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11 February 2010

Clerk to Panel  
 Legislative Council Secretariat  
 3<sup>rd</sup> Floor, Citibank Tower  
 3 Garden Road, Central  
 Hong Kong

(Attn: Miss Mandy POON)

Dear Miss Poon

**Panel on Environmental Affairs – Invitation for views on the proposal to introduce a new producer responsibility scheme for waste electrical and electronic equipment**

Thank you for your email of 26 January 2010 inviting the Institution to put forth our views on the captioned subject.

With respect to the Consultation Document, the Institution is in support of the producer responsibility scheme for WEEE in principle. However, the HKIE believes the proposed framework is not workable within the Hong Kong context.

According to the practice of WEEE in overseas, in particular in European Commission (EC) countries, where the responsibility of manufacturers is of the subject matter, the legal framework is different from that of Hong Kong.

First, the liability of sales of goods is clearly defined and limited to the producers themselves, or the brand owners, or the first importer into the territory. By comparison Hong Kong does not have a registry to cover these categories. In the past imports and exports of electrical goods did require licenses. Despite more or less later being relegated to mere formality, this practice is now withdrawn. Even if not, the Government has no intention to commit the responsibility to establish such roll so much so the Electrical Product Safety Regulation defines "Suppliers" to include all persons, even if one handing out gifts to one's family members. The Customs and Excise Department only controls counterfeit imports. Furthermore, the practice of parallel imports is not illegal in Hong Kong and hence not controlled. Therefore it is not feasible to pass on the responsibility to the brand owners and collect levy at the point of entries. As such it is not viable to ensure the manufacturers or importers abide to dedicated responsibility.

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Where the retailing outlets are concerned, the HKIE is afraid it would be a repeat of the Plastic Bags levy that the Administration cannot enforce the responsibility fairly and equally across the traders. There are also other complications. Firstly, the number of retailing outlets is so large and there is no formal registry. To seek access to them is even more complex than the aborted Energy Saving Lamp Scheme. Unlike lamp bulb, appliances are sold in multi-trading outlets, large and small and many of them are not belonged to any trade associations. It is difficult to identify most of their locations. Operational-wise, the profit margin of the sales of electrical appliances is extremely slim in the retailing sector. It can be down to one to two hundred dollars for items worth a few thousands, in particular with the more famous brands. In other words when the levy is higher than the nominal profit, the incentive to cheat is overwhelming. As a result the honest merchants will be penalized.

Secondly, unlike plastic bags, purchase of appliances is infrequent and the cross-border trading is very active, even now with the Electrical Products Safety Regulation enforced.

With the above, the HKIE simply cannot see the proposal can be enforced on the point of sales, as it would be a useless statute when just and effective enforcement is unlikely.

The alternative is to charge levy at the time of disposal. In fact, the HKIE would find this option more environmental friendly as levy could discourage rampant disposals. The HKIE also opines it should be the Government to fund the investment of facilities instead of trying to recoup it back from the levy. The chain of disposal of electrical goods from consumers to disposal site is already lengthy, hence costly. At present many appliances are left out in the open when people find it expensive to have them removed from their premises. Increasing the disposal cost would encourage this illegal disposal. In parallel the Government should set up facilities for recycling. The opportunity to resurrect valuable items from such facilities would encourage reduction of disposal cost and hence makes proper disposal more attractive. These are essential as Hong Kong is hardly a base for manufacturing

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where re-use is viable to subsidize disposal cost. The only way we can encourage disposal of electrical appliances apart from ending up as construction waste is to make disposal of the former more attractive with incentives available to the handlers. The spin-off concurrent option is to induct measures to facilitate re-exporting of appliances that still have useful life in them.

Unless the Government is prepared to implement the WEEE in its full extent with introduction of adequate legal framework to ensure take-back obligations and unless the Government would forsake the notion that the public should bear all the costs, any proposal in this direction is merely window dressing.

Thank you.

Yours sincerely



Ir Dr Andrew CHAN, JP  
President

AC/KL