



June 12, 2024

The Honourable Andrea Khanjin
Minister Environment, Conservation and Parks
5th Floor, 777 Bay Street
Toronto, Ontario
M7A 2J3

Sent via email to minister.mecp@ontario.ca

Dear Minister Khanjin,

Our organizations have advocated for years in support of Ontario's transition to full Extended Producer Responsibility (EPR), including the "blue box" program for printed paper and packaging. Full EPR provides opportunities to improve waste reduction, recycling and reuse for waste collected from households, businesses and institutions. However, we have cautioned repeatedly that these outcomes will only be realized with effective regulation.

Legally-binding environmental outcomes together with individual producer liability are fundamental pieces of Ontario's EPR regulation. Without them, the province's recycling and diversion rates will continue to stagnate and decline. As a result, municipalities will continue to subsidize poor performance through the provision of waste management services and litter abatement while the environmental costs continue to be borne by Ontario residents.

Ontario's EPR regulations must therefore ensure environmental outcomes and include strong accountability measures for individual producers who place Blue Box material on the market. Additionally, and crucially, they must not facilitate producers passing the costs of recycling on to consumers via environmental handling fees, or "eco-fees."

The EPR regulations in Ontario must:

1. Set and enforce high management targets that increase over time. At a minimum, targets that apply to the Blue Box today must remain in force as they are in the Blue Box regulation today: no backsliding.
2. Continue to hold each producer liable for meeting those targets, preventing liability transfer to Producer Responsibility Organizations (PROs).
3. Expand the requirements to collect across the province from every eligible residential source to include Industrial, Commercial and Institutional sources (as in Quebec and several US jurisdictions).
4. Require producers to internalize the costs of managing their materials: no eco-fees.
5. Ensure the Resource Productivity and Recovery Authority (RPRA) has independent regulatory, oversight and enforcement powers to ensure producers meet the requirements of EPR regulations.

Our organizations are deeply concerned by Retail Council of Canada's (RCC) advocacy for a provincially sanctioned, non-competitive monopoly PRO (i.e. the now defunct Stewardship Ontario) and plan-based approach, which would undermine the principles and effectiveness of EPR in Ontario.

Legally-binding environmental outcomes, and their enforcement is a key principle of effective EPR. Material management targets should be set in regulation by the government, not proposed in a plan by the producers subject to those same targets. In jurisdictions that use a plan-based approach, such as BC, targets are not set in regulation which makes enforcement near impossible. That is why we object wholeheartedly to the efforts by some stakeholders/producers to shift Ontario to a plan-based approach.

Individual producer liability is a key principle of effective EPR. Producers and retailers have been pushing for a non-competitive monopoly PRO and a plan-based approach that would eliminate individual liability and any incentive for producers to reduce their waste. The current individual producer liability approach is crucial as it holds producers directly responsible when they don't meet regulated performance

outcomes, and ensures producers pay the full cost of non-compliance. It also enables greater transparency, allowing the public to know which companies have failed to meet their legal obligations.

Effective EPR requires that producers internalize the costs of managing their materials, and do not pass those costs on to consumers via eco-fees.

Without a prohibition, a monopoly PRO would be in the position to set eco-fees. Eco-fees disincentivize innovation, investment and product redesign, because producers are no longer paying to manage their products and packaging – consumers are. The costs of recycling or reuse must be borne by business, like any other cost of manufacturing. What's more, Ontarians will perceive an eco-fee as a tax, as they did in [2010 during the eco-fee scandal](#), and when a [beverage container fee](#) was proposed last year.

RPRA must have the power to enforce regulations by ensuring all producers of designated materials register, report and verify the quantities of designated materials they supply, collect and recycle in Ontario, and by making this data publicly available. Producers must not succeed in undermining RPRA's authority, or seek to starve it of the resources it needs to be effective and efficient. RPRA must be adequately resourced to fulfill its mandate to enforce the province's circular economy laws as a regulator. According to RPRA's 2022 annual report, the authority runs on only [\\$14 million in revenue](#). This is a small fraction, likely less than 2 per cent, of producer's annual EPR costs.

Overall, we are very concerned that ongoing efforts of producers and retailers to water down their environmental obligations and weaken the enforcement body overseeing it will ultimately undermine Ontario's EPR regulations. Keeping waste out of Ontario's landfills, incinerators and environment is what's best for the province and something Ontarians expect. According to a recent poll conducted by Abacus Data, [76 per cent of Ontario residents](#) support rules that will keep packaging out of landfills and the environment, even if it is more onerous for producers to administer.

If big companies are alarmed by the true cost of diverting their packaging from landfill, they should be motivated to design better – ***and less*** – packaging from the outset. Ontario's producer responsibility rules put producers in the driver's seat. The province must demand these businesses rise to the challenge.

Our groups would welcome the opportunity to discuss our concerns about potential changes to Ontario's EPR framework.

Sincerely,

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