

Bills Committee on the Product Eco-responsibility (Amendment) Bill 2013

At its meeting on 18 June 2013, the Bills Committee on the Product Eco-responsibility (Amendment) Bill 2013 (“the Amendment Bill”) requested the Administration to provide additional information on various issues and comments. This note sets out the first batch of the Administration’s response.

Meeting with Deputations

(a) *a written response to the views expressed by the deputations/individuals at the meeting and in the written submissions;*

2. A total of 17 deputations and individuals attended the last Bills Committee meeting (with or without written submissions); 8 other organizations or individuals put up written submissions without sending representatives. On the whole, some had doubts on the effectiveness of the current Environmental Levy Scheme on Plastic Shopping Bags (“PSB Levy Scheme”) out of different considerations. Some held different views on how the second phase should be implemented. Some were supportive and offered suggestions on enforcement as well as publicity and public education. We are preparing our specific response which will be submitted to the Bills Committee as soon as possible. In the ensuing sections, we have set out our response on selected issues that are directly related to the Amendment Bill and thus have to be dealt with by the Bills Committee as a matter of priority.

Excessive Use of Non-woven Bags

(b) *to facilitate members' understanding of whether the excessive use of non-woven bags has aggravated as a result of the implementation of the Environmental Levy Scheme on Plastic Shopping Bags ("PSB Levy Scheme"), please provide the following statistics **before and after** the introduction of the PSB Levy Scheme in July 2009 –*

(i) *the total number of non-woven bags which were disposed of at the landfills; and*

(ii) *the total number of non-woven bags manufactured and the total amount of plastic materials consumed in Hong Kong;*

3. According to our landfill surveys, the number of reusable shopping bags (may or may not be non-woven bags) disposed of at landfills has increased from 9.88 million in mid-2009 to 17.74 million in mid-2010. Albeit a sizeable increase by percentage, the disposal figure is equivalent to less than 0.5% of the overall landfill disposal of plastic shopping bags (“PSBs”) in mid-2010. Also, during the same period, landfill disposal of PSBs from the regulated retail sectors has significantly dropped from 657.34 million to 153.12 million. Our observation is that the excessive distribution of non-woven bags could have been a time-limited phenomenon in view of the run up to the commencement of the PSB Levy Scheme in July 2009. In November 2011, we issued guidelines to Bureaux and Departments advising against the indiscriminate distribution of non-woven bags. Coupled with enhanced publicity and public education, the problem of excessive distribution appears to have subsided. In any case, non-woven bags are commonly made of polypropylene, which is a type of plastic, and will be subject to a PSB charge under the extended Levy Scheme.

4. We have not conducted any survey on the number of non-woven bags manufactured in Hong Kong. Such figures at the manufacture end would not serve as a valid indicator of the effectiveness of the PSB Levy Scheme because plastic bags may have been manufactured from outside and imported into Hong Kong. Neither do we maintain statistics on the total amount of plastic materials consumed in Hong Kong. Indeed, even consumed in local manufacturing processes, plastic materials may be used to produce products other than PSBs.

A Potential Switching Effect

5. Several submissions queried if the PSB Levy Scheme had caused a potential switching effect to other types of bags. While paragraph 3 should have addressed the comments about non-woven bags, we would like to supplement that –

- (a) *Garbage bags*: Garbage bags have their functional use. There is no evidence from the landfill surveys that the use of garbage bags is excessive in Hong Kong, but we envisage that through the progressive implementation of different waste

reduction and recovery initiatives, we may also be able to reduce the use of garbage bags in Hong Kong. In our liaison with the property management sector, initiatives to reduce the excessive distribution of plastic garbage bags are progressing.

- (b) *Other types of bags:* The definition of PSB will be amended under the Amendment Bill such that it will cover also flat-top bags. Drawing reference from the overwhelming public support in the public consultation for the extension of the PSB Levy Scheme, we envisage that the Bring Your Own Bag (“BYOB”) habit will continue to gain prevalence in the community. This will result not only in the reduced use of PSBs but also paper bags and other associated products. The Government has also called for the support of the retail industry so that, in the spirit of corporate social responsibility, they will not seek to circumvent the PSB Levy Scheme by switching to paper bags or shopping bags made with other materials, which would result in more waste and undermine the “Use Less, Waste Less” culture in Hong Kong.

Exemption under the Amendment Bill

- (c) *members opined that as the purpose of the PSB Levy Scheme was to change consumer behaviour towards "Bring Your Own Bag", the legislation should be lenient and should avoid creating conflicts between customers and sellers over whether the PSB charge should apply to certain food items and avoid causing difficulties to frontline staff in deciding if a charge should apply. As such, please advise whether the Administration would consider stating clearly in the Bill that "fruits" would be exempted;*
- (d) *whether exemption would be granted to PSBs that are used for carrying food items which might still leak from the packaging despite that they are fully enclosed in the packaging, such as ice cream;*

6. We agree that the ultimate objective of the PSB Levy Scheme is to inculcate behavioural change. Findings of a telephone survey conducted during the public consultation in 2011 also show that “publicity and public education” as well as “consumers’ self discipline” have been ranked as the most important factors for the extended producer

responsibility scheme (“PRS”) to become successful. We will embark an extensive publicity programme targeting both the retail industry as well as general consumers to ensure that both sides are well prepared for the extended PRS including the provisions relating to food hygiene exemption. Regarding the two specific suggestions –

Fruits

7. The provisions relating to food hygiene exemption are intended to apply across the board to different types of food, drink or medicine that are for human or animal consumption. As revealed from the survey on food packaging methods, the same type of foodstuffs may be packaged in different ways; whether a food hygiene concern exists depends more on the packaging method than the food type. Accordingly, it would not be practical to spell out specific types of food for food hygiene exemption purposes. To recapitulate, under the Amendment Bill, we propose that food hygiene exemption should not be granted if (a) the foodstuff item is already contained in airtight packaging; or (b) even though not contained in airtight packaging, no part of the foodstuff item is exposed to the environment, and nothing may spill out of the packaging in the course of any conveyance. We are prepared to improve the detailed drafting during the clause by clause examination process.

Ice-cream

8. We have explained at the last Bills Committee meeting that the usual packaging method for ice-cream would not have rendered the food content fully enclosed. Accordingly food hygiene exemption will apply such that free distribution of PSBs will be allowed.

9. Indeed, some Members suggested that other than ice-cream, PSBs used to carry any frozen/chilled food, or broadly “temperature-controlled food” should be exempted. We note that it is now a common practice for consumers to use flat-top bags to carry such food items and flat-top bags may be distributed for free under the current PSB Levy Scheme. Our analysis is that the use of the flat-top bags is mainly to deal with condensation which comes about from a temperature difference and could not be avoided by another layer of wrapping. We have not proposed to exclude any PSBs that are used to carry securely packed frozen/chilled food under the Amendment Bill. Nevertheless, we welcome Members’ view on whether to allow an exemption for “temperature-controlled food”.

Others

10. Individual submissions from the deputations have raised questions about the applicability of the exemption provisions. Our response is as follows –

- (a) Medical consultation is not regarded as a retail activity. Plastic bags distributed in relation to medical consultation are therefore not subject to the PSB Levy Scheme which regulates the distribution of PSBs in the retail sales of goods. Even though there were retail sales of drugs, it is common that such drugs are contained in a plastic bag where there is information on how to consume or use the drugs printed, written or labelled on the bag. As proposed under the Amendment Bill, the plastic bag will be regarded as forming part of the goods and its distribution will not require a PSB charge (cf. the proposed Section 1(4) of Schedule 2). Our clarifications should have addressed concerns raised by the Hong Kong Doctors Union.
- (b) For other products that are not food, drink or medicine for human or animal consumption, the Amendment Bill has not provided any exemption. It is the seller's decision whether to explore alternative packaging methods to avoid the use of PSBs or to charge at least \$0.5 per PSB provided to the customer after the implementation of the extended PSB Levy Scheme.
- (e) *information on the complaint cases and enquiries received by the Administration during the first phase of the PSB Levy Scheme concerning whether a plastic bag should be subject to charge or be exempted, including contents of the complaint cases and enquiries as well as the Administration's response;*

11. Since the launch of the PSB Levy Scheme in July 2009, the Environmental Protection Department has set up a hotline for enquiries made by members of the public as well as the registered retailers. Over the past years, the hotline has handled about 2,500 enquiries most of which seek information about the implementation details of the PSB Levy Scheme, including the statutory definition of PSBs and the exemption of certain bags from the PSB Levy Scheme. In each of these enquiry cases, we have provided the requested information.

12. For formal complaints, a total of 11 cases have been received and our enforcement officers have followed up with necessary investigations. In general, the complainants have argued that they should not have been charged a PSB levy, or complained on the free distribution of flat-top bags. Upon investigations, none of these complaints were found to involve contraventions of the statutory requirements under the PSB Levy Scheme.

Implementation of the Extended PSB Levy Scheme

(f) *to ensure that the public would have knowledge of the details of the extended PSB Levy Scheme, whether the Administration would consider mandating the fixing of a label by the sellers, say on the cash register in a retail outlet, to inform customers of the details of the scheme;*

13. As explained in paragraph 6, we will embark on an extensive publicity programme targeting both the retail industry as well as general consumers to ensure that both sides are well prepared for the extended PRS including the provisions relating to food hygiene exemption as well as the other aspects of the extended scheme. Our experience also shows that it can help if a retailer can display relevant publicity materials within a retail outlet as a reminder to customers about the BYOB message or the statutory requirement under the PSB Levy Scheme.

14. We however do not support making such publicity measures a mandatory requirement as it may cause unintended implications on some retailers particularly the small and medium enterprises who may not operate in premises that are suitable for the display of the mandatory publicity materials.

**Environmental Protection Department
July 2013**