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Single-Use Products Working Group

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Comments to the Vermont Single-Use Products Working Group

The Consumer Technology Association™ (CTA) appreciates the opportunity to address the Vermont Single-Use Products Working Group. CTA supports Vermont's interest in identifying and evaluating additional opportunities for the management of single-use products in the state, including packaging. Packaging as a part of the waste stream is a complex issue involving many independent stakeholders without a single, simple solution.

CTA is the trade association representing the U.S. consumer technology industry. Our members are the world's leading innovators – from startups to global brands – helping support more than 18 million American jobs. CTA owns and produces CES® – the largest, most influential tech event on the planet. 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.

Technology Industry Packaging Considerations

It is vital to this discussion 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. There are four major areas of consideration that CTA's members take into account when designing packaging. Companies are focused on finding the right balance between all four of these considerations.

- **Product Protection:** Packaging needs to protect the high value goods that companies are delivering. Everything from servers for businesses that cost tens of thousands of dollars to the

new laptop purchased for at-home use. The most important aspect of packaging for consumer technology is that it truly protects these high value durable goods. There are several packaging protection and transport standards that our companies adhere to on a worldwide scale including International Safety Transit Association (ISTA) certified packaging and National Motor Freight Traffic Association (NMFTA) approved packaging. The goal is that the product can be shipped through the entire distribution chain without damage.

Additionally, product protection also incorporates the consideration of theft in the retail setting. When dealing with smaller, high value consumer technology items, CTA's members work with retailers to ensure that packaging is designed in a way that deters theft.

- **Availability and Cost:** Traditional consumer product good companies typically work off regional manufacturing which may provide advantages in distribution as well as access to materials for packaging. With consumer technology, manufacturing typically occurs in one location and, from there, products are distributed. As such, the availability of packaging material in the manufacturing location becomes an overarching factor combined with cost.
- **Customer Preference:** For electronics, consumers still look at the box to compare what is offered by one product versus another. There is a marketing aspect to packaging that is also part of the consideration process for packaging designers and packaging engineers.
- **Sustainability:** Over time, consumer technology products have gotten lighter and smaller meaning, in general, the industry is using less packaging overall. In addition, many companies have goals to make their packaging more sustainable – whether that's sustainably sourced materials, recyclability and compost goals, or GHG reduction goals.

Packaging plays an important role in reducing the environmental cost that occurs when products are damaged. Damaged goods can have 2x minimum the environmental costs from a carbon footprint standpoint. As such, it's important to look at product protection and sustainability together.

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.¹ These efforts are driven by industry innovation and efforts to reduce environmental impact, not by government mandated approaches like extended producer responsibility programs.

Consumer Technology Experience with EPR

For more than a decade, the consumer electronics industry has implemented and complied with state-level extended producer responsibility (EPR, or alternatively referred to as product stewardship) 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 well over \$1 billion

¹ Consumer Technology Association. "2017 Sustainability Report". Available at <https://www.cta.tech/Sustainability-Report/resources.aspx>.

complying with these various state laws. CTA strongly cautions against a state-by-state approach especially for packaging material, which is a much larger, more complex waste stream with a larger number of responsible producers.

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. Additionally, 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. This is a pattern we see in similarly structured programs across the U.S. Additionally, EPR programs in other states have approved recyclers that have since gone out of business and abandoned cathode ray tube (CRT) glass stockpiles. EPR does not always equate to an efficient or effective system.

Proponents of EPR argue that programs lead to product redesign. The consumer technology industry has seen EPR for electronics fail to drive design for the environment. Progress on this front has been the result of product innovation; consumer demand and preference; and company commitments to reduce hazardous materials. A recent study from the Rochester Institute of Technology's (RIT's) Golisano Center for Sustainability, with support from Staples and CTA, found that while the number and type of consumer electronic devices sold have increased, net material consumption has declined to levels not seen since the early 1990s. RIT also reported the use of materials of concern, such as lead and mercury, has declined significantly in the manufacturing of tech devices even while the overall material profile has remained relatively steady.² These achievements are driven by industry innovation and advancements, not by manufacturers paying to support collection and recycling programs across multiple jurisdictions.

Lastly, product stewardship programs do little to change consumer behavior. Product stewardship 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 product stewardship, consumers are not engaged to actively participate and understand the recycling system. Collection, transportation and recycling costs money. Hidden fees and inevitable distribution chain markups send the wrong message to consumers that packaging 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

² Babbitt, Althaf, & Chen. "Sustainable Materials Management for the Evolving Consumer Technology Ecosystem. Summary Report of Phase 1 Research." July 2017. Available at: <https://www.rit.edu/gis/ssil/docs/Final%20Report%20SMM%20Phase%201%202017.pdf>

especially important as society moves toward consumers managing more and more packaging waste in an E-Commerce environment.

Connecticut Task Force Examining EPR for 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.³ The Task Force structured its meetings to hear from various stakeholders including meetings focused on representatives from local governments; industry (packaging producers, trade associations, and product manufacturers); the NGO community; EPR programs in Canada and Europe; and the waste and recycling community (both national and local). Testimony focused on the impacts of EPR and other alternative program and policy options for managing and reducing packaging.

The final report of that Task Force did not recommend 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 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

³ 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%20Consumer%20Packaging%20that%20Generates%20Solid%20Waste. Additional meeting documents including presentations, written comments and meeting notes can also be found under the “Meetings” portion.

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.

- While acknowledging that an EPR system for packaging could theoretically have the potential to incentivize improved design in different manners (e.g., modulated fee structures), Chairman Bell noted in the September 13, 2017, meeting that EPR in “...Connecticut alone will not have an impact on design because it is less than X percent of the country.” The same argument can be made for Vermont. As noted above, a state-by-state approach will not achieve the expected results seen elsewhere.

Similar issues must be addressed and overcome in Vermont before moving forward with an EPR program. CTA is concerned that the Working Group is predisposed to EPR as the ultimate policy solution without exploration of alternative policy options.

Conclusion: CTA appreciates the opportunity to provide comments to the Working Group. Another comment by Joachim Quoden during his presentation to the Connecticut Task Force sums up CTA’s thoughts on EPR for single-use products, specifically packaging, in Vermont. Mr. Quoden stated that all stakeholders in the value chain must agree on the program to avoid undermining of the product stewardship system. It is unclear if all stakeholders, which includes industry, are in agreement that product stewardship is the right solution for Vermont.

Sincerely,



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