

Promotion of Recycling and Proper Disposal (Product Container) (Amendment) Bill 2015

This note sets out the Government's response to the issues raised by Bills Committee members at the meeting on 30 October 2015.

Definitions

"Beverage"

In the light of the proposed definition of "beverage" in the Promotion of Recycling and Proper Disposal (Product Container) (Amendment) Bill 2015 ("the Bill"), the Administration is requested to –

- (a) *clarify the principles, criteria and industry guidelines, if any, for determining whether a product falls within the said definition and hence will be subject to regulation under the mandatory producer responsibility scheme ("PRS") on product containers which will initially cover glass beverage containers ("the mandatory PRS"); and*
- (b) *illustrate with examples of common types of food, beverage and sauce contained in glass containers available in the market, such as soup, soya sauce, vinegar, bird nest essence, chicken essence, Bovril beef juice, "turtle tea/jelly", and beauty supplements like collagen drink/jelly, etc. whether and how a product falls under the said definition.*

2. Beverages are everyday consumer products for which we consider that a general definition as proposed in the Bill is preferable to attempting an exhaustive product list. In practice, it is common that when needed, say, in international trading, the relevant trade would make reference to the Codex Alimentarius¹ (Codex) which contains definition of individual food categories. Beverages available in the consumer

¹ The Codex Alimentarius was established by the Food and Agriculture Organization and the World Health Organization in 1963 to develop harmonized international food standards contribute to the safety, quality and fairness of international food trade. For details of the food category system under the Codex Alimentarius, please refer to Codex General Standard for Food Additives (CODEX STAN 192-1995) which is downloadable at: http://www.codexalimentarius.net/gsfaonline/docs/CXS_192e.pdf.

market can be generalized to fall under the following sub-categories –

- (a) alcoholic beverages;
- (b) water (carbonated and uncarbonated) and other water-based flavoured drinks (carbonated and uncarbonated);
- (c) milk and other dairy-based beverages;
- (d) soybean-based beverages;
- (e) fruit and vegetable juices or nectars;
- (f) coffee and coffee substitutes, tea, herbal infusions;
- (g) cereal grain beverages.

3. In addition, we have been closely engaging the relevant trades in preparing for the operational details of the mandatory PRS and will continue to do so during the implementation stage. As we are proposing to collect the recycling levy from registered suppliers who are familiar with the different food categories including “beverages”, we do not see major operational difficulties in adopting a general definition of “beverage” for the purpose of the mandatory PRS. On the other hand, it would not be practicable to set out an exhaustive definition of “beverage” products that are subject to regulation as such a list would require frequent legislative updating in the light of new product development/technology. We would continue to engage the trades in working out the operational details of the PRS. For the foodstuffs cited in the question, please refer to Annex A for our assessment of their coverage under the definition of “beverage”.

“Suppliers”

The Administration is requested to provide, in relation to the definitions of "supplier" and "regulated article" under the Bill, the policy intent and considerations in respect of regulating an article which (a) satisfies the definition of "regulated article"; (b) is acquired locally and hence owned by a supplier that carries on a business of distributing regulated articles in Hong Kong; and (c) the supplier distributes or consumes the article concerned in Hong Kong. In other words, please provide the policy intent and considerations in respect of the regulatory framework under the Bill relating to a regulated article that is neither

manufactured nor imported by the supplier as defined in the definition of "supplier" but the article is nonetheless owned by the supplier who acquires it locally and that the article is acquired by the supplier concerned for distribution or consumption in Hong Kong.

4. As proposed under the Bill, a “supplier” in relation to a regulated article, is defined to mean –

- (a) a person who, in the course of the person’s business of manufacturing the article, undertakes in Hong Kong the process of sealing the container constituting part of the article; or
- (b) a person who, in the course of the person’s business, causes the article to be imported into Hong Kong for distribution, but does not include a person who (i) does not own the article; and (ii) only provides a service for transporting the article into Hong Kong for another person.

5. It follows that if a person does not manufacture or import a regulated article, this person will not be regarded as a “supplier” in relation to the article. The person will not be liable to pay the recycling levy for acquiring the article locally for distribution or consumption in Hong Kong. On the other hand, the importer or manufacturer of the regulated article, from whom the person obtains the regulated articles, will be responsible for the recycling levy. This is in line with the outcome of the public consultation that the recycling levy will not be collected at the point of sales.

Costs and Benefits of the Mandatory PRS and Determination of the Levy

The Administration is requested to–

- (a) *provide a detailed cost-benefit analysis on the mandatory PRS, including the potential cost items and levels, annual levy collectible, values and outlets of materials recycled from glass beverage containers, as well as the quantifiable economic/environmental benefits that the mandatory PRS will bring about, such as reduced land/capital costs involved in the provision of landfill space, and savings achieved for public works projects as a result of using construction materials manufactured*

from the recycled glass;

6. In relation to the proposed PRS for the glass beverage containers, we estimate that expenses for hiring glass management contractors (“GMCs”) to collect the waste glass containers from waste producers after the regulated articles are consumed and to properly treat or arrange for proper reuse of such waste glass containers will be in the order of \$120 million though the actual contract sum will be determined by open tender. In addition, there would be related expenses in the administration of the PRS, such as staff costs, departmental expenses, accommodation costs, depreciation, costs of services provided by other departments and central administrative overhead that may be incurred under the PRS. In accordance with the polluter pays principle, the recycling levy will be fixed at an appropriate level by way of subsidiary legislation in due course to generate revenues that will be sufficient for recovering such costs. The actual recycling levy will unlikely be determined until the conclusion of the tender exercise.

7. As to the benefits, Hong Kong generates an average of 100 000 tonnes of waste glass containers per year in recent years. It is our target that the PRS will ramp up over time to ultimately a territory-wide total of about 50 000 tonnes per year which is equivalent to 1.4% of the annual municipal solid waste disposal in 2014. The avoidance of landfill space will thus likely be 31 000 m³ annually. Currently, the full costs incurred by the Government in providing waste collection, refuse transfer and landfill disposal services is in the region of \$620 per tonne. The recycling levy will help internalise the environmental costs in the life-cycle of glass beverage containers, and help alleviate the pressure of the existing landfills by turning waste glass containers into useful materials. The mandatory PRS will also induce greater demand for recycling services, in particular in collection and treatment of waste glass containers, and should be conducive to the development of the local environmental industry in terms of business volume and job opportunities.

8. Without the mandatory PRS, the total costs for construction materials manufactured with recycled glass will most likely be much higher than those made from conventional materials, given the additional costs for collection and treatment of waste glass containers. A mandatory PRS would better ensure economy of scale for collection and treatment of waste glass containers, and producers of construction materials with recycled glass content will no longer face a significant cost difference arising from the collection and treatment of waste glass. For

public works projects that use products manufactured with recycled glass, we envisage the cost impacts would be insignificant particularly in the context of the overall project costs. But feasible applications in these projects can help ensure that there will be sufficient outlets for recycled glass materials thus assuring the long term viability of the circular economy that is intended to be established under the mandatory PRS.

(b) set out the considerations to be taken into account in determining the levy, including –

(i) the reasons for computing the levy on the basis of per litre-container volume instead of other criteria such as the container weight or adopting a tiered levy rate for different weights/volumes of glass beverage containers); and

9. During the public consultation in 2013, the relevant trades welcomed the suggestion of computing the recycling levy on the basis of the volume of beverage distributed because such information is readily available and can be retrieved conveniently from their product inventory system. On the other hand, they did not consider it practicable to report the quantity in term of the container weight and were concerned about incurring substantial compliance cost. This is because container weight is not commonly measured in the operation of the trade. If required under the mandatory PRS, measurements have to be taken specifically for the PRS purpose for a wide range of products and repeated from time to time to cover new products or new packaging design. Hence a per-litre levy will be operationally more convenient to the trades than alternatives such as a per-weight levy.

10. The per-volume approach will also have taken care of waste glass containers of different sizes as the larger the container volume, the more levy will have to be paid. Therefore, a tiered charging system is not necessary.

(ii) whether the costs involved in the collection of glass containers other than glass beverage containers by the glass management contractors to be hired by the Government will affect the level of levy payable by registered suppliers.

11. No. Our current proposal is that the GMCs will undertake both collection and treatment services (including arrangement for proper reuse

or recycling of glass beverage containers if not directly treated). If properly rinsed glass food/sauce containers are deposited at the contractors' collection points, they will not be rejected. Suitable arrangements would be made in the future service contract such that the costs for the treatment of non-beverage containers will not be taken into account in estimating the recycling levy under the currently proposed mandatory PRS.

Disposal, Recycling and Reuse of Glass Containers

The Administration is requested to provide –

- (a) updated information on the amount of glass containers disposed at landfills in Hong Kong, with breakdown by glass beverage containers, food/sauce containers and other glass containers, and the percentage of daily municipal solid waste generated by glass containers;*
- (b) distribution in terms of alcoholic beverages (with breakdown by beer, red wine and white wine, etc.) and non-alcoholic beverages (with breakdown by milk, soft drinks and juices, etc.) held in glass in Hong Kong; and the respective rates and average number of times of recovery/reuse of glass containers of the respective beverage categories; and*

12. According to the waste composition surveys conducted annually by the Environmental Protection Department, about 204 tpd of glass containers were disposed of at the landfills in 2014 (down from 258 tpd in 2013) of which about 57.2% are beverage containers, about 37.2% food/sauce containers and about 5.6% other glass containers. Apart from annual fluctuations in the generation of waste glass containers in Hong Kong, the difference should also be attributable to the expansion of our collection service under the voluntary collection and recycling arrangements. Correspondingly, waste glass containers comprised a reduced share of total MSW disposal in Hong Kong, at 2.1% in 2014 (down from 2.7% in 2013).

13. We are unable to further classify waste glass containers under the waste composition surveys. But according to the Business Impact Assessment study based on 2012 market data, it is estimated that the waste glass beverage containers generated in Hong Kong comprise about 80.6% of alcoholic beverage containers and about 19.4% of non-alcoholic

beverage containers. For details, please refer to Annex B.

14. As for the reuse of glass beverage containers, we have consulted two local major beverage manufacturers who are now operating their own arrangements by which waste glass beverage containers of their brands are collected for reuse after proper cleansing and sterilisation. They advised that currently their glass beverage containers can be reused for more than 8 times on average.

(c) the number of companies conducting glass recycling business in Hong Kong at present.

15. We are aware that there are at least two manufacturers who possess the technical know-how to produce recycled glass materials from waste glass containers for use in the manufacturing of eco-pavers. Apart from the production of eco-pavers and other construction materials, waste glass containers with suitable crushing could be used as fill materials in reclamation and other earthworks. Apart from the two eco-paver manufacturers, we are aware that one additional recycler is operating a crushing plant to turn waste glass containers into cullet.

Compliance Costs

The Administration is requested to address the concerns raised by members about the potential compliance costs incurred by registered suppliers of regulated articles as a result of implementation of the mandatory PRS, in particular the requirements on the submission and auditing of periodic returns for computation of levy payment.

16. Amongst other things, a registered supplier must, *in accordance with the Regulated Articles Regulation* –

- (a) periodically submit returns to the Director of Environmental Protection (“DEP”) under the proposed section 36(1) of the Product Eco-responsibility Ordinance (Cap. 603);
- (b) submit an audit report to DEP every year in respect of the returns submitted by him/her under the proposed section 37(1).

17. At this stage, we have commissioned a Business Impact Assessment study, the findings of which suggest that small volume traders are more likely to be concerned about the potential compliance cost of periodical returns and annual audit requirement while the major players in the market should have no major difficulties to comply with the requirements. We will continue to keep the stakeholders closely engaged as we further work out the compliance system. During the process, we will further assess the impact and hence the need of any mitigation measures when operational details are ironed out at the stage of preparing the subsidiary legislation.

Environmental Protection Department
December 2015

Annex A

Responses to the Questions on Whether Certain Foodstuffs are “Beverage” under the Proposed PRS

	Food Product Cited in the Question	Corresponding Food Category under the Codex Alimentarius	Classification as “Beverage” under the Proposed PRS
1.	Soup	Category 12.5 – Soups and broths	No
2.	Soya sauce	Category 12.9 – Soybean-based seasonings and condiments	No
3.	Vinegar	Category 12.3 - Vinegars	No
4.	Bird nest essence	Category 13.5 – Dietetic foods	No
5.	Chicken essence	Category 13.5 – Dietetic foods	No
6.	Bovril beef juice	Category 13.5 – Dietetic foods	No
7.	“Turtle tea/jelly”)	Category 14.1.4 – Water-based flavoured drinks	Yes for turtle tea No for turtle jelly which is not intended to be distributed in liquid form
8.	Beauty supplements like collagen drink/jelly	Category 13.6 – Food supplements	No

**Distribution of Beverages Held in Glass Containers
(By Type in Year 2012)**

	Beverage Type	Percentage
Alcoholic Beverages		
1.	Beer	40.9%
2.	Wine	26.5%
3.	Spirit	12.0%
4.	Cider/Perry/Premixes	0.8%
	Subtotal	80.2%
Non-Alcoholic Beverages		
5.	Bottled water	8.6%
6.	Fruit/vegetable juice and concentrate	4.5%
7.	Sports and energy drinks	3.6%
8.	Asian specialty drinks	2.7%
9.	Soft drinks	0.2%*
10.	Milk	0.2%*
	Subtotal	19.8%
	Total	100%

* Most of these glass containers are recovered for refilling.