

16 June 2017

Hon Scott Simpson, MP
Associate Minister for the Environment
Parliament Buildings
WELLINGTON

Dear Minister

PLASTIC BAGS

I am writing to follow up on our meeting on 9 June, when we discussed the issue of plastic bags, and to seek a meeting with you to discuss the matter further.

I understand from that meeting that you wish to see action to reduce the number of plastic shopping bags being issued in New Zealand. I am writing to confirm our recommendation that this needs to be led by the Government, through legislation.

Retail NZ is a membership organisation representing the interests of the retail sector. We have roughly 4,200 members nationwide and our members account for about two-thirds of total retail turnover in New Zealand. Retail NZ acknowledges the contribution of retailers to the number of single use plastic bags in the community, and we have sought the views of our entire membership on this issue. There is broad (although not unanimous) retailer support for Government-led action on the issue.

Retailers are already taking significant steps to reduce plastic bag use. Across the sector, initiatives include:

- supporting re-usable bags and “bags for life” in stores;
- using paper bags instead of plastic in some stores;
- supporting the soft plastics recycling programme;
- having policies around the minimum number of items in a bag;
- providing discounts for customers who bring reuseable bags; and
- in some cases, where it fits with brand or customer requirements, charges for bags.

However, it is not possible for a universal voluntary approach to fix prices for plastic bags.

Recent experience has shown that, in the highly competitive grocery sector, retailers who have begun to charge their customers a small fee for a plastic bag have experienced a great deal of backlash from customers. Two supermarket chains have tried to introduce such charges over recent years, but have had to reverse the policy in the face of customer pressure. This means that, in a competitive environment, no retailer will want to be the first to lead, and there is a risk that any voluntary approach would fall over in the face of consumer pressure. It is important that any solution is universal - and this is unlikely with any kind of voluntary regime.

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Additionally, notwithstanding the good intentions of any charge for bags, there are potentially significant Commerce Act implications around price fixing. While the idea of designating plastic bags as a priority product was raised at the meeting last week, we cannot see how this could work without competitors agreeing in some way to fix a price for bags, which would be illegal under the Commerce Act.

While it is theoretically possible for participants in any kind of product stewardship scheme to seek an authorisation from the Commerce Commission to fix prices for the purposes of that scheme, this would likely be very costly for industry, as it would require significant legal expense on the part of each and every firm interested in it. Small to medium sized firms would likely struggle with these costs. There is little incentive for individual businesses to incur the expenses associated with this process, given that the outcome is uncertain, not all players would participate, and a legislative alternative would be essentially cost-free to industry.

Together, these various factors lead us to conclude that legislation is required to change consumer behaviour and require retailers to charge for bags.

As you know, England introduced a successful legislative model in October 2015, in which a 5p levy was introduced on single use plastic bags. This scheme saw demand for plastic bags decrease by 85% in the first 6 months. We believe that this serves as a good model for New Zealand.

Retail NZ would like to propose that the Government require all retailers to charge customers a minimum of 10 cents for every plastic carrier bag given out in a shop.

We understand that you want to see funds raised used to support a not-for-profit cause. There is a mix of views amongst our members about this. Some retailers think they should be free to use the money as they see fit, potentially reinvesting it in their businesses, but most are comfortable with the idea that, as in the UK, major retailers would be required to keep track of the proceeds, and donate the proceeds to a not-for-profit organisation of their choice. Larger retailers could be asked to report to MFE on the way these funds are used.

We think it is important that any charge applies universally to all those who offer plastic bags to customers, but there is concern amongst our members about the compliance requirements for small businesses. We therefore propose that retailers with fewer than 20 employees should be required to charge for bags, and donate the money to a charitable cause, but should be exempt from reporting requirements

For the purposes of legislation, we recommend that single use plastic bags be defined as plastic carry bags with handles less than 50 microns thick, given out at the checkout for the purpose of transporting merchandise.

Bags without handles provided to the customer to transport produce, bulk food, candy or meat from within a store to point of sale, or bags used to segregate food or merchandise that could damage or contaminate other food or merchandise when placed together in a bag should be excluded from the definition, as they are in jurisdictions abroad.

Obviously, these rules would only apply to retailers using plastic carrier bags. Those not using plastic carrier bags at all, or using paper bags as an alternative, would not be affected by the rules.

The Government must lead this initiative to get consumers on board and shift the moral norms. We think that allowing the retailers to determine what not-for-profit cause(s) to donate their proceeds to would encourage more support, as it will not appear that the Government is implementing a 'heavy-handed' tax on plastic bags.

We think that legislation could be simple and light-handed. We have taken the liberty of preparing a draft for your consideration which I am attaching to this letter. The draft we have prepared covers a UK-style scheme, but clauses 6 and 7 could be deleted in the event that you did not wish to insist on the donation to not-for-profit organisations.

We would like to ask you, on behalf of the retail sector in New Zealand, please to consider our proposal.

I would appreciate the opportunity to meet you in the near future to discuss this issue further.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Greg Harford', with a horizontal line underneath the name.

Greg Harford
GM Public Affairs

RETAIL NZ DRAFT FOR DISCUSSION

PLASTIC CARRIER BAG BILL

1. Title

This Act is the Plastic Carrier Bag Act [2017].

2. Commencement

This Act comes into force on [1 July 2018].

3. Purpose of Act

The purpose of this Act is to introduce a charge on plastic carrier bags issued to consumers, with the proceeds to be used to support not-for-profit causes

4. Interpretation

In this Act, unless the context requires otherwise:

Chief Executive means the Chief Executive of the Ministry for the Environment;

net revenues means the total revenue from the sale of plastic carrier bags less the cost of the bags, and any costs incurred in complying with this Act;

plastic carrier bag means: a shopping bag with handles made wholly or mainly from plastic less than 50 microns thick provided by a seller to a consumer for the purpose of transporting goods; but does not include:

- (a) bags used solely to contain unpackaged goods;
- (b) bags used solely to contain wholly or partly unwrapped food, including uncooked meat, fish or poultry;
- (b) bags used solely to contain a live animal in water;

seller means a person or business which sells goods, including, but without limitation, food drink or any other merchandise, to customers;

major seller means a seller that employs more than 20 full time equivalent staff.

5. Obligation to charge

- (1) At the point of sale, a seller must charge a minimum of 10 cents (including GST) for each new plastic carrier bag provided to a customer, either:
 - (a) for the purpose of enabling the goods to be taken away; or
 - (b) for the purpose of enabling goods to be delivered to any person.

6. Net proceeds to be donated to not-for-profit organisation

- (1) Each seller must, within three months of the end of its financial reporting year, donate the net proceeds from plastic carrier bags to a not-for-profit organisation of the seller's choosing.

7. Requirement to keep records and disclose information

- (1) Each major seller must maintain records of:
 - (a) the number of plastic carrier bags supplied by the seller in each year;
 - (b) the net revenues gained from the supply of plastic carrier bags;
 - (c) a list of not-for-profit organisations supported by each seller; and

- (d) the amounts disbursed to each not-for-profit organisation.
- (2) Within three months of the end of its financial reporting year, each major seller must provide a written statement to the Chief Executive summarising the information in [subsection 1.]
- (3) Records maintained under this section must be retained by the seller for a minimum of five years.

8. Offences

- (1) A person who contravenes [section 5] of this Act commits an offence and is liable to a fine not exceeding \$200.
- (2) A person who contravenes [section 7] of this Act commits an offence and is liable to a fine not exceeding \$5,000.

[Ends]