

TASK FORCE TO STUDY METHODS FOR REDUCING CONSUMER PACKAGING THAT GENERATES SOLID WASTE

Testimony of Chaz Miller

Director, Policy/Advocacy National Waste & Recycling Association

September 13 2017

Thank you for the opportunity to testify. I will be focusing on what extended producer responsibility is, its goals, how it works, and perhaps most importantly, its impact on Connecticut businesses and residents.

What is extended producer responsibility?

The Comprehensive Materials Management Strategy (http://www.ct.gov/deep/lib/deep/waste_management_and_disposal/Solid_Waste_Management_Plan/CMMS-Final_Adopted_Comprehensive_Materials_Management_Strategy.pdf) defines extended producer responsibility as “a mandatory type of product stewardship that includes, at a minimum, the requirement that the producer’s responsibility for its product extends to post-consumer management of that product and its packaging” (page 13).

What are its goals?

Again, using the Comprehensive Materials Management Strategy as our guide, extended producer responsibility has three main goals (pages 13-14). These are to:

- Shift financial responsibility to producers
- Minimize costs through economies of scale, product design and other market forces
- Provide incentives to producers to incorporate environmental considerations into the design of their products

In addition, the strategy calls for additional study (page 54) with stakeholders on its impact on:

- Achieving 60% diversion
- Municipal budgets
- Connecticut economy
- Existing businesses and industries and
- Product/packaging design including the promotion of recyclability & the reduction of toxicity

During this this testimony I will show how extended producer responsibility for consumer packaging will impose cost upon Connecticut’s businesses and residents without

meeting the environmental goals intended by the Department of Energy and Environmental Protection.

Let's start with how a company in the packaging chain would comply with an extended producer responsibility law in Connecticut. Producers comply either through individual or collective responsibility. Individual responsibility occurs when a company recovers and recycles its products. Collective responsibility happens when companies join a product stewardship organization that will manage recovery and recycling on behalf of its collective members.

Clearly individual responsibility offers an opportunity for green design and true cost internalization. But it also has high transaction costs for each individual company. Collective responsibility offers economies of scale and lower transaction costs. As a result, most packaging and printed paper responsibility organizations use the collective model because of the sheer size and scale of the packaging industry. However, green design and costs internalization are lost as individual companies split costs.

How does a collective responsibility organization work?

One of the myths of extended producer responsibility is that producers get together and work to meet their mandated goals. That might be true for products with a relatively small number of producers and retailers such as paint, mattresses and mercury thermostats. These industries set up Paint Care, Bye Bye Mattress and the Thermostat Recycling Corporation to help them to meet their mandated goals.

Packaging is a different industry. It is far larger than those described above in terms of number of products, producers and retailers. If British Columbia has more than 1200 "obligated stewards", how many Connecticut businesses will be subject to extended producer responsibility for consumer packaging? Clearly 1200 companies can't meet together in one room. As a result, the collective is owned and managed separately from its individual "members".

The complexity of extended producer responsibility for packaging has long been recognized. The Product Policy Institute (now known as Upstream) once described extended producer responsibility as "simple in concept, complex in execution."

Two weeks ago we heard a very positive report about the British Columbia packaging and paper collective responsibility organization, Recycle British Columbia, from Alan Langdon of Recycle British Columbia and John Coyne, Chairman of the Board of both the Canadian Stewardship Services Alliance and Recycle British Columbia. Recycle British Columbia is the sole producer responsibility organization for packaging and printed paper. But who is it? The Canadian Stewardship Services Alliance says that it provides support services for Recycle British Columbia. But who owns each group. More importantly, what say do the 1200 "obligated stewards" have in Recycle British Columbia's operations? Their role is to pay their fees. I suppose the good news is that small businesses (defined by sales or tonnage of generated

packaging or printed paper) were finally exempted from becoming obligated stewards. At least some Connecticut businesses might be able to breathe easy.

But the bigger question is why just one organization? The answer given by Recycle British Columbia – and by the provincial Ministry of Environment – is that bigger is better. Bigger gives economies of scale and economical efficiencies. In fact, the Ministry rejected an application from a potential competitor in part over concerns about the impact of competition on the existing collective responsibility organization. Is Recycle British Columbia too big to fail?

The group is really a monopoly that controls all aspects of residential recycling in the Province. Yet if these efficiencies and economies of scale are so worthwhile, then why not have just one solid waste service provider in Connecticut? Why stop there? Why not just one bank or one grocery chain?

What is required of “obligated stewards”?

In British Columbia, a potential “obligated steward” is given a 90-page manual which it uses to learn if it is eligible to be obligated under the law, how to calculate its fees, and what products and packages are covered. If eligible, the company gets to sign a 17-page “voluntary agreement” designating Recycle British Columbia as its agent. Then it figures out which of its packages are covered, how to figure out the fee for those packages and how to keep that fee accurate. I would invite Task Force members to take a look at the manual and in particular how a company should figure out its fee and how to keep that fee accurate (see <http://guidebook.cssalliance.ca/wp-content/uploads/2015/12/Guidebook-for-Stewards-Part-2-Aug-2017.pdf>).

I don't know how much is involved in filling out a Connecticut business tax form, but I suspect it is only marginally more complicated than this fee assessment form.

This raises some obvious questions:

- What is the cost of figuring out the per-package data and filling out the report?
- What is the cost paid by British Columbia consumers? Recycled British Columbia has an \$80 million CN budget. This does not include the cost paid by British Columbia “stewards” to calculate those fees and to keep them accurate.
- Perhaps most importantly here in Hartford, what will be the cost to Connecticut businesses, consumers and taxpayers?

Is this how Connecticut wants to grow its economy?

Let's look at the goals extended producer responsibility for consumer packaging is supposed to meet and the issues DEEP wants to study

Will companies internalize environmental costs?

No, these fees will simply be passed on to consumers who won't know they are paying them. They are just a cost of doing business in British Columbia and will be a cost of doing business in Connecticut if the state chooses to impose this obligation on Connecticut businesses.

It is worth noting that paint, carpet and mattress companies believe the shown cost of recycling sends a signal to buyers that recycling is NOT free and that they have a financial stake in successful recycling.

Lower municipal costs?

Another myth of extended producer responsibility is that producers pay the full cost of recycling. In reality, because they now control recycling and have an understandable need to keep their costs as low as possible, the collective group will determine what it believes to be a "reasonable cost" of the collection and processing service and not pay a penny more.

The impact on municipal budgets depends on how a local government pays for recycling. The myth is that all Connecticut governments are bleeding tax money to pay for recycling. In fact, many local governments allow free market subscription services to provide this service. Those companies directly bill their customers. Tax dollars are not being used. Those local governments that use taxes to pay for these services are not likely to rebate any of that money to their residents. Instead, they are more likely to keep the money and let their residents pay twice: once as taxpayer and once as a consumer.

Moreover, we know from the presentation by Recycle British Columbia in the August 30 hearing, that local governments either continue to do their own collection and receive an "incentive fee" or they give up collection entirely and allow Recycle British Columbia's contractors to collect their recyclables. The incentive fee is calculated based on Recycle British Columbia's estimate of the "reasonable cost" of providing the recycling service, not a city's real cost. Yet when the program was being implemented, many cities complained the fee did not cover their costs (see <http://www.cbc.ca/news/canada/british-columbia/new-b-c-recycling-program-frustrates-municipalities-1.1856947>). In fact, the representative from the city of Vancouver noted during the August 30 hearing that the incentive fee his city was receiving was running \$4 million CN short of its real costs (he blamed this in part on union labor) and as a result allowed Recycle British Columbia to take over collection (the union workers were transferred to other jobs in the city).

Finally, the fee paid by all of those obligated stewards adds to the cost of their packaging. This extra cost is no different than a sales tax with its regressive impact on lower income citizens. Is this fair to Connecticut residents who are already struggling to make ends meet?

Local control?

As part of this Faustian bargain, local governments who hand over collection to Recycle British Columbia give up all control over trucks, time of collection, routes, etc. Those who accept the “incentive fee” will make up the difference between the fee and their true costs.

Green Design/Less Toxic

Reid Lifset of the Yale School of Forestry noted in his remarks in July that extended producer responsibility has not caused any changes in packaging design in Europe except for the elimination of secondary packaging (boxes) for toothpaste. Although Joachim Quoden of EXPRA stated in the July hearing that green design has succeeded in Europe, he failed to cite any examples.

In fact, market forces have caused significant green design in the United States. The total amount of packaging increased by 840,000 tons (1 percent) in the United States between 2000 and 2014. At the same time the per person amount of packaging decreased by 58 pounds (from 539 pounds to 481). This lightweighting of packaging includes significant savings in both materials and energy use and was driven by the desire of companies competing in free markets to reduce their cost and offer their customers a greener package.

As for toxic reduction, the Toxics in Packaging Reductions Laws, of which Connecticut is one of 19 states that enacted this law, outlawed the use of lead, mercury, cadmium and hexavalent chromium from packages. Similar laws have banned the use of mercury in automobile switches and thermostats. Those laws work.

60 percent diversion

According to Connecticut’s most recent municipal solid waste characterization study, only 15.2 percent of materials in the disposed MSW are recoverable (see Comprehensive Materials Management Strategy, page 44). Unfortunately, the data in the waste characterization study does not easily lend itself to a precise understanding of how much of that 15.2 percent is consumer packaging. Is it 200,000 tons? More? Less? (See the material categories in the 2015 Statewide Waste Characterization Study, Chapter 3, Statewide Waste Characterization Results, http://www.ct.gov/deep/lib/deep/waste_management_and_disposal/Solid_Waste_Management_Plan/CMMS_Final_2015_MSW_Characterization_Study.pdf). But the reality is that not all of those additional tons will be captured under an extended producer responsibility law for consumer packaging. The impact on diversion will not be significant.

In conclusion

The National Waste & Recycling Association does not have a knee jerk opposition to extended producer responsibility. It may work well for hard to recycle

products. It hopes a ray of hope in terms of sharps (needles) whose indifferent disposal causes numerous incidents every week in the waste and recycling industry. We would support an extended producer responsibility program for sharps that would include a transparent recycling fee on purchase, mandatory supply of a collection or mailback container upon purchase and does not pose a threat to any participants in the takeback chain.

As for extended producer responsibility for consumer packaging, what problem is Connecticut trying to solve? A one size fits all approach does not work for different products, yet extended producer responsibility is a rigid approach that imposes a bureaucratic strait jacket on recycling. Packaging is a particularly complicated area. While extended producer responsibility may well work for paint or mattresses, they are far less complicated products and industries.

Behavior change is crucial in making recycling work. People must learn a recycling ethic. Connecticut has succeeded in creating this ethic in single family housing in the majority of the state. Clearly more effort needs to be made in four of its largest cities. The state would do well to concentrate its efforts there. Like most states, multi-family housing remains a problem for recycling with much less of a recycling ethic. The state would also do well to concentrate its resources on multi-family housing.

Extended producer responsibility does not make packages greener or more recyclable. It does not improve the quality of recyclables delivered to end markets. It will not improve enforcement efforts in Connecticut's lagging cities. It will not lower the cost of recycling on either a per household or per ton basis. It will increase costs for consumers and taxpayers. It will create a monopoly that controls collection and processing of recyclables. It will not help improve Connecticut's existing economically efficient and effective recycling system.