

LS/B/6/07-08

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By Fax (2511 3658) and By Post

11 April 2008

Mr Alfred Lee
Assistant Director (Waste Management Policy)
Environmental Protection Department
46/F, Revenue Tower
5 Gloucester Road
Wan Chai, Hong Kong

Dear Mr Lee,

Product Eco-responsibility Bill

I refer to the Administration's response to my letter (dated 17 March 2008) about the legal and drafting aspects of the Bill (LC Paper No. CB(1)1223/07-08).

With regard to clauses 19 and 22 of the Bill, the Administration holds the view that –

- (a) "A prescribed retailer's qualified retail outlet that is not registered may not provide a plastic shopping bag to a customer, *whether free of charge or as a chargeable item*, unless the bag is exempted under Schedule 2, say, because it is sold at a price of \$5 or more" (at p. 12); and
- (b) "... a registered retailer has to charge its customers in accordance with clause 22(1)" (i.e. an amount of not less than the levy of 50 ¢) (at p. 13).

Schedule 2 of the Bill provides that the Bill does not apply to certain plastic shopping bags, for example, a bag that is sold at a price of \$5.00 or more, or 2 or more bags that are sold as a pre-packaged pack at a price of \$5.00 or more per pack ("Schedule 2 exemption").

Questions

- (a) You may note that the verb "provide" usually means "supply or furnish for use; make available, yield, afford" (ref: *The New Shorter Oxford English Dictionary*, edited by Lesley Brown, Vol. 2, 1993 edition). If it is the Administration's intention that the word "provide" in the Bill includes sale of plastic shopping bags, do you think that there should be an express provision to give effect to this intention?
- (b) If a prescribed retailer does not provide plastic shopping bags to his customers for the purpose of bagging of groceries but sells (amongst all other goods in his retail outlet) plastic shopping bags which do not fall within the Schedule 2 exemption, will he be required to become a registered retailer and observe all the obligations imposed on him under the Bill? In other words, will the requirements of submission of returns, payment of levies and keeping of records and documents, etc, with respect to all the plastic shopping bags on sale (which are sold amongst all other goods) apply to him?
- (c) If a retailer provides plastic shopping bags to his customers for the purpose of bagging of groceries and also sells (amongst all other goods in his retail outlet) plastic shopping bags which do not fall within the Schedule 2 exemption, will he be required to comply with all requirements of submission of returns, payment of levies, keeping of records and documents, etc, under the Bill with respect to the plastic shopping bags which are sold?

I would be most grateful if you could provide clarifications on the above in bilingual form before 15 April 2008.

Yours sincerely,

Kitty Cheng
Assistant Legal Adviser

cc. Legal Adviser
CCS(1)1