

April 25, 2019

Representative Amy Sheldon
Chair, House Committee on Natural Resources, Fish and Wildlife
115 State Street
Room 47
Montpelier, VT 05633

**Re: CTA Comments on S.113 – An Act Relating to the Management of Single-Use Products -
OPPOSE**

Dear Chair Sheldon and Members of the House Committee on Natural Resources, Fish and Wildlife,

The Consumer Technology Association™ (CTA) respectfully submits these comments to express our concerns and opposition regarding Senate Bill 113 (S.113) which establishes the Single-Use Products Working Group that is tasked with examining extended producer responsibility for single-use products.

CTA is the trade association representing the U.S. consumer technology industry, which supports more than 15 million U.S. jobs. Our membership includes more than 2,200 companies – 80 percent are small businesses and startups; others are among the world’s best-known manufacturer and retail brands. Our members have long been recognized for their commitment and leadership in innovation and sustainability, often taking measures to exceed regulatory requirements on environmental design, energy efficiency, and product and packaging stewardship.

CTA supports Vermont’s interest in identifying and evaluating additional opportunities for the management of single-use products in the state. Since packaging is part of the single-use products definition outlined in S.113, it is vital to the conversation to acknowledge the important role that packaging plays in delivering a product whether it is protecting a high value electronic device from damage or preventing theft of small electronic devices from retail store shelves. Single-use products and packaging as a part of the waste stream is a complex issue involving many independent stakeholders without a single, simple solution. With this in mind, CTA has the following concerns with S.113 regarding the establishment of the Single-Use Products Working Group.

Aspects of the Single-Use Products Working Group may have unintended consequences or are not appropriate. There are several items of concern related to Section 2 establishing the Single-Use Products Working Group. First, in the definition, it is unclear what products would be covered under the definition of “single-use”. This primarily stems from the circular nature of the definition where “other...single-use products” is used to define “single-use products”. It is also unclear if the focus is on consumables only or is intended to be broader in nature. This definition should be revised to understand exactly what the Working Group is focused on in order for recommendations to be applicable.

Second, the membership of the Working Group does not provide sufficient representation to industry. Manufacturers whose products fall under the “single-use products” definition are given one membership slot. Those manufacturers directly impacted by the recommendations of the Working Group must be adequately represented. Representation from manufacturers should also cover a variety of single-use product types along with various material types (e.g., plastics, fiber, metals, etc.). The waste and recycling community in Vermont is provided three membership opportunities (one from a single-stream materials recovery facility and two from solid waste management entities). Similar deference should be given to manufacturers (through an association or group representing manufacturers) of single-use products as a key stakeholder impacted by the Working Group recommendations.

Third, extended producer responsibility (EPR) is the only policy solution explicitly listed for improving the lifecycle management of single-use products. It is unclear why EPR is the only policy option outlined when other policies exist including Pay-As-You-Throw, advanced fee systems, voluntary manufacturer-funded programs (e.g., Closed Loop Fund, The Recycling Partnership), etc. The Working Group should evaluate all policy options and not be pre-disposed to one specific outcome which the current language of S.113 in Sections 2(d)(6) and 2(d)(7) sets the Working Group up to assess. CTA’s concerns with the challenges and unintended consequences of EPR programs are outlined below.

Fourth, less than six months for no more than six meetings is an insufficient time for the Working Group to complete all of the analyses required. The Working Group will need to hear from experts within industry, the waste and recycling community, local governments, etc.; conduct assessments (e.g., a waste characterization study, cost and benefit estimates, etc.) that may require third party resources; etc. Given that no comprehensive single-use products program exists anywhere in the world (when utilizing the broad nature of the single-use product definition found in S.113), it is ambitious at best to conduct and produce a thorough report examining all of the topics outlined S.113 within such a short timeframe.

Lastly, an updated waste characterization study examining the prevalence and type of single-use products entering Vermont’s waste stream is one evaluation area that is missing from the “powers and duties” outlined in Section 2(d). Until such a characterization is completed, recommendations will lack a data driven component on which sound policy should be established.

The Working Group approach outlined in Section 2 is insufficient to thoroughly examine and evaluate policies or requirements that Vermont should enact to improve the statewide management of single-use products. CTA has serious concerns with the ability of the Working Group to effectively assess all policies within a short timeframe potentially resulting in predisposing the Working Group to recommend EPR as the only policy solution for single-use products in Vermont.

Connecticut determined that EPR was not the right approach to managing and reducing packaging. Vermont is not the first state to examine EPR for single-use packaging (which is part of the definition of “single-use products” under S.113). The state of Connecticut established a Task Force to Study Methods for Reducing Consumer Packaging that Generates Solid Waste in 2016. The Task Force, on which I was honored to serve as a member, released its recommendations in February 2018 after a year of stakeholder meetings, expert testimony, and public comments.¹ The final report of that Task Force did not recommend

¹ The Final Report of the Connecticut Task Force to Study Methods for Reducing Consumer Packaging that Generates Solid Waste can be found under the “Final Report” section of the “Meetings” portion of the Connecticut General Assembly website at https://www.cga.ct.gov/env/taskforce.asp?TF=20170216_Task%20Force%20to%20Study%20Methods%20for%20Reducing%20

product stewardship as a means of reducing consumer packaging that generates solid waste in Connecticut. The justifications outlined by the Task Force included concerns over the creation of a recycling monopoly through a product stewardship organization, pushing Connecticut recycling firms out of business, giving up local control of collection systems, and forcing higher costs on the collection and recycling system as a whole. There was also acknowledgement among the Task Force members that a state-by-state approach would not achieve the results touted under packaging EPR programs in other countries.

The Task Force spent significant resources to thoroughly examine EPR (or product stewardship) as a potential policy option for managing packaging material through an open and transparent process. Every member of the Task Force, excluding the member representing the Connecticut Department of Energy and Environmental Protection (DEEP), was appointed by a member of the Connecticut Legislature as an expert from their respective field. As a Task Force member, I spent significant time researching various policy options, including product stewardship, for managing packaging; preparing questions for experts that came before the Task Force; and doing follow-up research post-Task Force meetings.

As a Task Force member, I had raised specific concerns surrounding the potential economic impact and costs of an EPR program. My concerns, as expressed in my [final recommendations](#) to the Task Force, included:

- No full analysis was provided on the costs associated with a product stewardship system for Connecticut nor was there an understanding of cost savings, if any, to municipalities.
- The full cost of the current system was unknown. This made it difficult to understand if a product stewardship program would achieve increased efficiencies or create economies of scale.
- Other industries currently complying with product stewardship laws (e.g., paint, mattresses, carpet) stressed that showing costs to consumers sends the signal to the buyer that recycling is not free. By paying a visible fee, those consumers are now part of the recycling chain to build a recycling ethos versus the hidden fees captured under product stewardship programs.
- Pay As You Throw (PAYT) was not implemented across Connecticut. During the August 30, 2017, Task Force meeting, presenter Joachim Quoden, Managing Director of the Extended Producer Responsibility Alliance (Expra) in Europe, noted that PAYT is an economic incentive that must be in place in order for product stewardship for packaging to be successful.

Similar issues must be addressed and overcome in Vermont before moving forward with an EPR. Again, CTA raises concerns that the Working Group is predisposed to EPR as the ultimate policy solution given the language currently found in S.113.

A state by state approach to EPR is not efficient and lack of market forces could negatively impact the recycling system in Vermont. For more than a decade, the consumer electronics industry has implemented and complied with state-level EPR laws for electronics in Vermont and 24 other jurisdictions. This patchwork of laws, each one varying in scope, has proven costly and inefficient across jurisdictions as the electronics industry has spent over \$1 billion complying with these various state laws over the past six years alone. CTA strongly cautions against a state-by-state approach especially for single-use products which is a much larger, more complex waste stream with a larger number of responsible producers.

[Consumer%20Packaging%20that%20Generates%20Solid%20Waste](#). Additional meeting documents including presentations, written comments and meeting notes can also be found under the “Meetings” portion.

Based on the electronic industry's experience, EPR programs often have the unintended consequence of putting extreme pressure on local recycling markets. These adverse effects on local markets have had a negative impact on the long-term sustainability of local recycling jobs around the country. Local governments must typically surrender their control over their collection and recycling system. EPR creates structures that operate outside the normal market influences, resulting in winners and losers being chosen by the product stewardship organization and leaving all others unable to operate outside the system.

Ultimately the lack of market forces in an EPR program leads to higher costs for the collection and recycling system. Based on the consumer electronic industry's experience with Vermont's EPR program for electronics, the Vermont program has one of the highest per pound program rates in the country. The Vermont system for electronics is not market based - the Department of Environmental Conservation (DEC) has sole control over selecting the program administrator and recyclers under the State Standard Plan; DEC approves the price for recycling based on submitted applications, not market pricing; and then the program bills manufacturers at non-competitive rates blessed and mandated by the state. The Vermont collection infrastructure for electronics is some of the costliest in the U.S. with no incentive for collectors to strive toward efficiencies. EPR does not always equate to an efficient or effective system.

EPR programs do little to change consumer behavior. EPR is not free. Where manufacturers can, consumers end up paying for recycling through the cost of the products they purchase plus premium markup as products move through distribution and retail channels. One concern is that, through EPR, consumers are not engaged to actively participate and understand the recycling system. The collection, transportation and recycling of single-use products costs money. Hidden fees and inevitable distribution chain markups send the wrong message to consumers that single-use product recycling is "free" and does nothing to create the ethos needed to support a robust consumer recycling program or change consumer purchasing behavior. This consumer ethos and the need for cost transparency is especially important as society moves toward consumers managing more of this waste stream at their home.

Many consumer technology manufacturers already utilize innovative and sustainable packaging. Consumer technology manufacturers take a deliberately innovative approach to their packaging design choices – voluntary decisions and programs that yield environmental benefits. As highlighted in CTA's 2017 Sustainability Report, the technology industry has made significant improvements in packaging design including the use of unconventional, renewable resources such as mushrooms, wheat, and molded paper pulp; reductions in material use and increases in the use of recycled content packaging; and redesign of packaging to create more easily recycled packaging at the curb.² These efforts are driven by industry innovation and efforts to reduce environmental impact, not by government mandated approaches.

Manufacturers of consumer technology need flexibility in choosing appropriate materials for packaging their products to avoid situations that cause product breakage and damage during transport (which ultimately increases the lifecycle impact of the product) as well as to deter theft of smaller, high value electronics from retail establishments. S.113 would increase costs for the industry thereby limiting the available resources for companies to invest in innovative and sustainable packaging solutions. A combination of voluntary initiatives and market forces encouraging more efficient packaging is already driving significant packaging design and reduction efforts without the costly burden of an EPR system.

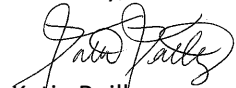
² Consumer Technology Association. "2017 Sustainability Report". Available at <https://www.cta.tech/Sustainability-Report/resources.aspx>.

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Conclusion: CTA appreciates the opportunity to provide comments on S.113 and asks the House Committee on Natural Resources, Fish and Wildlife to oppose. A comment by Joachim Quoden, Managing Director of the Extended Producer Responsibility Alliance (Expra) in Europe, during his presentation to the Connecticut Task Force sums up CTA's thoughts on S.113. Mr. Quoden stated that all stakeholders in the value chain must agree on the program to avoid undermining of the product stewardship system. The Working Group is not set-up to ensure appropriate representation by the necessary stakeholders especially given it is predisposed to EPR as the policy solutions without analyzing all policy options that exist for managing single-use products.

CTA welcomes further discussion with the Committee and other stakeholders. Please do not hesitate to contact me with any questions or requests for additional information.

Sincerely,



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