



Kilcatherine, Eyeries, County Cork
<http://www.friendsoftheirishenvironment.org>

John Gormley, TD,
Minister for the Environment,
Customs House,
Dublin 1
26 January 2010

Inadequate Regulatory Impact Analyses: Plastic Bag Levy

Dear Minister;

We refer to the Regulatory Impact Analysis on Proposed Legislation to Increase Levies on Plastic Shopping Bags and Certain Waste Facilities commissioned by you and dated November 18, 2008.

We wish to draw your attention to section 1.2 'Problem, objective, scope - Plastic bag levy' where the RIA states:

*The scope of the analysis is to consider the application of a revised levy structure for the sale of plastic carrier bags in consideration of the stated objectives above. This would be an amendment to the existing levy as enacted in the legislation in the Waste Management Acts of 2001. **The analysis does not consider the potential extension of the levy to alternate sources of litter such as paper bags or plastic bottles.** [Our emphasis.]*

We have drawn your attention in previous correspondence to the fact that single use carrier bag levies throughout the world now routinely include paper bags in their levy as Life Cycle Analysis has shown that they have significantly more damaging environmental impacts in a number of key areas. [Submissions of 28.09.09 and 3.01.10.]

In particular, having examined this document and your September 2009 'International Review of Waste Management Policy', we note that nowhere has the levy's displacement effect on paper bags been considered as part of the impact that should be analysed.

Out information indicates that the impact of the plastic bag levy on our major chains like Dunne's and Penny's has simply been to replace plastic bags with paper bags. At best, the number of single use carrier bags has only declined by 20% - 30%.

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We can find no figures in any of your publications or that of the EPA of the number of paper bags used previous to or after the imposition of the plastic bag levy in 2002.

The failure of the RIA to consider such an impact invalidates the analysis and has further prevented the consideration of applications of the levy that would benefit the environment while increasing the popularity of the levy.

The possibility of rebating to the customer a few cent of any levy if they use reusable bags is one such initiative.

In particular, however, we would draw your attention to the growing use of permitting the retailer to retain for themselves a small portion of the levy in compensation for the time that is lost in packing reusable bags, which recent studies show take more time to load than plastic ones and so increase the cost to the retailer of the levy.

With 30,000 Irish retailers currently collecting the levy from consumers, the proposal would be welcomed in every city town and village in Ireland and the cost easily born by a small fraction the proposed rise from 22c to 44c.

Finally, we would draw your attention to the leave to take Judicial Review given to Dunnes Stores to quash the assessments of the levy due for the accounting periods from July 2004 to June 2008, made under the Waste Management (Environmental Levy Plastic Bag) Regulations of 2001. The payments in question amount to €36 million over the period 2004 – 2008 and yet no mention was made of this issue in the RIA, nor of the long standing grounds of contention over the interpretation of the legislation that has now ended in litigation.

Your audited accounts for the Environment Fund for the years 2004 - 2008 do not reflect the non-payment of €32 million, for which the High Court has granted a stay on collection. They simply indicate the sums due from the Revenue Commissioners to be a relative standard sum - €6,800,875 in 2007, €6 435 067 in 2006, €5 292184 in 2005, and €5 333 917 in 2004.

If this is the case – and we are not privy to the Court papers and rely on media reports - it would appear that the Environment Fund Accounting does not fully reflect the facts and that the Regulatory Impact Analysis that took place is fundamentally flawed and should be withdrawn and a new process instituted to allow full consideration and definition of the purpose and scope of any new legislation.

Yours, etc,

Tony Lowes

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