



Retail Council of Canada

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Laurie Streich
Director, Pollution Prevention Branch
Manitoba Conservation
106-123 Main Street
Winnipeg, MB R3C 1A5
Via E-Mail: Laurie.Streich@gov.mb.ca

RE: RCC Comments on Draft Guideline for Electrical and Electronic Equipment Stewardship

Dear Ms. Streich:

On behalf of Retail Council of Canada (RCC) and its members operating in Manitoba, I am writing to provide comments on the *Draft Guideline for Electrical and Electronic Equipment Stewardship*, as per the stakeholder consultation session RCC participated in on March 15, 2010.

RCC has been the Voice of Retail in Canada since 1963. We speak for an industry that touches the daily lives of Canadians in every corner of the country – by providing jobs, career opportunities, and by investing in the communities we serve. RCC is a not-for-profit, industry-funded association representing more than 40,000 store fronts of all retail formats across Canada, including department, specialty, discount, and independent stores, and online merchants.

The retail industry is one of the most competitive and vibrant sectors of Manitoba's economy, creating over \$14.9 billion in 2009. With over 6,800 establishments in Manitoba, the retail sector reaches every corner of the province. Employment in the retail sector represents 11 per cent of the province's total employment, directly employing over 640,000 citizens. The contributions made by this economic sector are felt in every corner of the province and affect the lives of all residents.

Retailers, as the sellers of designated products and the touch point for both consumers and manufacturers, have a significant stake in the development of stewardship programs. Currently, RCC's members are active participants in over 40 such programs across the country and will be called upon to expand their role as new ones are developed. RCC and its members are committed to waste diversion as a whole.

RCC has been actively participating in the government's consultations on the development of the Regulations and Guidelines for Electrical and Electronic Equipment since 2006. We appreciate the opportunity to provide our comments on the latest Draft Guidelines, which has significant implications for small and large retailers across the province. The following represents the initial thoughts of retailers, which may be added to and/or refined as further discussion and consultation takes place.

Program Plan Development and Implementation Timing

Section 21 (2) of the *Electrical and Electronic Equipment Stewardship Regulation (17/2010)* states that section 3 of the Regulation – which stipulates that “no person shall supply designated material for consumption unless the steward of the designated material operates or subscribes to an electrical and electronic equipment stewardship program” – comes into force on April 1, 2011.

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By including a hard date in the Regulation, affected industry stewards who are responsible for the development and implementation of plan(s) for designated materials are now severely constrained.

In RCC's submission to Manitoba Conservation on the then proposed e-waste Regulations (dated November 13, 2007), we recommended the following timeframe:

A program plan for Electrical and Electronic Equipment must be submitted for approval to the Minister within 12 months of the date this Regulation comes into force. Following that, the plan must be implemented within 12 months from date the Minister approves the Electrical and Electronic Equipment waste stewardship program plan.

However, for reasons that have never been provided, our recommendation was not accepted and now we are in a position of having an extremely limited amount of time to develop a plan.

Retailers have expressed concerns in other jurisdictions with the extraordinarily quick pace that governments have allocated for the development of product stewardship programs, and this is no exception. Retailers require ample time and opportunity to fully digest any program plan, budget for it, and take the necessary steps to prepare their respective organizations for compliance with the program. This is compounded by the fact that retailers are engaged in the development of other stewardship programs, which can leave them resource challenged. Below is a list of just some of the activities that need to be completed in order to meet the government's aggressive timelines:

- (a) Affected industry stewards to provide comments to Manitoba Conservation on Draft Guideline
- (b) Manitoba Conservation to finalize and release Guideline
- (c) Develop program plan(s)
- (d) Incorporation of industry steward group(s)
- (e) Consultation with stakeholders on draft plan(s)
- (f) Consideration of feedback received from consultation and make any necessary changes to plan(s)
- (g) Industry steward group(s) finalize plan(s)
- (h) Submission of program proposal(s) to the Minister of Conservation
- (i) Manitoba Conservation posts program plan(s) for 28-day public consultation period
- (j) Minister of Conservation decision on program plan(s) approval(s)
- (k) Industry steward group(s) work with stakeholders and government on program implementation
- (l) Registration of stewards for new program(s)
- (m) Program(s) launch

Item (j) is particularly concerning as the government approval process is unclear. At the March 15th information session, Manitoba Conservation officials stated they have allocated one month for plan approval. However, the government took three months to approve the Packaging and Printed Paper program. Each day that the government delays program approval, it shortens – and potentially jeopardizes – implementation.

Further that, the government should consider that they may have to approve multiple plans as it is extremely unlikely that one industry group will come forward with a plan covering all 16 of the designated materials.

The government's proposal is that plans are due August 3, 2010 (as per the current Draft Guidelines), with a launch on April 1, 2011, thereby allotting less than 8 months for implementation of multiple programs. Not to mention that the Household Hazardous Stewardship Program(s) will also be launching at the same time, which places our members who sell both electronics and household hazardous materials in an untenable situation, as they will have to prepare their organizations for compliance with multiple programs expected to be launched all at the same time. Retailers require ample time and opportunity to fully digest new program plans, budget for them, create or make changes to their internal systems to track the designated products that they will have to report on and all the other activities that retailers do to ensure they are ready to comply with

such new programs. Further, it appears that these timelines have not taken into consideration the government's own approval process, or the time needed to work with industry plans that do not meet requirements of the Regulation.

RCC recommends that the Draft Guideline be amended to allow for phasing of the designated products and further, to include a timeframe for the government approval process. RCC recommends the following be added to the Guideline:

- *That Phase 1 of the program include the following materials: televisions; computers; monitors; printers; audio/video systems; digital cameras; and non-cellular phones.*
- *That a plan for Phase 1 be submitted to Manitoba Conservation by August 31, 2010*
- *That program plan approval be expected by government no later than September 30, 2010*
- *That the remainder of the designated materials (cell phones, microwave ovens, facsimile machines, and photocopy machines) be permitted to be phased in by April 1, 2012.*

Environmental Fees

RCC's industry-wide position is that it is each individual retailer's decision on how they wish to manage environmental fees (also referred to as "environmental levies", "eco-fees" and "environmental handling fees" in other jurisdictions) associated with provincial product stewardship programs. Retailers require flexibility to determine what works best for their business model on how they wish to manage and display the fee (ie., visibly as a separate line item on the sales receipt; hidden or imbedded within the final selling price; or to absorb the cost wholly).

As such, RCC and its members do not support clause B (4) in the Draft Guideline which states that "fees, if any, will be set and collected under an approved program plan and integrated into the price of the product communicated to the customer, unless otherwise approved by the Minister".

Some stewardship programs (e.g., New Brunswick's paint recycling program) have been designed to require retailers to bury the eco-fee within the final selling price of a product, thereby, hiding the costs from consumers. RCC has analyzed the consequences of such practices on retailers and identified a number of serious impacts on them including but not limited to:

- Retailers who lease their premises **pay more rent**: rent is based on gross sales, which increase as prices are increased to cover stewardship program costs. This is a particularly troubling concern for small independent merchants.
- **Higher advertising costs** are incurred for national or regional retailers who must produce separate production runs with province-specific pricing.
- Some national and regional retailers have **information systems that cannot be configured for higher prices** in a given province for the same product.
- Product prices in the province may become **inflated** as a result of the mark-ups that occur along the supply chain **driving business out of the province** to neighbouring jurisdictions where the advertised price of a product is lower because there is not an imbedded fee.

Supply chains are complex. Products come to market through a variety of channels, different for every retailer depending on their business practices. Mandating hidden fees has effects across the supply chain, typically resulting in increased costs for consumers; much more than if the retailer chose to add the fee visibly as a separate line item on the sales receipt.

Since most supply chain fees are based on product cost, weight, cube and handling requirements, among other things, adding the fee at the beginning (as would be done if the fee had to be hidden) increases the cost throughout the supply chain as illustrated in the example below (for illustrative purposes only).

Using product costs and 10% handling fees at each level of the supply chain (column 1), paint as the example and assuming a \$20 manufacturer cost and a \$1 eco-fee, the below chart is an example of the impact on the final total cost of the product using a hidden fee (column 2) and showing it visibly as a separate line item (column 3):

(1)	(2)	(3)
Supply Chain Process/Costs	Hidden Fee Example	Visible Fee Example
Manufacturer Cost	\$20	\$20
Eco-Fee	\$1	--
Transportation to warehouse	\$2.10 (based on above cost + eco-fee)	\$2.00 (only based on manufacturer cost)
Transportation to retailer	\$2.31	\$2.20
Retailer mark-up	\$2.54	\$2.42
Eco-Fee	--	\$1
Sales Tax (assuming 13%)	\$3.63	\$3.59
TOTAL	\$31.58	\$31.21

The above example illustrates that adding the fee at the beginning of the supply chain because of mandated hidden fees, results in a higher total cost for the product by the time it gets to the consumer. Whereas, separating the fee at point-of-purchase results in a lower cost.

Furthermore, retailers believe that the transparency of program costs provides an important opportunity to educate consumers about a stewardship program, and hence encourage their participation. If a stewardship fee on a product or package reflects the true cost of managing that end-of-life product or packaging, the consumer has the ability to make sustainable purchasing decisions.

Numerous studies/surveys have been conducted on the benefits of visible fees, including but not limited to the following:

- In January 2009, Harris/Decima conducted a study on Quebecers' attitudes regarding eco-fees associated with recycling electronic products. The results show that 75% of respondents believe that retailers should display the eco-fee separately from the price of the product. Further, most respondents (86%) would like to see the eco-fee indicated on the sales receipt (ie. as a separate line item).
- In December 2008, the European Commission published proposals for amending the WEEE Directive, in particular, as it relates to the visibility of fees. It is being proposed that producers would be allowed to show consumers at the time of purchase, the cost of collection, treatment and disposal of products in an environmentally sound manner, without a time limitation and for all electronic and electrical equipment, if approved. (Source: Proposal for a revised directive on waste electrical and electronic equipment. December 2008. Online. <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2008:0810:FIN:EN:PDF>).
- In June 2008, the Alberta Recycling Management Authority (ARMA, who operates Alberta's recycling programs) issued a news release entitled "A Major Milestone is Achieved by Canada's Oldest Electronics Recycling Program" with a quote from Doug Wright, ARMA's CEO, that says: "In surveys commissioned by Alberta Recycling, more than 90% of Albertans support the program which is funded by an environmental fee being charged at the point of purchase of new TV's, computers and printers."

Past ARMA surveys confirm this support for visible fees: In ARMA's 2005-2006 Annual Report, results from a 2005 survey that showed that over 60% of Albertans support the environmental fee for recycling electronics and nearly 70% support the environment fee added to the purchase of new tires.

- In 2008, Ipsos Reid conducted a research study of British Columbia's *Return-It Electronics* program. According to the study, 60% of those surveyed know that they now pay an environmental handling fee when they purchase new electronics products and that 100% of the fee is used to help pay for the system to recycle both new and old products.

It is important to realize that all other provinces (except New Brunswick) have chosen to remain silent in their stewardship legislation regulations on the issue of prohibiting visible fees. Existing electronics recycling programs in British Columbia, Alberta, Saskatchewan and Nova Scotia are silent on how environmental fees are managed, displayed and communicated to the consumer. In fact, the Government of Nova Scotia originally intended to mandate hidden fees when they added electronic waste to their *Solid Waste-Resource Management Regulations* but after consulting with affected industry stakeholders they reversed their decision and decided to remain silent on how fees are managed in their regulation, recognizing that this is a business decision, not a government decision.

RCC supported the language originally used in the Draft Guideline dated October 10, 2007 which stated that: "Fees required to support the implementation of an approved program plan will be set within an approved program plan and collected from product stewards. Stewards are responsible for informing consumers of how the program is funded."

RCC recommends that section B (4) of the current Guideline be amended to reflect the original 2007 language as per the above. Failing that, section B (4) should be deleted from the Guideline.

Conclusion

Thank you for the opportunity to provide our comments on the *Draft Guideline for Electrical and Electronic Equipment Stewardship*. Retailers are willing partners, but need flexibility. We have already partnered with Electronic Product Stewardship Canada (EPSC) and formed a working group of our collective members to begin preparations for plan development of our proposed Phase 1 materials. We believe that our recommended changes to the Draft Guidelines will allow for the development of a successful waste diversion program for electronics. If you require any further information or clarification, please do not hesitate to contact me at (888) 373-8245.

Sincerely,



Rachel Kagan
National Director, Environmental Affairs

cc: Jana Schott, Project Manager, Community & Economic Development Committee of Cabinet
Jim Ferguson, Manager, Municipal & Business Programs, Manitoba Conservation
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