingly imposed with a duty of disclosure towards the producer responsibility organisations, so that the necessary prerequisites for a timely and correct start of a new allocation are in place.

If the municipal council exceeds the fixed deadline for providing information, any penal provisions or sanctions linked to the producer responsibility organisation's obligations at the start of a new allocation should lapse. The producer responsibility organisation cannot be expected to comply with requirements regarding transfer and treatment of the waste if the necessary information is not received in due time from the municipal council.

Approval of producer responsibility organisations

Emballageretur finds it problematic that it at the present time is still unclear how and when the approval procedure for producer responsibility organisations will be carried out in connection with the implementation of the Packaging and Packaging Waste Regulation.

There are not yet clear guidelines for either the process, the timeline or the specific requirements that producer responsibility organisations must fulfil to obtain or maintain an approval. This uncertainty makes it difficult for the producer responsibility organisations to plan and organise their activities, including organisation, conclusion of contracts, system development and financial management.

Emballageretur therefore encourages that the framework for approval of producer responsibility organisations is communicated in good time before the entry into force of the new rules. It is crucial that both requirements, procedures and deadlines are laid down early and communicated clearly, so that predictable and uniform frameworks are created for the producer responsibility organisations to operate under.

Early and clear clarification of the approval procedure will contribute to smoother implementation, reduce the risk of errors and delays and ensure that the producer responsibility organisations can comply with their obligations in an efficient and cost-effective manner from day one.

Emballageretur is available for dialogue on further implementation and is happy to contribute with practical experience from the operation of producer responsibility organisations.

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Kind Regards
Emballageretur

Morten Harboe-Jepsen
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