



Response to Welsh Assembly Government consultation on “Proposals for a charge on single use carrier bags”

Submitted by Boots

Section One - Overview of Boots in Wales

With more than 2,000 employees in Wales, in over 100 retail and pharmacy stores, Boots is part of the Welsh community. Boots has a shared sense of responsibility for our community, our environment, our marketplace and our workplace. Boots operates 14% of all community pharmacies in Wales.

Boots is part of Alliance Boots who also have other operations in Wales. Alliance Healthcare Distribution Ltd (formerly Unichem) operates a Distribution Centre in Fforestfach, Swansea. The centre currently employs over 200 people and services every one of the more than 700 community pharmacies in Wales.

In 2007 Boots established its global product development centre in the Institute of Life Sciences in Swansea University. The Boots Centre for Innovation has already generated multi-million pound benefits to entrepreneurs from Made-in-Wales new products now on the shelves of Boots stores in the UK and overseas.

Boots is committed to making high quality healthcare more accessible and helping to tackle health inequalities through our network of community pharmacies in town and city centres and in rural communities. We are conscious of our responsibilities to the communities we serve. We provide support for targeted local projects through our regional, national and international activities.

Community healthcare is at the heart of our business. Through our network of Boots pharmacies as well as the independent pharmacies



supplied by our wholesale division, Alliance Healthcare, we reach people in every part of Wales.

We are helping deliver the Assembly's community pharmacy strategy by working in support of NHS Wales and the Welsh Assembly Government.

Our mission, in line with that of the Welsh Assembly Government, is to develop innovative healthcare products and services to help people manage their own health and live healthier lives. As a leading high street retailer, building thriving and sustainable communities through partnerships is central to our long-term strategy. We have strong partnerships with local authorities, town centre managers and other business organisations.

We are a founder member of the Association of Town Centre Management (ATCM) and continue to work closely with town and city centre managers across Wales. We have led the retail community in shaping the development of Business Improvement Districts (BIDs) across the UK, and have worked closely with Wales' first BID partnership responsible for Swansea city centre.

We are committed to reducing substantially our carbon footprint and we are implementing a range of initiatives to continually improve the sustainability of our business. Our environmental policy, which is available on our website www.boots-uk.com, drives typical initiatives such as:

- Upgrading our delivery fleets to vehicles which are more carbon efficient and reduce delivery miles;
- Reducing energy consumption across our retail outlets, warehouses and offices;
- Reducing the amount of waste created and sent to landfill;
- Reducing packaging for our own brand products;
- Assessing and reducing carbon output throughout a product's lifecycle;



- Supporting customers to use our 'bags for life' and aiming to continue to reduce the amount of single-use bags given out in our stores.

Boots also supports the sustainability of the heritage and culture of Wales and is a member of the Welsh Language Board's *Cefnogi'r Gymraeg : Investing in Welsh* initiative. Our new Welsh Language Policy was launched at the National Eisteddfod in Bala in August 2009 and is displayed in our stores in Wales.

Section Two - Summary Argument

Boots is committed to reducing the number, and environmental impact, of our carrier bag range. Boots UK was an early signatory to the UK Government's voluntary agreement to reduce the impact of carrier bags by 25 per cent by 2009. Boots UK met and exceeded this target, and has continued to work with its customers to significantly reduce the numbers of carrier bags used in all stores.

Boots works in partnership with others in voluntary schemes to reduce carrier bag use in England and in Scotland. There is no such scheme in Wales. Boots are talking with relevant others to try and establish such a scheme in Wales. It would be an advantage if the Welsh Assembly Government would join, and indeed lead, retail partners to establish and run a voluntary scheme in Wales to support the extensive efforts already made by retailers throughout Wales to reduce carrier bag use.

There are reasons to suggest that a proactive, high profile scheme in Wales to reduce carrier bag use would be even more successful than in Scotland and England. This is because there has already been a slightly greater reduction in usage in Wales than elsewhere without such a scheme, and this clearly illustrates a willingness to reduce usage among the population, coupled with the statutory sustainability responsibility of the National Assembly is likely to be a powerful and successful



contribution to the already changing attitudes to reducing harmful carrier bags. Popular culture and attitudes on environmental issues have clearly changed in recent years. There is a wider awareness of the potential impact of climate change and the ways in which individuals can make a difference. It is to this end that shoppers now are often using more environmentally friendly bags when they are made easily available to them. It is now common to see shoppers carrying hessian, cotton and other long term bags, rather than single-use plastic bags.

The most effective means of continuing to reduce harmful bag usage is to build on these strengths in changing attitudes and not to penalise shoppers who might use a single use bag for a variety of reasons. In these circumstances we do not understand why the Welsh Assembly Government sees the need to punish Welsh shops and Welsh shoppers with a costly and cumbersome levy, rather than working with them for the environmental benefit of Wales. Boots urge the Welsh Assembly Government to develop a strong working relationship with the retail sector in Wales, including development of a Sustainable Retail Forum.

Our customers are at the heart of everything we do in Boots and we continually listen to our customers. Our customers tell us that they want us to help them reduce their usage of carrier bags of all sizes but they do not want a compulsory charge.

Boots therefore strongly opposes the proposal for a levy on single use carrier bags. We believe it is based on a fundamental misunderstanding of what drives retail customers to reduce bag usage. We also believe that introducing the element of compulsion will antagonize customers towards this and other environmental measures as it implies distrust of shoppers to act themselves without penalties. We are also concerned that the early signs of coming out of recession will be thwarted in the high streets of Wales with this proposal. Boots believes the carrier bag levy is effectively a tax on Welsh shops and on Welsh shoppers.



Boots also supports Community Pharmacy Wales and others in their argument for an exemption for community pharmacies if a levy is ever introduced. We agree with Community Pharmacy Wales that the wording in the consultation document does not achieve this and that a more meaningful wording would be:

“The charge for single-use carrier bags would not apply to the sale or supply of medicines, appliances and surgical items from registered pharmacy premises.”

Not to do this would have major implications for patient safety and confidentiality and would severely undermine the relationship of trust between pharmacists in Wales and their patients, as a commercial element would be introduced to the duty of care based on healthcare interests.

Section Three - Boots Action against Carrier Bags

Our strategy has been to take action that reduces the impact of carrier bags on the environment whilst still focusing on the needs of our customers. Our customers have endorsed our strategy, including our commitment to issuing less single use carrier bags, with 76% saying it is important for businesses to have a policy on cutting the use of carrier bags (Source UK Health & Beauty Customer Insights Survey June 2007).

In 2007, Boots entered into a voluntary agreement with the UK government's Waste and Resources Action Programme (WRAP) to reduce the overall environmental impact of our carrier bags by 25% by the end of 2008.

Our approach has been a broad series of initiatives, which include:

- Boots UK staff are briefed to **question bag requirements at till point** - Customers are asked if they need a bag not if they would



- like a bag, this produces a more thoughtful response from the customer and reduces the number of bags taken.
- **Rationalising our existing bag range** - discontinuing some sizes and replacing others with 15% smaller bags. We have discontinued bags from our range of bags that are no longer appropriate, and now have a range consisting of only four bags, and store colleagues are asked to ensure they use the smallest bag appropriate to the purchase being made should our customer want a bag.
 - We have **reduced the size and plastic content** of the range. The four bags in our range have been resized to ensure they are fit for purpose, but use the minimum amount of plastic in their construction. We have increased the amount of recycled plastic content used in some of our bags.
 - Launching our **"Gorgeous" reusable cotton bag** in early 2008 as an alternative to traditional plastic carrier bags. Profits from sales of The Gorgeous Bag go to Breast Cancer Care and the Eve appeal, for their work in Wales and elsewhere in UK.
 - We developed a **100% recycled plastic bag**. We have produced a reusable bag made from 100% recycled plastic, which we sell to our customers for 10p, and encourage reuse of this bag by offering an advantage card point every time it is reused.

Together these initiatives enabled us to exceed our commitment by the end of 2008.

Boots has worked with WRAP to achieve the voluntary reduction in impact of single use carrier bags by 25% by 2009 from the 2006 base, and not only achieved this target but significantly exceeded the target. Boots continues to support WRAP initiatives to voluntarily reduce the number and impact of single use carrier bags.

This package of measures constitutes real action in working with our customers to achieve the overall aim of significantly reducing the environmental impact of bags we and our customers use in store.



Section Four - The Case of Ireland

Boots operates 54 pharmacy stores in the Republic of Ireland. We therefore have direct experience of the impact of the levy on carrier bags there and of the increased carbon footprint that it has caused.

Case Study of Environmental Action in Ireland

The Case Study on Ireland in the consultation document does not coincide with our experience as a retailer of the levy in Ireland. Since the introduction of the Irish levy in 2002 there has been no significant decrease in the total number of bags that our customers take from our stores. There has, however, been a shift from plastic bags to paper bags as the levy in Ireland only applies to plastic bags.

The Irish national survey on the environment "Attitudes and Actions 2003" showed that 91% of those surveyed supported the levy on plastic bags. This is not transferable to presumed attitudes of Welsh consumers as it was only about plastic bags and not on the Welsh Assembly Government proposal of all single use carrier bags and with extensive record keeping and sanctions.

The record keeping arrangements in Ireland are far more reasonable and practical than the proposals outlined for Wales and the sanctions far less onerous.

The increase in the amount of paper going into landfill in Ireland as a result of this measure has risen and to increase this particular material going into landfill is in contravention of the EU Landfill Directive.



By 2007 it was widely acknowledged that the levy was not working and that the usage of single use plastic bags was actually increasing. The levy was then increased to 22cents. There is no evidence in this experience that taxation changes public behaviour in a sustainable way, as the increase in the levy has only led to more paper bags being used in order to avoid the tax.

The overall impact of the Irish legislation has therefore been for retailers' bags to have a greater negative impact on the environment, as producing and transporting paper bags uses far more energy than the equivalent plastic bags.

Section Five – IMPLEMENTATION

Q1. Do you think 1 October 2010 is a practical date for the regulations to come into force? Please detail with your reasoning.

Boots would like to see the date for any further progress on the levy proposals to be determined not by setting an arbitrary date, but rather by meeting a set of pre-conditions. These pre-conditions would include ensuring a context of widespread support for environmentally responsible waste reduction policy and practices in all aspects of retail operation in Wales, rather than only single use carrier bags. Boots would also like to see this done through a positive and encouraging approach, as often used in public health campaigns, and working with customers to increase their awareness of waste and reduce it, rather than through a negative approach with the big stick of a 'tax'.

Boots has extensive experience of best practice in environmental management. Boots have been actively involved in the voluntary agreements in England and Scotland to work with government on successful proactive campaigns to reduce single use carrier bags in



retail outlets. We would prefer to see such a proactive, positive campaign in Wales.

Boots has found it to be a laudable hallmark of policy development and implementation since the establishment of the National Assembly in 1999 that a process of comprehensive, iterative, debate with relevant stakeholders takes place. Boots has contributed to this process on relevant occasions, such as with free prescriptions, town centre management and business rates. This has assisted not only in securing buy-in by all relevant stakeholders but also assists in reducing the likelihood of errors in any final legislation. This approach is also endorsed in the National Audit Office report on "Evaluation of Regulatory Impact Assessments 2006-07". It is also implicit in the statutory partnerships with business, voluntary sector and local government as required under the Government of Wales Acts of 1998 and 2006. We are not aware that advantage has been taken of this approach with developing these proposals for the carrier bag levy. This iterative debate with stakeholders in Wales, especially with retailers, therefore now needs to be undertaken.

Boots would also be pleased to contribute to the usual due diligence exercises of the impact of these levy proposals across government that we understand have not yet taken place in Wales.

The pre-conditions for progress on proposals for a carrier bag levy should include:

- Establishment of a comprehensive partnership scheme between government, retailers and relevant others to reduce all waste in the retail sector in Wales – to include packaging, carrier bags, day to day operating plastic waste, day to day paper waste and aspects of the product journey – such a Plan to be run in a proactive and high profile way to support and enhance retailers existing work with customers to reduce all forms of retail waste, including carrier bags;



- determination of how the powers of Trading Standards Officers would fit with the powers of the Inspectorate of the Royal Pharmaceutical Society of Great Britain;
- resolution of the pharmacists' Code of Ethics with any requirement to give to patients confidential pharmacy items, such as medicines, appliances and surgical items, without the covering of a dispensing or other free bag;
- Welsh Assembly Government commissioning and publication of a full and comprehensive Health Impact Assessment of the impact of a carrier bag levy on healthcare policies and delivery in Wales;
- publication of a full and comprehensive Economic Impact Assessment of the impact of a carrier bag levy in Wales;
- compliance with Section 76 (2)(a) of the Government of Wales Act 2006 on Regulatory Impact Assessment - "an assessment as to the likely costs and benefits of complying with relevant Welsh subordinate legislation"
- Welsh Assembly Government publication of the full cost to Welsh Assembly Government of a carrier bag levy in Wales and from which budget the cost will come;
- The Sustainable Development Commission in Wales to establish a Sustainable High Street Forum in support of all aspects of sustainability of the environment and economy of high streets in Wales;
- The Independent Commission on Funding & Finance in Wales (the Holtham Commission) to undertake an assessment of the proposed levy as a model for raising funding in Wales and publishes this assessment;



- The Independent Commission on Funding & Finance in Wales (the Holtham Commission) to produce its final report with recommendation on possible tax varying powers for the Welsh Assembly Government and the position of a carrier bag charge within those recommendations;
- publication of determination by UK Treasury, or other appropriate authority, on how VAT would be applicable to a levy – Boots understands the levy is eligible for VAT but there is no clear determination on whether VAT would be added to the levy or would be taken out of the levy;
- the Welsh Assembly Government acquiring sufficient powers to implement the whole of any set of proposals. It is not appropriate that government introduce proposals when they do not have the power to implement the proposals in their entirety but hope to deliver the full scheme by trying to acquire other powers in the future;
- Commitment by Welsh Assembly Government to recompense to community pharmacists all costs incurred in implementation of a levy, the national rate of such compensation and the means for claiming such compensation;
- Undertaking from the Welsh Assembly Government that any increased cost to the Welsh Assembly Government drugs budget from increased use of free prescriptions over Over-The-Counter sales and Self Care, is not taken out of the Welsh Assembly Government community pharmacy budget;
- An unequivocal and workable commitment by the Welsh Assembly Government to exclude registered community pharmacies from any carrier bag levy.



Boots appreciate that it is unrealistic for all these conditions to be met by 1st October 2010. Nevertheless, they should all be met as part of any further development of these proposals.

Adequate time for accurate legislation

Boots is aware that several community pharmacy initiatives in recent years have been introduced later in Wales than planned, so giving a severe disadvantage to community pharmacy services and businesses in Wales over community pharmacy services and businesses in England. As far as we are aware, the reason for delay has not been lack of political commitment by the Welsh Assembly Government so much as pressure on legal resources in Welsh Assembly Government for preparing and amending complex legislation.

As this is the case, it would be wise for the Welsh Assembly Government to allow more than the minimum time proposed in the consultation document for preparation of legislation. Adequate time will be more likely to ensure both proof of effectiveness of a levy being made available and full consultation with stakeholders taking place and so contributing as far as possible to the accuracy of any final legislation.

Q2. On what areas of implementation would guidance from the Welsh Assembly Government be helpful?

Boots would like to see guidance from Welsh Assembly Government on the development of a comprehensive scheme between government, retailers and relevant others to reduce all waste in the retail sector in Wales – to include medicines waste, packaging, carrier bags, energy usage, product journeys, day-to-day operating plastic waste, day-to-day paper waste and other environmental practices. Such an initiative should be run in a proactive and high profile way to assist retailers, including pharmacies, to work with their customers to reduce waste.



Boots is aware of the very successful and high profile campaign that is being run by Welsh Assembly Government in respect of recycling of household waste. Retail waste reduction, recycling and environmental practices deserve equal focus and resourcing from Welsh Assembly Government. There is a wide range of good practice that is happening in Boots and other retail outlets across Wales and it would be helpful if Welsh Assembly Government would actively support this good practice.

Boots environmental practices in Wales

Boots have been in business since 1849 and in that time we have built a reputation for caring about our customers, our people and the communities we work in around the world. Caring for the environment has always been an integral part of this and it is one of the core values of the Boots brand.

We look at how each aspect of our business affects the environment and we have an agreed list of priorities and areas to which we commit our efforts.

Products and services

We minimise the environmental impact of our products and services by making our designs as efficient as possible, by taking account of specific issues like carbon footprints, sustainable sourcing and our use of chemicals, and by working closely with our suppliers.

Climate change

We reduce both direct and indirect carbon emissions from the energy we use in buildings, transport and manufacturing operations.

- **Waste minimisation**

We make the best use of resources, particularly in areas like packaging, water efficiency and recycling.

- **Communication**

We encourage open discussion on the issues affecting us by



talking and listening to our customers and other stakeholders, providing environmental information with our products and publicly reporting how we perform on our environmental policy.

In 2005 Boots entered into a voluntary agreement (the Courtauld Commitment) with the Government funded Waste Resources Action Programme (WRAP) as one of a number of signatories. The objective of this commitment was to inspire companies to reduce the amount of overall packaging entering the waste stream. In August 2008 WRAP announced that the initial target had been achieved. As a signatory, Boots worked hard on delivering a reduction via a number of initiatives.

For example, product development teams at Boots ensured that only the optimum amount of packaging is used. For instance, packaging for the Boots Monitored Dosage System has now been redesigned leading to a saving of around 40 tonnes of plastic per year. Our aim is to provide aesthetically pleasing and easy-to-use Boots products that have the right amount of pack protection from the point of manufacture right through to their use by the consumer. At the same time we aim to ensure that the environmental impact of packaging is minimised and that at the end of its life it can be efficiently recovered or recycled. Another successful example comes from the WRAP funded trial to incorporate post consumer recycled plastic in bottles for Boots Ingredients range.

As well as considering the environmental impact of packaging for new products, we regularly review existing ranges for improvement. We have introduced easy to recycle Christmas gift packs for example, as well as ground breaking initiatives such as the use of recycled plastic in toiletries' packaging.

In our distribution network, we have minimised packaging and its waste by transporting products in our own re-usable containers. This is not a recent action in response to climate change concerns or government policy. Boots have been doing this as good business practice since the 1950s.



For Boots, environmental management goes far beyond obeying local legislation and preventing pollution. We strongly believe that good environmental practice is good for business, a fundamental corporate responsibility and a key contributor to sustainable development.

All our people, suppliers and contractors have a valuable role to play by implementing this policy within their everyday activities. Putting environmental considerations at the heart of what we do ensures we manage them properly alongside other important business considerations such as safety, quality and value.

In furtherance of our company environmental policy, Boots is involved in England and Scotland with successful partnerships with governments with the objective of reducing waste and also of working with the retail sector to ensure full understanding by government of the retail sector and its operation. It is noticeable that it is only in our Welsh stores that there is no government partnership scheme in operation to reduce carrier bag usage.

Devolution has meant that the four parts of the UK have been able to develop policies that best suits their own needs. Boots supports this approach as being compatible with the customer and community focus of our own corporate ethos. Boots has developed separate working arrangements with the devolved administrations of Wales, Scotland and Northern Ireland, and also in England. Boots does not oppose the proposed levy because Wales is trying to take a different path from the rest of the UK. Boots opposes the proposed levy because we believe it is based on a fundamental misunderstanding of the operation of the retail sector and of the operation of customer behaviour. **Boots therefore believes a levy would not achieve the Welsh Assembly Government's expressed aim of reducing the amount of carrier bags used by customers** but would cause significant cost and operational problems to shopping in Wales.

Boots is concerned that the levy proposals are based on a lack of sufficient understanding of the retail sector within government in



Wales. This is partly due to the current lack of any meaningful vehicle in Wales facilitating dialogue between government and the retail sector. We outline below two ways in which other parts of the UK have found to work with the retail sector. Neither would be completely applicable in Wales, as each has been developed for its own respective country, but there is something to be learnt from both. Boots is supportive of current proposals for an appropriate means for such dialogue to be developed in Wales.

Scotland – Collaboration for Waste Reduction

The voluntary approach is the proven way to achieve lasting waste reduction in Scotland. The Scottish Government began the consultation process for its new National Waste Strategy in August 2009 which was welcomed by the Scottish Retail Consortium (SRC) who said notable successes, such as halving the number of single use carrier bags handed out, show how the voluntary approach achieves impressive results quickly – without the need for burdensome and costly legislation.

Reacting to the proposed strategy, the SRC welcomed the Scottish Government's commitment to a collaborative and flexible approach and to joint working with retailers and the public to build on the significant achievements made since the last waste plan. The SRC also welcomed the move to more strategic planning of waste collection, recycling and re-processing facilities.

Retailers know their customers best and can introduce tailored schemes. Some dramatic examples of lasting change have been achieved without alienating customers or driving up shop prices. Results include:

- **Bag usage:** Leading supermarkets and their Scottish customers virtually halved bag usage, meaning nearly 39 million fewer bags were handed out in May 2009 than May 2006. Across a year that equals at least 460 million fewer bags.

- **Packaging reduction:** In 2008, major food retailers halted growth in packaging, despite increases in sales and population, through the



Courtauld Commitment.

- **Boosting recycling:** This year, leading retailers introduced a universal on-pack recycling label which, for the first time, provides customers with standardised information on whether packaging can be recycled. The single, industry-supported, label replaces the potentially confusing range of symbols previously used.

Scotland's partnership between government and the retail sector is committed to the success that has been produced by using carrots rather than sticks.

England – Dialogue with Government

For many years there has been a Retail Policy Forum which is operated now by the Department of Business, Innovation and Skills. The Forum brings together relevant officials from different departments in Whitehall with responsibility for aspects of retail operation, and key retail representatives. There are two main purposes to these meetings. One is that they enable government to enhance their understanding of the retail sector, its operation, its main issues and concerns at any time and to raise with retailers any issues they may want to do so. The second purpose is that retailers have regular opportunities to raise with government any issues and concerns they have at any time and to discuss and contribute to forthcoming government policy.

Section Six – An exemption for Community Pharmacy

Q3. Which retailers, if any, should be exempt from the proposed single use carrier bag charge? Why?



Boots supports the position of Community Pharmacy Wales that community pharmacy should be exempt from the proposed levy. Boots is pleased to see that the Welsh Assembly Government recognises in the consultation document that the supply of medicines should be treated differently to the supply of other products. However, none of the wording in the document on this issue would achieve this aim. If only some medicines are exempt from the levy and others are not then even the smallest community pharmacies would have an additional burden over other stores in having to operate a dual system with some products going into bags that will have a levy on them and others into bags that will not have a levy on them. The consultation document also does not allow for items other than medicines that may be prescribed or otherwise categorised as pharmacy items.

If a levy is implemented, Boots supports the wording proposed by CPW as more effective:

The charge for single-use carrier bags would not apply to the sale or supply of medicines, appliances and surgical items from registered pharmacy premises.

Boots believes this is for 5 main reasons:

1. Patient safety;
2. Patient confidentiality;
3. Maintenance of integrity of Welsh Assembly Government health policy;
4. Avoidance of unreasonable regulatory burden on community pharmacies;
5. Impracticality of current proposals.

1. Patient safety;



Boots is pleased to note that the Welsh Assembly Government recognises the enhanced patient safety that exists as a result of the current system of package and storage of medicines in a community pharmacy awaiting collection or delivery.

While we support the statement in the consultation document that *'For example, it may be necessary for NHS prescriptions to be given out in single-use carrier bags due to patient safety and confidentiality reasons. So the charge for single-use carrier bags would not apply in pharmacies that only deal with NHS prescriptions.'* Boots are concerned that the wording of this section is too 'loose' and so has the unintended consequence of actually excluding all community pharmacies. All community pharmacies sell medicines and surgical items to support self-care; indeed this is encouraged by Welsh Assembly Government, especially since the advent of free prescriptions, in order to reduce the NHS Wales drugs budget. Many community pharmacies also dispense private prescriptions when presented with them and it is unreasonable that free prescriptions dispensed in that store should be eligible for the levy because of this. No community pharmacies would therefore meet the requirement in the consultation document of *'pharmacies that **only** deal with NHS prescriptions.'*

Prescription items awaiting collection by patients need to be stored securely in a way that ensures that the bagged items are totally secure and clearly identified. While a small pack of tablets can be secured using a simple paper bag, larger products such as appliances and dressings require larger bags as does the supply of prescriptions for a large number of items. As these items need to be assembled in advance of collection by the patient or delivery to the patient then it is not possible for the pharmacist to have a conversation with the patient in advance of the assembly of the item. Patient safety could therefore be adversely affected should this proposal be implemented without alteration.



2. Patient confidentiality;

Boots is also pleased to note that in the consultation document the Welsh Assembly Government recognises the confidential nature of medicinal products.

Items such as colostomy products, dressings and sip feeds are particularly bulky items and need to be supplied to patients in a number of carrier bags to carry them home. The application of a charge for the bags in which these items are supplied will affect the confidentiality of the patients and inappropriately discriminate against patients with particular conditions.

Community pharmacists are front line healthcare professionals involved daily in providing advice to patients and in meeting their healthcare needs. It is through the network of community pharmacies that over 60.5 million prescribed items were provided in Wales in 2008-2009. Alongside this, and in full support of the Welsh Assembly Government's policy on supporting self care, medicines, appliances and surgical items are provided to patients at the healthcare counters.

As these products are sold and supplied for conditions such as incontinence, depression and impotence, people are understandably sensitive about the personal nature of their illnesses and we would not wish to see a situation occurring where this confidentiality is breached as a result of changes in the way in which these items are stored or supplied to patients. Failure to protect patient confidentiality, even as an unintended consequence of this proposal, would be extremely unpopular with our patients.

Boots assumes this is not the intention of the proposal, and therefore the wording of the proposal needs further detailed consideration. It is unlikely to be possible in legislation to distinguish between different sorts of medication, and therefore CPW thinks that only an exemption for community pharmacy as specified above is practical.



Boots is also concerned that the proposed requirements for reporting and publication could impact on patient confidentiality. Although it is not possible for us to comment in detail on this at this stage as this part of the proposals is lacking in important, relevant detail.

3. Maintenance of integrity of Welsh Assembly Government health policy

As the consultation document stands, **pharmacists will be required to put free prescription items into bags for which they will have to charge.** This would make a mockery of the flagship Welsh Assembly Government policy of free prescriptions.

Boots believes this is an unintended consequence of the proposals and illustrates the lack of proper consideration across Welsh Assembly Government departments that has been given to these proposals prior to publication.

There is a likelihood that people who are now getting used to being able to access support for particular, often embarrassing, conditions with the anonymity of a pharmacy, as opposed to GP appointments, will be put off if they have to pay yet more for a carrier bag or take the packet or bottle out of the pharmacy store with no covering. This could be for conditions varying from head lice through diarrhoea to Chlamydia. This is especially true in Wales, as opposed to Scotland and parts of England, as services like Minor Ailments and Sexual Health Care have not yet been commissioned on an all-Wales basis by NHS Wales under the community pharmacy contract.

The supply of **medicines over the counter** in pharmacies directly supports the Welsh Assembly Government policy of self care and the need to deliver care in the heart of communities. Any limitation put on the supply of medicines over the counter, including as part of these proposals for a bag levy, will work against these strategies and will



drive patients to seek the same items on prescriptions from their GP in an attempt to bypass the carrier bag charge. It is for this reason that Boots agree with CPW who are strongly recommending that the exemption for medicines, appliances and surgical items supplied through a registered community pharmacy applies to both the **sale** and the **supply** of these items.

In July 2009 Welsh Assembly Government passed Amendments to the Pharmaceutical Regulations (Wales) 1992 which restored a **level playing field between pharmacists and GPs in NHS dispensing** in rural towns in Wales. These Amendments had taken since 2005 to implement. But now these levy proposals would again have the effect of discriminating between the two healthcare providers. This is because there are still a number of GP practices that have existing dispensing rights and as the consultation document stands the same prescription items would be put into a bag which would have to be charged for in a pharmacy, but the same items and the same bag could still be given free by a dispensing GP. This undermines the dispensing policy that the Welsh Assembly Government have only just implemented. In order to avoid this, Welsh Assembly Government would need to ensure that the same terms, including any exemptions, that apply for community pharmacy also apply to dispensing doctors as it would be a severely retrograde step to discriminate between the two healthcare providers.

Many patients living on the Welsh side of the **England-Wales border** already have to carry Entitlement Cards to ensure they benefit from Welsh Assembly Government's free prescriptions policy. Welsh Assembly Government's intention to provide healthcare policies for people who live in Wales and are registered with a GP and pharmacist in Wales, will be undermined by the levy proposals. This is because pharmacy stores within easy access of the border are likely to lose customers to stores on the English side of the border where shopping will be cheaper as bags will not be charged for. Patients with prescriptions may have to decide to shop in England to keep their costs down while getting their prescription in Wales to ensure it is free. This



is bound to detrimentally impact on shopping facilities on the Welsh side of the border, of which high street pharmacy services are a part.

4. Avoidance of unreasonable regulatory burden on community pharmacies.

Community pharmacists have seen the amount of bureaucracy and inspections increase significantly over recent years, which has taken up an inordinate amount of their time often with no direct benefit to patients. The cumbersome and extensive requirements of the record keeping, publication and civil sanctions, proposed in this scheme would significantly add to that burden. This will inevitably result in pharmacists being pulled away from patient care.

The civil sanctions proposed would also add to the regulatory and operating burden of pharmacies without any benefit to patient care. It is inappropriate that Trading Standards Officers have powers to inspect the dispensing work of professional pharmacists. This may be contrary to the statutory Inspectorate responsibilities of the Royal Pharmaceutical Society of Great Britain in respect of inspection of pharmacies. We urge Welsh Assembly Government to give full consideration to the views of the Royal Pharmaceutical Society of Great Britain in Wales before proceeding further with these proposals.

Where government requirements on pharmacies do not contribute to overall patient care then they necessarily diminish the patient care that pharmacies are able to provide and so contribute to a worsening and not improvement in the healthcare of Wales. The time and effort required of pharmacies, including the required changes to tills and other in-store systems, would be a charge on pharmacy that is completely irrelevant to its role as healthcare provider. This is why Boots argues that the carrier bag levy, as proposed, would in effect be a tax on healthcare in Wales.



5. Impracticality of proposals

There are several aspects of the proposals that would just be impractical to operate in community pharmacies.

A pharmacists' Code of Ethics requires that the same standards of patient safety and confidentiality apply to **all** supplies of medicines irrespective of whether the supply is made over the counter or via a NHS prescription and that requirement is not dependent on a patient's ability, or willingness, to pay for a single use container for their medicines. The current proposals may leave the pharmacist with a choice between breaching their Code of Ethics or facing a fine of up to £5000 for breach of the bag levy. This is unacceptable in principle and impractical to operate in practice.

If these levy proposals go ahead with an agreed exemption for community pharmacy premises, then community pharmacies would still have a cumbersome burden imposed on them. In Boots larger health and beauty stores an exemption for pharmacy registered items would mean that check-out staff had to distinguish between items that customers had bought in the pharmacy and shopping items bought elsewhere. This adds an additional requirement on our staff and would deliver a double whammy to such stores. This will impose an additional burden on our larger stores in Wales and again underlines the impracticality of the levy proposals and also their effect as a tax on healthcare.

We note that all these impracticalities would be avoided if the policy of reducing waste and carrier bags was to be implemented through support and encouragement for good practice and not through an obstructive levy.

Section Eight - The Levy



Q5. What do you think is an appropriate price to pay for single use carrier bags?

Boots believes that its customers should have a choice, and a compulsory charge would remove this choice. Boots believe that working together with government to educate the public not to want to take a bag is the most appropriate way to reduce carrier bag usage, not a forced charge.

Q6. What would be an appropriate price to encourage consumers to re-use carrier bags?

As most consumers already own reusable carrier bags of one kind or another, and still require single use bags when shopping in the high street, price is not the issue. Encouraging customers to remember their reusable bags when shopping on the high street via a combined retail and government campaign, similar to those being used in England and Scotland would be more beneficial.

Q8. Do you think the charge will impact on impulse shopping? If so - please describe.

A levy is likely to have an impact on impulse sales particularly when the item is too big to fit in the customer's bag. It may also push customers away from impulse high street shopping and more towards shopping on line for those sorts of purchases with the result that community stores will be disadvantaged.

Section Nine - What Bags?

Q9. What are your views on the suggested types of single use carrier bags?



Boots cannot give a clear answer to this question, as Welsh Assembly Government have not provided a clear definition of what constitutes a single use bag, and what constitutes a reusable bag, nor is there a clear definition of what constitutes a carrier bag e.g. If a bag has no handles is it a carrier bag as far as the proposed levy is concerned. Failure to clearly define the difference could result in bags being produced simply to avoid the legislation rather than correct for purpose, which in turn could lead to a negative environmental impact.

Q10. Should fully compostable bags be subject to a charge?

Boots believes in reduce, reuse, recycle as part of its environmental approach, so our strategy is around reducing the numbers of bags given out, encourage reuse of the bags, and recycle the bag at the end of its life. Biodegradable bags cannot be identified from non biodegradable bags and so contaminate any attempt to recycle carrier bags if present, and so we do not support the use of bio-degradable plastic bags.

Q11. Are there other exclusions which are not mentioned which should be covered? Please provide your reasons.

The consultation document only describes bags used solely for NHS prescriptions to be exempt from the charge. We support the Community Pharmacy Wales proposal that any charge for single use carrier bags should not apply to the sale or supply of medicines, appliances and surgical items from registered pharmacy premises.

In addition we sell certain items of a highly personal nature, such as condoms and Chlamydia testing kits, which could cause many customers embarrassment if they were not provided with a bag.

Section Ten – Policing the Levy



Q12. Do you agree that Trading Standards are the most appropriate administrators to enforce a charge on single use carrier bags?

Trading Standards Officers are not the most appropriate administrators for the operation of a levy in community pharmacies. As the proposals stand, Trading Standards Officers would have the power to visit and inspect the dispensing process in pharmacies and to impose sanctions, including on the spot fines, on pharmacists and their staff. This is inappropriate.

At present Trading Standards Officers have the power to inspect the retail elements of the operation of a community pharmacy. This proposal would give them additional inappropriate powers on parts of the dispensing process.

There are already extensive Inspectorate powers lodged with the Royal Pharmaceutical Society of Great Britain and any additional powers given to Trading Standards Officers within pharmacies' should be subject to the approval of the Society. However, we do not see how this could work in practice and so believe this is an additional reason why the proposals are impractical as applied to community pharmacies.

Trading Standards Officers having powers to visit dispensaries where medicines, appliances and surgical items are bagged up for patients may also infringe patient confidentiality. This is inappropriate. Pharmacists may have a conflict with their Code of Ethics in allowing access to dispensaries to Trading Standards Officers under these circumstances.

Q13. Do you consider that the proposed arrangements for record keeping and publication are suitable?

The proposed arrangements for record keeping and publication would require Boots to make significant changes to our IT systems, as it would mean moving bags from a Goods Not For Resale category to a sales



category which would only apply to our Welsh stores. This is likely to apply to other retailers. However, uncertainty on the details of the proposals at the moment means we are unable to plan sufficiently accurately the likely costs to our business. We hope these issues can be clarified as part of an overall assessment of the impact of the proposals on business.

If additional costs are generated they would have to be included in any calculation as to the cost of the bags, and so any levy is unlikely to cover the costs associated with it leaving either significant extra cost to running our business in Wales, or no surplus funds raised by the scheme if all costs are offset.

Publication of bag sales data would put commercially sensitive information into the public domain which we would not support.

Q14. Is the end of April a suitable time to publish annual records?

We do not agree with publishing this data, for commercial reasons as well as the extra burden of preparing reports by a set date would bring.

In Section 10 of the consultation document on “Enforcement” the wording is not clear on whether it will form part of criminal law or whether it will be administrative law as is suggested further on. The powers as stated are in line only if it is intended that the matter is something that will be enforced by the Trading Standards Service under criminal law. The powers, however, should be drafted in accordance with existing principles of consumer law. There is very little clarity in the paper as to the area of the law envisaged.

Q17. Are these powers reasonable?

Individual stores would not necessarily hold the information required and so the powers as stated are impractical and unreasonable.



Q18. Are these powers sufficient to ensure that any suspected cases of non-compliance are fully and properly investigated?

The powers described are excessive and a requirement to keep records at a company level should be sufficient.

Q19. Are any more powers required?

No

SECTION 11 - CIVIL SANCTIONS

We do not believe that civil sanctions are an appropriate way in which to deal with matters of this sort. This is particularly the case with large businesses where operating procedures and systems are required in order to ensure compliance. We would therefore prefer to see a strict liability regime coupled to due diligence defence provisions as are common in most of the consumer protection legislation regimes. This will allow large businesses to put into place systems which will drive compliance rather than to spend its time dealing with administrative penalties which will be both difficult to enforce from a regulator's point of view and complex to administer from a company perspective. Given the vast quantity of retail transactions carried out by some businesses in Wales it would be disproportionate if after one error they were fined when they have been compliant in the last one million transactions. Regulation in this area therefore needs drafting in accordance with better regulation principles and should be proportionate, targeted and effectively delivered. This is particularly so of enforcement where offences under this legislation should not be seen as revenue raising devices.

The whole suggestion of civil sanctions is completely out of proportion to what is trying to be achieved by the proposals. Therefore, Boots believes this section of the consultation to be unreasonable and would not support any of the proposals within section 11.



Q20. Do you think that individuals should be liable to civil sanctions? If so, in what circumstances?

The use of legislation of this type to put individuals in personal jeopardy when they get things wrong is in our view not appropriate. This is particularly so if this could result in a criminal conviction. Reputable businesses will put into place operational procedures and training processes to ensure that they operate their businesses compliantly and they will expect their employees to deliver that compliance on their behalf. It seems unreasonable that businesses who put into place proper process controls could not only suffer penalty themselves but their employees could also be found to have committed an offence. This while giving the administrator the opportunity to increase their income. Furthermore, many of the employees in retail in Wales are part time employees who would not have the financial ability to pay fines. Additionally, if they are carrying out the instructions of their employer they should not be faced with making the choice between the risk of a fine or unemployment. We do not, therefore, feel it is appropriate to seek to impose penalties on employees in addition to those proposed for business.

Q21. Do you think that the administrator should be able to impose fixed penalties for breaches of the regulations? If so - what kind of fixed penalties would be appropriate?

We would see no justification for imposing fixed penalty fines in this arena. If the goal of the legislation is to achieve environmental compliance, then pursuing a fixed penalty approach will not drive that compliance. In fact the reverse is the case. For many businesses fixed penalty fines may be seen as the cost of doing business and will do little to change attitudes which is what is required to drive the environmental change desired by the Welsh Assembly Government and by responsible businesses, including Boots.



Regulatory enforcement and sanctions legislation, which flowed from Phillip Hampton's report on Business Inspection and Regulation, has already put in place mechanisms that can be adopted for the enforcement of legislation subject to Trading Standards Officers and other bodies being appropriately compliant. Thus, a Hampton compliant local authority will seek to deliver compliance rather than prosecute when they think things have gone wrong. They would achieve that compliance by talking to business in order to ensure that business and the local regulator have a mutual understanding of the value and benefits of objectives imposed by regulation, to ensure that the goal of compliance is met rather than regulation imposing burdens on the business. This Hampton approach has the ability to ensure that compliance is delivered in the most efficient way. This also has the benefit of freeing up resources within local government for them to tackle the rogue traders who set out not to comply with the legislation rather than to repeatedly punish those businesses who have in place compliance systems that may have failed to comply due to minor error of a member of staff.

In order to avoid duplication of legislation and the adding of regulatory complexity, it would seem sensible to use these existing provisions rather than create a new regime solely for the purposes of implementing a carrier bag levy in Wales.

Q 22. Should there be a range of fixed penalties based on different factors? If so - what do you think are the most appropriate factors (e.g turnover, size of business)?

As we stated in the answer above there are already mechanisms for delivering this sort of discretionary penalty that could be adopted and it seems inappropriate to provide for a second set of mechanisms. If discretionary penalties are to be adopted it needs to be made clear that the administrator has the discretion not to impose a penalty rather than seeking to decide what should be the maximum penalty imposed.



Q23. If you consider that individuals, such as employees and partners, should also be liable for civil sanctions, what kind of fixed penalties would be appropriate?

See the above paragraphs 10.5 and 10.6

Q24. If you consider that individuals, such as employees and partners should also be liable for civil sanctions, would it be appropriate to have a range of fixed penalties based on different factors? If so, what do you think are the most appropriate factors?

See above

Q 25. If an administrator serves a notice of intent and the person concerned wants to discharge their liability, what amount should that person be required to pay?

Q26. Do you think that the administrator should be able to impose discretionary requirements on a person for breaches of the regulations?

It is of concern that the proposal around penalties seems to have no discussion around appeal mechanisms. It seems to assume that if an administrator thinks an offence has been committed they can impose a fixed penalty fine without the ability for business or an individual to argue that in fact an offence has not been committed. Furthermore it then goes on to assume a whole series of steps for recovering money if an individual fails to pay a fixed penalty which may or may not have been fairly and legally levied. It would therefore make sense as stated previously to follow the provisions of existing consumer law which requires that the matter should be dealt with via Magistrates' Courts with all of the appropriate appeal mechanisms rather than seeking to turn this into a device which could be used by some authorities as a revenue raising exercise.



Q27. What should the maximum monetary penalties for breaches of the regulations be for:

- a) not charging for a single-use carrier bag**
- b) not keeping and publishing records in accordance with the regulations**
- c) obstructing or failing to assist, an administrator**

Q28. If a person hasn't complied with a non-monetary discretionary requirement - should the person pay a penalty? If so, how much should the penalty be?

Q29. Do you think that the regulations should include provisions enabling the administrator to recover its costs? If so, what costs should be recoverable?

No.

Q30. Do you think that the regulations should make provisions on:
a) early payment discounts; b) late payments; c) civil recovery of costs

Efforts should be made to minimise the bureaucracy and to simplify it as far as practically possible. It would be counter-productive if in an attempt to reduce the environmental load the arrangements add significant extra environmental load by generating large amounts of paper.

Q31. If so - How much should any early payment discount be?

No comment

Section Eleven - Use of Levy Money



Q15. Do you agree, in principle, that funds raised from the charge should go to a third party body to be spent on environmental projects in Wales?

It is not clear what funds would be raised, the consultation document refers to net proceeds, but gives no definition of how this would be calculated.

It should be up to the individual retailer to decide how to invest any proceeds they identify, as Boots and many other retailers already make significant contributions to charities through our CSR agenda.

This process should, if it meets its environmental goals, not be seen as something which can be used to raise funding to deal with other miscellaneous environmental projects. The emphasis on possible money raised for Welsh Assembly Government specified projects leads to speculation that the purpose of the proposal is to raise money and not to reduce waste. It is usual for government to assume their policies will be successful, and if this proposal was implemented and there was a substantial reduction in carrier bags then there would be very little money, if any, to pass on to Welsh Assembly Government projects.

Boots currently has arrangements for contributions to a range of healthcare charities including Breast Cancer Care, Eve Appeal, Children in Need and LATCH the Welsh Children's Cancer Charity. These charities have been selected by our staff and colleagues in line with our CSR policy. We do not think it is appropriate for government to decide which charities benefit from any of our activities.

Q16. Would it be useful for the Welsh Assembly Government to produce a voluntary code of practice to encourage retailers to make a choice about funding environmental projects within Wales?

It would be useful for Welsh Assembly Government to develop, in consultation with stakeholders, a voluntary code of practice to support



retailers in environmental good practice throughout all communities in Wales.

Conclusion

On page seven of the consultation document it is stated that the main aim is “to reduce the amount of single use carrier bags used by consumers”. There has been no proof provided that the combined excessive measures in the proposals for a levy will achieve this end. There is much evidence that there are other effective ways of achieving this aim. These involve government working in partnership with the retail sector and not against it. At present the shops and shoppers of Wales are both reducing their use of carrier bags of all types. Boots hopes that the Welsh Assembly Government will join and support these efforts, rather than seek to penalise the shops and shoppers of Wales.

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Boots welcomes correspondence in either Welsh or English.



Boots have also contributed to, and concur with, the responses to this consultation from:

- Community Pharmacy Wales
- Company Chemists Association (Wales)
- Association of Town Centre Managers (Wales)
- CBI Wales
- British Retail Consortium.