



Forest Stewardship Council®



Impact assessment of the revised requirements for promotional use of the FSC® trademarks by non-certificate holders

FSC-STD-50-002 V2-0 D1-0

Introduction

This document contains an assessment of the potential impacts that the revised standard FSC-STD-50-002 V2-0 *Requirements for promotional use of the FSC® trademarks by non-certificate holders* would have on FSC and FSC stakeholders.

The analysis was done by FSC staff as a desk-based study and intends to serve stakeholders as a complementary source of information during the first round of public consultation of the revised draft standard (draft 1).

This analysis is based on several sources of information. It includes an FSC desk analysis as well as data from research and surveys conducted with non-certificate holders and FSC network partners, including discussions held at the *Trademark Service Providers Forum* in 2017 and regular technical working group meetings.

Stakeholder expectations

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

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 standard draft?

Motion 29

The motion requested FSC to redefine FSC trademark standards to facilitate wider use of FSC trademarks on conforming products and in off-product promotional uses. From the feedback received from stakeholders, it was concluded that for many non-certificate holders the major barriers are:

- the administration-heavy requirement to submit evidence to verify all individual products the organization wishes to promote as FSC-certified; this slows down the process;
- the inability to promote finished and FSC-labelled products for retail when the organization has manufacturing operations for forest-based products;
- the restriction to promote finished FSC-unlabelled products or products where the FSC label is no longer visible.

Conditions for the verification of products – a heavy administrative burden

Currently, there is a requirement for non-certificate holders to submit documentation, such as invoices or delivery documents, to verify the FSC status of all individual products they wish to promote in their promotional materials. This is creating a heavy administrative burden that delays the process for both parties, particularly when non-certificate holders expect fast delivery times. This issue is amplified when the client offers a wide variety of FSC-certified products for retail, numbering in the hundreds or thousands.

To address this, the standard introduces the 'Trademark use management system' allowing non-certificate holders to manage their own FSC trademark use and define the scope of the verification of products. Trademark service providers (TSPs) can conduct an annual desk inspection to ensure the requirements are followed. This approach allows increased flexibility for the licensee to choose which services they would need from the TSP, based on their individual needs and capacities. The system will also ease and speed up the process of trademark use.

Organizations with manufacturing operations for forest-based products

The revision of requirements will examine 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 license. The revision of the standard provides an opportunity to re-examine, and possibly revise, these eligibility requirements. This would increase flexibility and facilitate broader use of the FSC trademarks.

Procurement claims

FSC is preparing a concept document about making procurement claims that will be consulted separately.

Promotion of unlabelled products

Organizations that wish to promote finished FSC-certified but unlabelled products are not currently eligible to become a trademark licensee. The current requirements state that FSC-certified products to be promoted shall carry the FSC on-product label. Also, there are instances where it is impractical or impossible to label a product (e.g. decking boards, DIY materials) or where the FSC label is no longer visible on products used in out-of-home situations (cafes, bars, restaurants, convenience stores, hotels, etc.). These organizations cannot currently promote the products used within their businesses.

To increase the opportunities for promotion, we will ask stakeholders at the first public consultation regarding allowances for non-certificate holders to make claims to promote FSC-certified products that do not carry an FSC label, so long as they provide evidence that the product is FSC-certified.

Retailer or brand owners' license code on product

The current FSC standards allow certificate holders to make labelling arrangements only with their certified suppliers. FSC is frequently asked if it would be possible to expand labelling arrangements to include the use of a retailer or brand owner's FSC license code on a product, provided they have a license to promote FSC-certified products.

A retailer or brand manager with many suppliers may prefer to simplify the trademark use approval process by using their own license code. In some situations, requests are for business considerations when a company would prefer to not disclose their specific suppliers, as all FSC license codes are publicly available. The code of the trademark license holder would be available on info.fsc.org and the products with labelling agreements would be verified by an FSC TSP before promotion. The public consultation will examine stakeholders' opinions on this topic.

More 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 has been provided to facilitate messaging.

The whole standard was reviewed, redundant requirements deleted, and wording simplified to develop a more compact document that is easier to work with.

What are the impacts on stakeholders?

Impact on non-certificate holders

The revised standard uses clearer language, no longer includes redundant and overlapping clauses, and has incorporated advice notes and interpretations. These changes will make the trademark use requirements clearer and more compact for non-certificate holders. The administrative burden related to the verification of products is reduced and non-certificate holders are given more control over their timelines and processes concerning trademark use if they choose to implement a trademark use management system.

Ready-to-use examples for messaging about FSC and FSC-certified products are now available for easier promotion. All these changes should facilitate FSC trademark use by non-certificate holders. No new cost implications are foreseen in complying with the compulsory parts of the requirements.

The possibility to allow procurement claims and promotion of unlabelled products will increase the number of product categories and promotional opportunities for non-certificate holders. Additionally, the use of their own license code on their private-label products will allow them to keep their direct suppliers confidential.

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 with trademark use management systems, and a procedure for confirming that non-certificate 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 where non-certificate holders wish to demonstrate their due diligence and opt for a trademark use management system instead of approval by a TSP. Less time will be needed for guidance on matters related to trademark use and more time can be dedicated to building relationships.

Allowing uncertified companies to use their own license code will make it difficult for TSPs to monitor and enforce trademark violations, such as investigating the origin of the infringement or misuse. Some TSPs do not have the capacity to manage the verification of agreements between certificate holders and non-certificate holders.

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. Allowing uncertified companies to use their own license code for the on-product label might be perceived as a loss of visibility by certificate holders. There will be an increase in the costs of printing and production, and the complexity of administration, when more clients request their own code to be used.

Overall, more labelling and promotion of certified products in markets could enhance the perceived value of investment in certification.

Impact on certification bodies

Certification bodies will benefit from more flexible requirements in promoting their certification services. The possible introduction of allowing uncertified companies to use their own license code instead of their client's will make it more complicated for them to manage label use and could add complexity when conducting audits.

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 dropping certification.

Impact on members

Economic chamber members, including (for example) non-certificate holders, will benefit from the added flexibility and streamlining of approval processes without cost-triggering changes. The impact on environmental chamber and social chamber members will be limited or non-existent.

Impact on consumers

The increased flexibility and simplification in 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 will have to be considered for individual solutions.

The revised verification process will reduce routine administration work for TSPs. If the option for on-product license codes for non-certificate holders is to be implemented, it will add complexity to the existing system, particularly when processing misuse cases.

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