

Submission

By

New Zealand Food & Grocery Council

On The

**Supplementary Order Paper on the
Waste Minimisation (Solids) Bill**

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INTRODUCTION

The New Zealand Food & Grocery Council (FGC) welcomes the opportunity to comment on the Supplementary Order Paper (SOP) on the Waste Minimisation (Solids) Bill.

The FGC represents the major manufacturers and suppliers of food, beverage and non-food grocery products in New Zealand. FGC member companies supply 95 percent of the packaged goods sold by the grocery industry.

The matters addressed in the SOP are of major interest and importance to member companies because of the significant implications they have for the grocery industry.

The grocery industry contributes over \$15 billion to the domestic economy and is the largest employer in the manufacturing sector. In addition member companies contribute \$1.7 billion towards New Zealand's export earnings in the form of elaborately transformed manufactured products.

GENERAL COMMENTS

The FGC acknowledges that the SOP has made significant changes to the Waste Minimisation (Solids) Bill that have removed some of the concerns the FGC had with the Bill, namely, removal of a Waste Minimisation Authority and Waste Control Authorities; requirements for waste management plans for all businesses; public procurement policies and public organisation reporting. Such requirements would have substantially increased the cost of doing business for a marginal, if any, real effect on waste minimisation.

Notwithstanding these substantial amendments the FGC continues to have concerns with the SOP for the following reasons:

Failure to take account of Current Practices

The SOP fails to recognise the substantial changes that have resulted to the management of waste since the introduction of the Resource Management Act. The old, poorly managed unregulated landfills; poor pricing signals; contamination of surface waters and aquifers from leachate seepage from unlined landfill; damages from fires and toxic emissions; neighbourhood nuisances (noise, smells and vermin) and methane emissions are problems that have been addressed since the implementation of the Resource Management Act.

Adequate attention has not been paid to the fact that landfills must now comply with high consent standards and non-compliant landfills have been closed. The number of landfills have reduced from 327 to 95 over the 1995 – 2005 period, landfills are well managed with fees reflecting the Landfill Full Costings Guide and, with more private waste management companies operating, efficient cost structures are in place.

The failure to take cognisance of the above facts has resulted, the FGC submits, in the wrong perspective being taken to the effective management of waste.

Cost Benefit Analysis

There is inadequate economic justification for the proposals contained in the SOP.

The proposals included in the SOP must be subject to a Regulatory Impact Statement, a Business Compliance Cost Statement and rigorous cost benefit analysis.

It is interesting to note that the Australian Productivity Commission Report stated:

Waste management policy should be refocused on the environment and social impacts of waste collection and disposal and supported by more rigorous cost benefit analysis, if it is to best service the community".

Until there is economic justification for the proposals in the SOP it should not proceed. In addition it requires far more rigorous discussion and consultation than the five week restricted period that has been granted particularly given the importance of the legislations and implications it has for a diverse range of stakeholders.

Extensive Powers under the SOP

The SOP gives extensive and unfettered powers to the Minister for the Environment and to territorial authorities to enact regulations, by-laws and notify declarations.

While such enactments are an appropriate approach to take when minor issues and costs are involved, the powers provided for in the SOP have the potential to result in significant cost implications for households and industry.

The FGC believes this power must be constrained in ways discussed later in the submission.

COMMENTS ON SPECIFIC CLAUSES IN THE SOP

Clause 3. Purpose

The FGC agrees with the objectives as stated in Clause 3(a) and (b).

Recognition should however be given to the fact that waste cannot be completely eliminated, at least not without incurring exorbitant costs. It should be made clear that there will be an optimal amount of waste that can be regulated and thus an optimal amount of waste will always go to landfill.

Clause 5. Definition of Product

The FGC submits the definition of “product” should be amended as the current definition “packaging” and “a class of product” is too narrow as the inclusion of the word “and” links packaging to the product. At the very least the word “or” should be included in Clause 5 (1).

This would allow packaging to have its own product stewardship scheme(s).

Clause 6. Product Stewardship. Purpose

It is of concern that the concept of product stewardship in the SOP differs markedly from the Ministry for the Environment’s preferred stance and that of the majority of submissions that were received on the Ministry’s “Product Stewardship and Waste Efficiency” Document which supported the adoption of voluntary measures with regulatory measures being introduced only if there were serious omissions.

By introducing the concept of priority products, introduces mandatory product stewardship. Such a major change in policy requires lengthy deliberation and input from a wide cross-section of stakeholders.

Clause 7. Declaration of Priority Products

The FGC has serious concerns with this provision for the following reasons:

- i) The power given to the Minister (under sub-clauses 2 – 4) to declare a product a priority product and hence subject to a mandatory product stewardship scheme is too wide and open ended. A much higher threshold test must be established before declaring a product is a priority product.
- ii) Mandatory product stewardship scheme must be based on sound science. The requirement in Clause 7 (2) (b) that “significant public concern about the nature or level of environmental harm arising from the product at the end of the product’s life” should not therefore be a criterion for determining whether or not a product be declared a “priority product”. Public concerns are frequently not based on sound science but on myths, incorrect information and misunderstandings.

The FGC therefore submits that Clause 7 (2) be amended to read as follows:

“The Minister may make the declaration if he or she is satisfied that –

- a) the product will or may cause significant environmental harm at the end of the product’s life
and
- b) there will be **net** environmental or economic benefits from the reuse, recycling, recovery or treatment of the product”.

- iii) Clause 7 (3) fails to take account as to whether voluntary product stewardship schemes are in place and working effectively. The Minister should only declare a product a “priority product” if voluntary private initiatives have proved to be unworkable and ineffective. This criteria should, it is submitted, be included in sub-clause 7 (3).

Clause 9. Voluntary Product Stewardship Schemes

The FGC supports the concept that a voluntary product stewardship scheme can acquire accreditation.

It is submitted that where there are voluntary product stewardship schemes in operation at the time the legislation comes into effect they should be automatically accredited provided they meet the criteria of accreditation.

Many of the FGC member companies have expended considerable effort and resources in meeting the requirements of the Packaging Accord, a highly effective voluntary product stewardship scheme. It would avoid unnecessary duplication and replication of work if an up and running effective voluntary product stewardship scheme was deemed an accredited scheme.

Clause 19. Regulations in relation to Products (whether or not priority products) and materials.

Clause 19 is another example of a provision where excessive regulatory making powers are granted to the Minister.

Industry is encouraged to adopt voluntary measures to address product stewardship and FGC members are expending considerable resources to this end. The wide power to enact regulations in respect of voluntary schemes will be a disincentive and create great uncertainty.

Of particular concern to the FGC are sub-clauses 19 (1) (c) and (d) and (e).

For the reasons already addressed in the submissions on the original Bill, the FGC is strongly opposed to refundable deposit schemes. Considerable misunderstanding surrounds such schemes but as the Covec Report showed, a container deposit refund scheme is not cost effective. The Report noted that the annual cost of the scheme is between \$133m - \$175m per annum plus additional costs to retailers. This cost which cannot be justified when 77% of New Zealand Councils offer a kerbside collection system for recycling and 95% of New Zealanders have access to recycling facilities.

Neither can the cost be justified on environmental grounds when the additional transport requirements would increase CO2 emissions by 8,000 tonnes per annum at the very time the reduction of CO2 emissions is a core part of the Government Plans for a Sustainable Carbon Neutral future.

Clauses 21 – 37. Waste Disposal Levy

While the FGC is supportive of full cost pricing of the disposal of waste to landfill, with clear transparent pricing signals in place, it is not supportive of the imposition of waste levies; which is a tax that is over and above the actual costs of waste disposal.

The imposition of waste levies is an ineffective way of providing funds for waste minimisation. Interestingly the NZIER “Waste or Rationality” Report noted that the Government commissioned tax review in 2001 concluded that the levying of taxes to achieve environmental benefits had practical disadvantages”. It went on to state “if extra funding is required for waste minimisation initiatives it would be more efficient to raise it through broad based Government revenue instruments such as income tax, GST or property taxes”. Similarly the Australian Productivity Commission Report recommended that the Australian Governments should discontinue the current practice of using landfill taxes since they led to inefficient outcomes.

Before imposing a waste levy the following matters should be addressed:

- Are there market failures to justify a waste levy?
- What are the benefits and costs (including unintended costs, opportunity costs of imposing waste levies).
- Are there alternatives, for example, better information to business and consumers or ensuring prices to reflect the real costs of disposal.

While industry should bear the full cost of its behaviour, it should not have to pay more than the cost for which it is responsible.

The FGC contends:

- National levies do not reflect regional differences.
- There will be an incentive to dump waste illegally.
- The levy could rise as vested interests seek subsidies for a pet project.
- A large part of the revenue is likely to be swallowed up in beauracracy.
- A levy could harm New Zealand's international competitiveness as companies faced higher waste cost than overseas companies.

While waste levies are opposed by the FGC because there is no adequate economic justification for them if, nevertheless, waste levies are introduced the FGC submits that:

- i) The whole of the levy (excluding collection costs) should go into a contestable fund rather than distributing half of the fund to territorial authorities.
- ii) The fund is used for future projects not existing projects.

Clause 47. By-laws

As noted above under "General Comments" the FGC has serious concerns with the wide powers given to territorial authorities to enact bylaws.

For example a bylaw could conflict with the regulations made by the Minister in respect of product stewardship schemes. While a regulation would take precedence over a bylaw, the powers granted under Clause 47 need to be tightened and clarified to reflect the fact a by-law cannot conflict with regulations made under the legislation.

A further concern is that companies that have operations in different parts of the country, are governed by a range of territorial authorities and therefore could be subject to different compliance requirements.

This could be very inefficient and costly particularly if there were different by-laws in respect of:

- Prohibitions on the deposit of waste.
- Collection and transportation of waste.
- Prohibitions, restrictions and control of public access to waste management and minimisation facilities.

Clause 76. Regulations in relation to records, information and reports.

The provisions in respect of Clause 76 have potential to increase substantially the costs of running landfills.

While it is important to obtain robust information about the quantity and composition of waste at disposal facilities; measurement of progress in waste disposal and minimisation; the state of the environment etc, it is essential a cost benefit analysis is undertaken before enacting the regulations envisaged under Clause 76.

Clause 79. Establishment of a Waste Advisory Board

The FGC agrees the establishment of a Waste Advisory Board is essential as it has an essential part to play in the successful operation of the legislation.

Clause 83 (5) Appointment of Members to the Board

Given the Board will provide advice to the Minister on a diverse range of issues, the makeup of membership of the Board is of utmost importance.

The FGC submits that in order to ensure that full "knowledge, skill and experience", of Board Members is achieved, industry representation should include representation from both the user and waste side of the industry.

A serious omission is the fact that no reference is made to economic expertise. Given the economic implications that will flow from the legislation, economic expertise on the Board is essential. Reference to this fact must be included in sub-clause 83 (5).

SUMMARY

In summary the FGC submits:

- Reducing waste generation and achieving an appropriate balance between disposal and recycling is supported and must be addressed.
- Disposal fees should be based on the full social, environmental and financial costs involved.
- An independent cost/benefit analysis of the proposal in the Bill must be undertaken.
- The imposition of waste levies is not an effective means of providing funds to address waste minimisation.
- Market driven, industry led solutions, such as the adoption of voluntary product stewardship schemes with monitoring of the outcomes must be encouraged with mandatory schemes only introduced if voluntary measures fail.
- Any Government action to reduce waste below normal business practice should be funded via general taxation not through levies.

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