



Retail Council of Canada  
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September 11, 2009

The Hon. Barry Penner  
Minister of Environment  
Parliament Buildings, Room 112  
Victoria, BC

**RE: British Columbia Recycling Regulation – Expansion of Electronics Category**

Dear Minister Penner:

On behalf of Retail Council of Canada (RCC), we are writing to follow up on our meeting we had with you and your staff that took place on August 31, 2009. As noted at the time, RCC is extremely concerned with the amendments to the province's *Recycling Regulation* concerning the expansion of the electronics products category.

As stated at that meeting – and in previous meetings (February 10, 2009) and in written correspondence (February 2 and July 15, 2009) – we wholeheartedly believe that the proposed list of products is too broad in scope, and that the proposed timelines are inadequate to develop and implement successful product stewardship plans, especially during such weak economic conditions where financial and human resources are severely limited.

We are writing to you to reiterate RCC's priority recommendations to ensure that the development of new electronic product stewardship programs will be viable for BC retailers. Simply put, the current situation is untenable and as such we strongly recommend that you immediately:

- 1. Remove the hard dates in the regulation requiring that plans be implemented by July 1, 2010. Instead, amend the regulation to provide producers a minimum of a 9-12 month implementation period from the date of program plan approval.**
- 2. Change the Regulation to provide an exemption for affected retailers to be allowed to continue to sell products for which stewardship plans have not yet been developed, approved or implemented.**

Extend Program Implementation Period

In our meeting, you acknowledged that the Regulation would be more practical if it provided an allotted time (ie. 9-12 months) for program implementation from the date of the Ministry's approval of the plan, as opposed to how it is currently written, which includes hard dates. In schedule 3 (Electronic and Electrical Product Category) section 3.1 of the Regulation it states that "A producer that wishes to be covered by Part 2 [Product Stewardship Plans] of this regulation on July 1, 2010... must submit, on or before January 1, 2010, a product stewardship plan."

By including hard dates in the Regulation (as per the above) the government has not only put industry in a difficult position of rushing plan development but has also put itself in a difficult position as it has not considered its own approval process.



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Due to the huge scope of the products obligated under the Regulation, your Ministry will receive multiple plans for approval (currently there are seven plans under development with more likely to follow), which, as per the regulation, have to be submitted by January 1, 2010 and implemented on July 1, 2010.

It will take a significant amount of time for your staff to review these multiple plans, and in some cases your staff will have to work with industry organizations who may submit plans that do not meet the requirements. This is quite likely to occur as several of the organizations involved are new to stewardship plan development, which is a very complicated process.

In short, six months is an inadequate amount of time for the Ministry to approve a plan and for that plan then to be implemented successfully. Without an amendment, the time for implementation will be sacrificed to the time required for approval.

Furthermore, it is worth noting that by including hard dates in the Regulation the Ministry has reversed the precedent set for plan development and implementation with phase 1 electronics. With the first phase, industry was provided with 12 months to develop a plan and then 12 months to implement the plan from the date of approval. The timeline the government provided was reasonable and recognized the significant undertaking of developing a program for these materials. Today's ESABC program has successfully and responsibly diverted over 20,000 metric tonnes of designated electronic from landfills – representing one of the highest rates of electronic waste diversion in North America in just over two years. Part of the success of this program is attributed to having been given appropriate and reasonable timelines.

### Exemption for Retailers

The definition of “Producer” in the Regulation is based on a hierarchal approach in that if the brand owner (manufacturer) is not located in the province it is the first seller or importer (retailer) who will be obligated.

As the sellers and importers of designated products, and the touch point for both consumers and manufacturers, retailers are certainly a fundamental stakeholder in the development and implementation of recycling programs. And while we accept and understand our role in complying with the Regulation we are also the ones who are ultimately responsible for products, which we do not manufacture, if the producer fails to take responsibility for their product. This places us in a uniquely demanding position. We were encouraged during our meeting that you acknowledged and understood retailers' unique role in not being the manufacturer but being the obligated party by default.

We believe that the regulation must provide an exemption for retailers to be allowed to continue to sell products for which stewardship plans have not yet been developed. Currently, no stewardship plan is under development for either fitness equipment or toys because the Ministry has not been successful in working with the manufacturers responsible. As a result, the regulation as currently written would require that retailers stop importing and selling these products as of July 1, 2010. As you can appreciate, this outcome is unworkable and unrealistic.

RCC is prepared to assist the Ministry and other stakeholders in the development of stewardship plans. However, given the time that has elapsed and the short time frame available for plans to be developed and implemented, something needs to be done to make sure these products can remain on store shelves.



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Therefore, we are recommending that you change the regulation to provide an exemption for retailers to be allowed to continue to sell products for which stewardship plans have not yet been developed, approved or implemented.

RCC and our members appreciate that you have taken the time to hear our concerns and we believe that by accepting our recommendations you will be able to turn the currently unworkable situation in a successful one.

We look forward to your response once you are able to determine how quickly these regulatory changes can be made.

Sincerely,

A handwritten signature in black ink that reads 'Rachel Kagan'.

Rachel Kagan  
National Director, Environmental Affairs

A handwritten signature in black ink that reads 'Max Logan'.

Max Logan  
Director, British Columbia

cc: Lynn Bailey, Assistant Deputy Minister, BC Ministry of Environment  
David Ranson, Director - Environmental Quality Branch, BC Ministry of Environment  
Lisa Braman, Ministerial Assistant, BC Ministry of Environment  
David Lawes, Section Head - Industry Product Stewardship, BC Ministry of Environment  
Teresa Conner, Environmental Management Analyst, BC Ministry of Environment  
Joyce Thayer, Executive Director, Electronic Stewardship Association of British Columbia  
Christa Copeland, Environmental Affairs Analyst, Best Buy Canada  
Clint Mahlman, Vice-President, Retail Operations, London Drugs  
RCC Environment Committee