

Summary of stakeholder responses: Removal of the requirement to use the ‘Do Not Eat’ pictograph on active and intelligent food contact material

This consultation was issued on 13 July 2022 and closed on 10 August 2022. This concerns the ‘Do Not Eat’ pictograph on active or intelligent articles placed onto the Great Britain (GB) market.

Introduction

We carried out this consultation to obtain the views of stakeholders and other interested parties concerning the proposal to remove the requirement to use the Do Not Eat pictograph on active and intelligent food contact materials. The pictograph is currently required when it is technically possible, with the words DO NOT EAT being a mandatory requirement. The proposal sets out that the pictograph would no longer be required but the DO NOT EAT wording will continue to be a mandatory requirement.

The FSA is grateful to those stakeholders who responded and sets out in the table below responses in order of the issues considered.

The key proposals on which the consultation sought views were:

- do you have any views or concerns with the proposed approach to removing the current requirement (for example, where it is technically possible to apply) concerning the ‘Do Not Eat’ pictograph?
- do consumers in particular have any strong views about the proposal from a labelling perspective? What are your views on the need for a pictograph in circumstances where it would be technically possible to display?
- do you anticipate any impacts to the trade of active and intelligent food contact materials, for example within the UK (between GB and Northern Ireland) and outside of the UK?

The Food Standards Agency’s considered responses to stakeholders’ comments are given in the last column of the table. A summary of changes to the original proposal(s) resulting from stakeholder comments is set out in the final table.

A list of stakeholders who responded can be found at the end of this page.

Summary of substantive comments

Question - Do you have any views or concerns with the proposed approach to removing the current requirement (for example, where it is technically possible to apply) concerning the ‘Do Not Eat’ pictograph?

Respondent	Comment	Response
Member of the public	I didn't think the pictograph was particularly clear in the first place.	Noted.
Norfolk County Council Trading Standards	I do not think it will have any impact on consumers if the pictogram is removed. As long as the warning is still there " do not eat" , I cannot foresee any difficulties.	Noted.
O2Zero®	Agreed the intention to remove 'DO NOT EAT' pictograph from GB market before it is too late that EU claims its ownership.	Noted.

Question – do you anticipate any impacts to the trade of active and intelligent food contact materials, for example within the UK (between GB and Northern Ireland) and outside of the UK?

Respondent	Comment	Response
Norfolk County Council Trading Standards	<p>Although I am not a manufacturer, I wonder if it may create difficulties for manufacturers if they have to produce two different types of packaging to satisfy two different markets.</p> <p>Although the consultation states that the pictogram could still be used – it is just that it does not have to be- as long as trademark laws are complied with.</p>	<p>To clarify, it will be important for business operators to carry out the necessary due diligence that considers latest trademark requirements and the individual legislative requirements of the markets they intend to supply. We are removing the requirement to use the pictograph for the market in Great Britain, but we acknowledge that there will be operators that supply to multiple markets. Any that are supplying the same materials to the EU (including Northern Ireland) and GB markets will need to consider the latest legislative requirements. For the EU and Northern Ireland, this will continue to require the pictograph to be applied where technically possible. Subject to a business operators due diligence covering trademark requirements, they may elect to continue applying the pictograph in such circumstances. Where any changes are necessary, we foresee operators having the opportunity to rectify in their annual review of operations.</p>

Respondent	Comment	Response
O2Zero®	Agreed the minimal intervention is removing the requirement NOT replacing a GB specific pictograph.	Noted.

Question - Do consumers in particular have any strong views about the proposal from a labelling perspective? What are your views on the need for a pictograph in circumstances where it would be technically possible to display?

Respondent	Comment	Response
Member of the public	<p>My only view is that charities and organisations which represent people with learning difficulties or mental impairments such as Alzheimer's disease should be consulted - because their members/clients might need clear pictograms in addition to the words "DO NOT EAT".</p> <p>This comment was also raised in response to question 6 - Are there any other impacts or considerations resulting from removing this pictograph that we have not identified in this consultation? We welcome any other views or comments that you have in relation to this issue.</p>	We notified several organisations and charities of the consultation directly, including those that represent individuals with visual impairment, Alzheimer's disease and learning difficulties.
Norfolk County Council Trading Standards	I suspect that consumers would not have a particularly strong view on the use of the pictograph although this is my assumption.	Noted.

Question – do you anticipate any impacts to the trade of active and intelligent food contact materials, for example within the UK (between GB and Northern Ireland) and outside of the UK?

Respondent	Comment	Response
O2Zero®	Agreed this is not a ban for using the pictograph but the most effective and least burdensome approach.	Noted.

Summary of changes made

Comment/Issue	Response
Accessibility to the warning of vulnerable consumers	No specific concerns have been raised by representative bodies at the removal of the pictograph. Whilst no change is indicated this may be reconsidered in light of practical experience once implemented.
Impact on trade in GB and EU markets	The provisions for production for the GB market alone is not signalled as a burden, particularly given the small market size. Business operators placing active and intelligent materials onto the EU and Northern Ireland markets must continue to adhere to the latest EU legislative requirements (i.e. apply the Do Not Eat pictograph where technically possible). As indicated earlier, there is no strong desire indicated that a GB specific pictograph is introduced at this current time. This may be reconsidered in light of practical experience, in particular if vulnerable groups are negatively impacted by the change.

Actions to be implemented

Review the implementation of the change to ensure there is no negative impacts on the safety of vulnerable groups in Great Britain from the absence of the pictograph.

List of respondents

1. Norfolk County Council Trading Standards
2. Public citizen
3. O2Zero® (manufacturing company)