



TESTIMONY TO THE INTEGRATED WASTE MANAGEMENT BOARD

Strategic Policy Development Committee

September 11, 2007

Agenda Item: Extended Producer Responsibility

Introduction

My name is Pamela Boyd Williams, and I am Senior Vice President of the California Retailers Association. I speak today on behalf of the members of our Association, a trade association representing major California department stores, mass merchandisers, supermarkets, chain drug stores, convenience stores, home improvement and electronics retailers, as well as “specialty” retailers such as auto supply, jewelry, pet and book stores. Our members have more than 9,600 stores in California and account for more than \$120 billion in sales annually.

Thank you for the opportunity to submit comments regarding the Contractor’s Draft Report to the Board titled “Framework for Evaluating End-of-Life Product Management Systems in California.” Our Association is encouraged by the recommendations of the report that support producer responsibility and an internalized fee.

Support of Producer Responsibility Model

The recently issued IWMB Strategic Directive 5 represents a significant and responsible policy decision by the Board. By stating “It is a core value of the CIWMB that producers assume the responsibility for the safe stewardship of their materials in order to promote environmental sustainability”, the Board recognizes the trend that is sweeping the globe. Additionally, the national Council of State Governments has unanimously supported the Producer Responsibility Model.

Having established the parameters of a ‘cradle-to-cradle’ system, it is incumbent upon California to recognize that it, too, is a part of a system ‘whole’ and while it can take a leadership role in insuring that a system can be implemented just within our State to assist its residents, it must also recognize that it can (and should) be an active participant in the development of a universal and consistent end-of-life system that can manage the handling of consumer products throughout the United States. Retailers have been working with all stakeholders for many years in trying to craft a comprehensive ‘cradle-to-cradle’ federal approach. Since our member companies have stores nationwide, our first choice would be adoption of a comprehensive national system of end-of-life product

management system rather than by individual states. Absent this, **we support the Board's Producer Responsibility Model.**

Consumer products are manufactured globally, are shipped through a distribution channel that takes them from their genesis across multiple borders at the very least within the U.S., and when an individual product has reached the end of its useful life for the original consumer, it may still be reused or refurbished before it is ready to be recycled (the universal three "R's). All stakeholders in the relationship chain --manufacturers, retailers, consumers, collectors, processors, federal, state and local governments-- should be encouraged and educated to become active participants in the system.

Criteria for Success

We believe that *successful* extended producer responsibility (EPR) systems will allow for us as many economical and flexible programs as possible and bring down the costs for consumers. The producer responsibility model facilitates this by allowing the marketplace to work, as well as allowing for manufacturers to incorporate the cost of recycling into the product price. Programs should also be simple, as non-bureaucratic as possible, allow for maximum manufacturer flexibility due to differences in business models, and be accountable and auditable. A comprehensive system should also encourage design innovation, and provide consumers with a variety of reasonably convenient choices to encourage proper disposal.

Retailers' Role

Retailers recognize their critical role in helping consumers become more aware of collection opportunities and establish or sponsor voluntary collection events. Retailers also work with their manufacturer partners to coordinate meeting the requirements of producer responsibility laws.

In many cases, retailers who sell consumer electronics are directly in the middle –literally – of the distribution chain that begins with the design and manufacture of a product, includes the consumer's purchase at retail, and ends with the product being discarded by its final owner at its useful end-of-life. For example, retailers sell all the products in the five categories recommended as priority for EPR systems: major appliances, batteries, electronics, mercury-containing light bulbs, and paint.

However, what is not generally appreciated is that retailers are often also manufacturers. "Producer" is generally defined (as in the Contractor's Report, pg 23) as the entity that places the product on the market for the first time, the "first-seller". The producer can be an importer, broker or retailer who private labels the product, or a retailer who sells directly to a consumer." Again, of the five product categories recommended by staff for EPR systems, retailers private label four of the five: appliances, paint, mercury-containing light bulbs and electronics. Retailers, where they are simultaneously manufacturers, are agreeing to the responsibilities of producer responsibility. Private labeling, from canned beans in grocery stores, to computers and appliances, is a growing

trend in the retail industry. We believe we are perhaps the *only* sector that is recommending a system of responsibility be imposed *upon ourselves*. Much of the testimony the Board has so far received on this issue attempts to convince you why you should put a burden of responsibility on *someone else*.

Cautionary Principles

We respectfully offer the Board a few cautions and some additional recommendations:

- Assure end of life programs are not initiated or mandate unless rigorous analysis shows they result in a net environmental benefit.
- Phase-in the product categories and EPR models. A massive upheaval is likely to be less successful than a careful phase-in.
- Enactment of a legislative framework will be harder than you think, with the resistance to the EPR model that continues to exist.
- Your projected timeframes are probably too optimistic. Staff is recommending development of regulations and a legislative framework, and then development of an actual legislative proposal. Development of regulations alone and the legislative language alone may not take that long to be done internally, but development of consensus of external stakeholders on a legislative proposal is going to be a lengthy undertaking.
- With all due respect, the Board has not had a high profile in the Legislature, and you will need a strong legislative advocacy program to move your proposal. California, through legislation and regulation, has historically taken a product-by-product approach to banning products and developing collection and/or recycling systems. You will need to educate legislators and key legislative staff regarding your proposals. And even with the Board's adopted EPR policy, there will likely still be legislative proposals introduced that are contrary to the policy. In these circumstances the Board should actively *engage* in the legislative process.
- Lastly, the IWMB could do a better job of bringing the business community into its deliberations and stakeholder analyses. You are perceived as working amiably with local governments, waste haulers and environmental organizations, and not so successfully with the businesses that are, frankly, critical to your success in implementing so many of the programs for which the Board has responsibility.

Closing

Retailers commend the Board for its adoption of Strategic Directive #5. We support the proposed Resolution before you today. At this point we are not prepared to concur with all the recommendations in Attachment 3, titled "Analysis of Product Selection", but that document does acknowledge that additional stakeholder input is needed, so we are comfortable that this is the *beginning* of a process.

The real challenge will come in implementing the details of each product category's EPR system. We pledge to engage with you in the development of these systems. We won't always agree on the details, but we do strongly support the overall policy direction. California has a unique opportunity to move forward in a direction now that creates a progressive producer responsibility system, encouraging the market to drive to an effective, efficient and environmentally sound solution.

Thank you for your consideration of our comments.