



**Submission to LegCo's Bills Committee on Product Eco-Responsibility Bill (PER)**

**23 February 2008**

The Association supports the Government's initiatives to protect the environment. Regarding the PER Bill, the Association would like to present our specific comments as follows:-

<b>Clause</b>	<b>Comments</b>
9(1)	It should only be an indictable offence to provide information that is "false" or "intended to mislead". It should not be an indictable offence with 6 months imprisonment to provide information that is "incorrect" or "misleading" (except where there is an intention to mislead).
9(3)	We propose to delete this clause. If a "material particular" is omitted from a record, document or information, it will be an offence under Clause 9(1). There is no need to have this proposed separate offence. The proposed Clause 9(3) is an indictable offence with 6 months imprisonment and it should not be left to subjectivity about what constitutes a "material particular".
13(2)(a)	The words "or deregistration" should be deleted for the reasons set out in our comments to Clause 17.1.
17(1)	The definitions of "qualified retail outlet" and "registered retail outlet" should be deleted because registration should be required for each "registered retailer", but <u>not</u> for each retail outlet. Registration fees should not be payable by "prescribed retailers" because part of the revenue collected from the levy should be used to offset the administration costs of the Government.
17(2)	This should be deleted for the reasons set out in our comments to Clause 17(1).
18(4) and 19(1)	Amendment to Schedules 1, 2, 3 and 4 should be amended only after consultation with the Advisory Council on the Environment <u>and</u> the Legco Panel on Environmental Affairs.
19(3)	On the second line, the word "may" should be changed to "must". On the



	<p>third line, the words “a qualified retail outlet of...” should be deleted and replaced by the words “the store brand names of the retail outlets operated by...” This change is necessary for the reasons set out in our comments to Clause 17(1).</p>
19(4)	<p>- Under the current proposed definition of “plastic shopping bags”, all plastic bags can be “easily turned into a plastic shopping bag” because it is easy to put a hole in a plastic bag. This Clause needs to be re-drafted otherwise prescribed retailers that offer plastic bags without handles, holes or string (i.e plastic bags for fresh meat or fruit) will commit an offence and be liable for a fine of HK\$200,000 on the first occasion and HK\$500,000 for subsequent offences.</p> <p>- As this constitutes an offence, the words “or indirectly” should be deleted as the meaning is unclear.</p> <p>- The words “qualified” and “unless the outlet is a registered retail outlet” should be deleted for the reasons set out in our comments to Clause 17.1.</p>
17(6) and 17(7)	<p>These Clauses should be deleted for the reasons set out in our comments to Clause 17.1 (i.e registration and de-registration should not be required for each retail outlet).</p>
20(1)(b)	<p>This clause should be deleted and be replaced by the following words “the store brand names of the retail outlets operated by each registered retailer”. It is unnecessary to keep a register of all of the retail outlets that are operated by registered retailers, but registered retailers should provide the name of its store brands when it applies to be registered pursuant to Clause 19(3).</p> <p>If necessary, we propose that registered retailers should send to the Government a list of its retail outlets on a quarterly basis (at the same time that returns are submitted to the Government).</p>
21(1)	<p>The words “each registered retail outlet of that retailer” should be deleted and replaced by the words “the store brand names operated by that retailer”.</p>
21(2)	<p>The words “certificate of registration” should be deleted and replaced by the word “notice”.</p>



	The words “of the registered outlet to which the certificate relates” should be deleted and replaced by the words “at each retail outlet that the registered retailer operates confirming that the retail outlet is operated by a registered retailer”.
21(3)(a)	The words “certificate of registration at a place that is not a registered retail outlet to which the certificate relates; or” should be deleted and replaced with the words “notice confirming that the retail outlet is operated by a registered retailer at a retail outlet that is not operated by a registered retailer.”.
21(3)(b)	This clause should be deleted because it should only be necessary to provide “notices” at retail outlets and not “certificates of registration” for the reasons set out in our comments to Clause 17.1.
22(1)	As this constitutes an offence, the words “or indirectly” on the second line should be deleted as the meaning is unclear.
22(1)(a)	The word “registered” should be deleted.
23(1)	The words “or each registered retail outlet of the retailer” should be deleted for the reason set out in our comments to Clause 17.1.
23(1)(c)	We trust that retailers will be consulted prior to the release of the regulations relating to the information that retailers are required to submit with the returns. We request that registered retailers should only be obliged to keep the scan records relating to the number of plastic bags distributed by it (and <u>not</u> the number/weight in stock, acquired, and damaged/lost).
25(4)	The word “21 <sup>st</sup> ” should be deleted and replaced by the word “30 <sup>th</sup> ”.
26	The word “reasonable” should be added before the words “due diligence”.
27	Regulations issued by the Secretary under this Clause should only be issued only after consultation with the Advisory Council on the Environment <u>and</u> the Legco Panel on Environmental Affairs.
27(a)	This provision should be deleted for the reasons set out in the comments to Clause 17.1.
<b>Sch 1</b>	
1(b)	The definition needs to be reviewed because it is an offence under Clause



	<p>19.4 to provide to customers plastic bags that can “be easily turned into a plastic shopping bag”. All plastic bags can be “easily turned into a plastic shopping bag” because it is easy to put a hole in a plastic bag.</p> <p>In Ireland, there is an exemption for plastic bags that are used solely to contain certain product types (i.e fresh fish, fresh meat, fresh poultry, fruit, nuts or vegetables). We propose that a similar definition is used in Hong Kong. Otherwise, bags that are used to keep fruit and vegetables for hygiene or ventilation reasons (i.e grapes, carrots) will be subject to the levy because they have handles or holes.</p>
<b>Sch 2</b>	
1(b)	The words “\$5.00” should be deleted and replaced by the words “\$2.00”.
1(c)(ii)	The word “the retailer concerned” should be deleted and replaced with the words “a retail outlet” because retailers may have production facilities that are not located at retail outlets.
<b>Sch 4</b>	
1(1)(a) and (b)	The word “qualified” should be deleted in two places for the reasons set out in our comments to Clause 17.1.
1(2)	This provision should be deleted to ensure that the proposed scheme has coverage that is broader than 4% of the retail outlets in Hong Kong.
1(3)	This provision must be amended. It is not appropriate for a franchiser to be deemed to be the person who carries on this business for the purposes of certain offences committed under this Bill. If a franchisee commits an offence under Clause 19(4), 21(2), 22(1), 22(5) the franchiser should not be held criminally liable for the actions of its franchisee. If the franchiser is an off-shore company, it is not feasible for the franchiser to be the “prescribed retailer”.
2	The following definitions should be deleted: “drink”, “food”, and “medicine”.

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