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## Taking sides

By: Amanda Smith-Teutsch  
November 23, 2009

As lawyers prepare to argue against New York City's controversial e-waste laws, industry groups on both sides of the issue are airing their views.

In July, the Consumer Electronics Association and Information Technology Industry Council filed a lawsuit against New York City's newly passed laws that would have required manufacturers to directly collect and recycle e-waste from every city resident.

The industry associations claim the law would require them to provide free door-to-door electronics collection, putting hundreds of additional trucks onto city streets, and the result would be increased traffic congestion, air and noise pollution, and carbon dioxide emissions, which contribute to global warming.

Oral arguments in the federal lawsuit are expected soon. However, advocates are pushing the trade groups to withdraw the lawsuit.

"Despite your member companies' public support for the producer responsibility concept, your respective trade associations have taken the alarming step of filing a lawsuit against the New York City law implementing producer responsibility," wrote a group of state and local recycling and solid waste officials organized by the Electronics Take Back Coalition.

The letter, signed by about 60 state legislators, mayors and solid waste and recycling officials in states with e-waste recycling laws, was sent to the CEA and ITIC Nov. 5. The letter argues local governments cannot afford to cover recycling or disposal costs for all of the products sold, and that producer responsibility is necessary in the current marketplace.

"Given that some of your members have publicly supported producer responsibility, we feel you are out of step with the policy direction clearly emerging in the U.S., and one that already exists in much of the developed world. We call on your organizations and your members to withdraw your lawsuit in New York City," the letter states.

Dean C. Garfield, president and CEO of the ITIC and Gary Shapiro, president and CEO of the CEA issued a joint response to the letter, stating that while they are not opposed to producer responsibility for e-waste management, the organizations felt the New York City law was unconstitutional.

"CEA and ITI took the step of challenging the New York City's regulation only

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after our best efforts to negotiate with New York City officials on a reasonable and effective recycling program proved unsuccessful," Shapiro and Garfield wrote in their response. "New York City's onerous new collection law is unique in the nation, and in our court challenge we seek to ensure that New York City residents can recycle responsibly without the burden of an unconstitutional and environmentally harmful regime."

The groups said a national e-waste recycling solution is needed, perhaps modeled after a program already in place. They pointed to Indiana's policy of producer responsibility as a possible model for national implementation, noting it allows for producer flexibility in their collection methods.

State officials said the lawsuit amounts to a direct challenge to other e-waste laws.

"While this lawsuit was filed against New York City, it's a direct challenge to the ability of states to pass takeback laws on any product such as the law California passed in 2008 for mercury thermostats," said Heidi Sanborn, executive director of the **California Product Stewardship Council**. "Our state is poised to pass takeback legislation on paint and the **California Product Stewardship Act** in 2010 and we hope the courts don't undermine our work to protect the environment and public health."

"Manufacturers accept producer responsibility for recycling in states where it is law, and our members have developed voluntary take-back programs in states where there are no municipal recycling programs are in effect. Our industry recycles hundreds of millions of pounds of obsolete electronics per year," the CEOs responded.

Oral arguments in the lawsuit are expected to begin in late December.

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