



Forest Stewardship Council®



# FSC Trademark Use Guide for Promotional Licence Holders: Impact assessment of the revised requirements

## Introduction

This document contains an assessment of the potential impacts on the Forest Stewardship Council® and FSC® stakeholders regarding the revised guideline *FSC Trademark Use Guide for Promotional Licence Holders*, previously known as the standard FSC-STD-50-002 V1-0 *Requirements for promotional use of the FSC trademarks by non-certificate holders*.

The analysis was performed by FSC staff as a desk-based study. This analysis is based on several sources of information. In addition to desk research, it includes data from surveys conducted with promotional licence holders and FSC network partners, including discussions held at the *Trademark Service Providers Forums* in 2017 and 2018, and regular technical working group meetings.

## Stakeholder expectations

The expectations are formulated in the *FSC Global Strategic Plan 2015–2020* as the following critical results area:

*1.1 FSC will improve certification uptake, cost-effectiveness, and outcomes by stabilizing and simplifying FSC policies, standards, and procedures while maintaining system integrity, transparency, and credibility.*

The revision of the trademark promotional use requirements is guided additionally by the revision of FSC-STD-50-001 *Requirements for use of the FSC trademarks by certificate holders* and by Motion 29, which was approved by the FSC membership during the FSC general assembly in 2014:

*To support FSC's strategic plan and the brand positioning process, FSC® is requested to redefine the FSC® trademark standards in order to facilitate larger use of the FSC® trademark on conforming products and in off-product promotional uses. This includes both simplification of requirements for trademark use and of approval procedures, but it excludes changes to current artwork that would impact trademark registration.*

## How have these expectations been addressed in the revised draft?

### Motion 29

The motion requested FSC to redefine its trademark standards to facilitate wider use of FSC trademarks on conforming products and in off-product promotion. The feedback received from stakeholders indicated that the main barriers for promotional licence holders are as follows. (These three issues are expanded on below, together with additional expectations.)

- The requirement to submit evidence to verify all individual products the organization wishes to promote as FSC certified is administration heavy and slows down the process.
- An organization is unable to promote finished and FSC-labelled products for retail when it has manufacturing operations for forest-based products.
- Where FSC labels are not visible, organizations cannot promote the products used within their businesses.

### **Conditions for the verification of products: a heavy administrative burden**

Currently, there is a requirement for promotional licence holders to submit documentation, such as invoices or delivery documents, to verify the FSC status of all individual products they wish to endorse in their promotional materials. This creates a heavy administrative burden and delays the process for both parties. It can be particularly frustrating when promotional licence holders expect fast delivery times. This issue is amplified when the organization offers a wide variety (hundreds or thousands) of FSC-certified products for retail.

This issue is addressed in the revised guidelines by allowing Trademark service providers (TSPs) to determine whether detailed itemise or spot checks are required based on an internal risk assessment to identify the likelihood of uncertified products being promoted. If the risk assessment is not satisfactory, the TSP can request risk mitigation steps such as requesting additional proof of labelling.

Promotional licence holders who have demonstrated their due diligence and their knowledge of the guidelines do not need to go through the full verification process with the TSP. Instead, they can jointly agree the core requirements of their internal control system. TSPs can conduct an annual desk-based inspection to ensure the requirements are followed. The system will also ease and speed up the process of approving trademark use.

### **Organizations with manufacturing operations for forest-based products**

The revision of requirements took account of stakeholders' views on opening trademark use licensing for additional organizations. Organizations that have manufacturing operations for forest-based products but sell finished and FSC-labelled products for retail are not currently eligible for a trademark licence. Revision of the guidelines provides an opportunity to re-examine, and possibly amend, these eligibility requirements. Doing so would increase flexibility and facilitate broader use of the FSC trademarks.

The first consultation showed there is support for allowing organizations with manufacturing operations to become trademark licensees, so they can promote finished labelled products that are not produced by them, but only when adequate safeguards are in place. The procedure to licence these types of organizations based on risk assessment is not included in the guidelines; however, a procedure for TSPs to follow will be included. The main risk that should be addressed is the potential for confusion about the certificate-holder status of the organization.

### **Procurement claims**

The guidelines include information on making procurement claims within the existing FSC system and framework. There are instances the products are labelled but is no longer visible on products used in out-of-home situations (e.g. cafes, bars, restaurants, convenience stores, hotels, etc.). Currently, these organizations cannot promote the products used within their businesses. In addition, organisations who are regularly purchasing and/or sourcing FSC-certified and labelled products to be used as part of their operations, can make procurement claims to demonstrate their efforts towards responsible sourcing (e.g. preference for FSC paper). The inclusion of procurement claims will meet the needs of promotional licence holders who wish to make such claims.

### **Linking back to certified sources**

Promotional licence holders are informed that there are conditions under which a licensee can be exempt from the requirement to source directly from an FSC-certified supplier, providing they meet set criteria. For example, when a retailer purchasing arm is not certified but is responsible for purchasing FSC products for the commercial arm of the organization. In addition, if a retailer purchases juices from a juice manufacturer who is not certified, the

manufacturer can sell their juices in FSC-certified beverage cartons, providing these are produced by an FSC-certified manufacturer.

### **Inclusion of ecosystem services**

Guidance is provided on who can and how to make ecosystem services promotional claims, with links to FSC-PRO-30-006 *Ecosystem Services Procedure*. The procedure offers businesses and governments a new tool to demonstrate and communicate the impacts of their purchases, investments, and financial support on the conservation and restoration of forest ecosystem services.

### **Greater clarity and flexibility on graphics requirements**

Graphics requirements have been made clearer and more flexible. For example, the recommended minimum size of the FSC logo has been reduced. Guidance on how to communicate information about FSC and FSC-certified products carrying different claims is provided to facilitate messaging. Also included are some examples of how to present the FSC trademarks and designs in digital promotions.

### **From standard to guidelines**

The whole guide has been reviewed and redundant requirements deleted. Graphical examples and simplified wording have been used to develop a more compact document that is easier to work with. Several topics that were intended as FSC internal procedures have been removed and these will be included in an internal operational procedure document, thus removing information that promotional licence holders do not need. In response to the views of promotional licence holders that some FSC requirements are overly restrictive and negative, the language of the document is now more positive and proactive.

The document has been removed from the normative framework which frees the language and format used. It also allows for quicker periodic updates to meet the needs of the market in a more proactive way.

## **What are the impacts on stakeholders?**

### **Impact on promotional licence holders**

The revised document is written in clear language and incorporates useful advice notes. The administrative burden relating to the verification of products is now reduced, and promotional licence holders and TSPs have greater control over the management of the proof and artwork documentation and approval process.

Ready-to-use examples for messaging about FSC and FSC-certified products are provided. All these changes should facilitate FSC trademark use by promotional licence holders. No new cost implications are foreseen in complying with the compulsory parts of the requirements.

Allowing procurement claims will increase promotional opportunities for promotional licence holders, while the inclusion of manufacturers and licensees that are not sourcing directly from certified suppliers will widen prospects for participation in the FSC system.

### **Impact on trademark service providers**

Verification of products will be more prompt and trademark use approvals will be easier once the streamlined requirements are in place. Some new aspects will have to be added for desk inspections where licensees control the trademark use themselves, and a procedure for confirming that promotional licence holders have a good track record of trademark use needs to be created. It is expected that considerably less time will be needed for trademark

approvals, when promotional licence holders who understand the trademark requirements and have demonstrated their due diligence in ensuring the promoted products are FSC certified make the transition to a 'trademark use management system' instead of needing to seek the approval of a TSP. Less time will be needed for guidance on matters relating to trademark use and more time can be dedicated to building relationships.

#### **Impact on certificate holders**

Certificate holders might perceive that allowing uncertified competitors to promote finished labelled products disadvantages their efforts in obtaining and maintaining certification unless adequate safeguards are in place. However, more widespread labelling and promotion of certified products in markets could enhance the perceived value of investment in certification.

#### **Impact on certification bodies**

If FSC moves forward with allowing manufacturing companies to promote finished labelled products produced by others, this may blur the line between those that need to be certified according to chain of custody requirements and those that do not. It is not expected that this change would result in falling levels of certification.

#### **Impact on members**

Economic chamber members, including (for example) promotional licence holders, will benefit from the added flexibility and streamlining of approval processes without incurring additional costs. The impact on environmental chamber and social chamber members will be limited or non-existent.

#### **Impact on consumers**

The increased flexibility and simplification of trademark use should result in greater FSC-related promotion and visibility in consumer markets, thereby increasing general awareness of FSC. Furthermore, increasing promotion of FSC products using the FSC trademarks will help consumers to make informed decisions about the products and materials they purchase.

#### **Impact on FSC**

Simpler requirements will benefit FSC by generating fewer enquiries across the FSC system. The added flexibility will reduce the number of cases that need to be considered for individual solutions.

The revised verification process will reduce routine administration work for TSPs.

Increased visibility in terms of the number of products labelled and promoted will benefit FSC, enhancing sourcing of FSC-certified material, raising awareness of the system, and strengthening FSC's position in the market place.