

# Steps ahead towards zero waste

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*Full Steam Ahead to Less Waste*  
AMRC Fall Conference



# Ontario's Waste Diversion Act and the road to zero waste



- The role of government and laws with regard to environmental protection;
- First principles: What is Extended Producer Responsibility?
- The Blue Box program under Ontario's Waste Diversion Act 2002
- The “zero waste” agenda: Getting a lot closer to EPR for packaging and paper in Ontario



# The purpose of laws

- Ostensibly to correct “market failures”
  - “Externalities” associated with exchanges between private interests in the market
    - Pollution: an example of costs of production and consumption borne by parties external to the transaction
- Change behavior
  - Behavior is the core of economics
  - Instruments include prohibitions, legislated constraints, tax mechanisms, production or consumption quotas, “market-based instruments” etc.
  - Goal is often described as an optima (i.e. “maximizing social welfare”)

# Extended Producer Responsibility



- A market based approach to environmental protection
  - **Assignment of full life-cycle “property-rights” to individual product “producers”** – you produced it you are responsible for it throughout the product life-cycle
  - Recognizes that the producer “holds all of the cards” – profit, broader economic benefits as well as environmental, economic and social costs associated with production are all the result of the **choices producers make**
  - The reduction of costs associated with the assigned “rights” **in competition with other producers** becomes just another business challenge



# The role of government in EPR

- Assigns and tracks waste “property-rights”. In effect it states;
  - We have determined that the environmental and attendant financial costs of a given product are unacceptable
  - You, the producer who made the product must fully bear and manage those environmental and attendant financial costs to a given environmental standard (*performance targets*)
  - In assigning you and your competitors the responsibility for meeting the set environmental targets we will **track that responsibility** in a manner that is equitable and equal in effect on all competitor-producers



# The role of the producer in EPR

- Freedom
  - ...to manage those costs in whatever commercially sensible way that meets the assigned environmental targets
  - ... to transfer the property rights and attendant financial and environmental costs and liabilities under contract to other parties as long as final result is that the assigned environmental target is met

# A one slide “straw man” IEPR diversion regulation for scrap tires



- **By June 1<sup>st</sup> 2010 every brand-owner and first importer selling tires into Ontario (“a steward”) will:**
- Ensure that by June 1<sup>st</sup> 2011 at least 90% of the number of tires it sold into Ontario are recovered;
- Ensure that by June 1<sup>st</sup> 2012 that of its recovered tires 85% are reused or recycled to higher order end-uses: 3Rs [reduction, reuse (i.e. retreading where feasible) and recycling].
- Provide a qualitative description of its commercial/contractual arrangements to WDO in a format suitable to WDO;
- Ensure that by June 1<sup>st</sup> 2013 none of its recovered tires will be sent to landfill or be incinerated;
- By June 30<sup>th</sup> of every year submit a report to WDO (in format suitable to WDO and as audited by an auditor of WDO’s choice) regarding the recovery and final disposition of its scrap tires;
- Historic waste: For the period of June 1<sup>st</sup> 2010 to June 1<sup>st</sup> 2011 each steward will remit to WDO a fee of \$1/passenger tire equivalent it sells into Ontario for purposes of tire stockpile clean-up.
- Notice of penalties



# Moving closer to EPR for packaging and paper in Ontario

## Part 1 – How we got to where we are



# An abridged history of the “blue box”

- Blue box program established late 1980s as a deal with soft drink industry and packaging suppliers to eliminate refillable containers and deposit-refund
- Immediate municipal revenue shortfalls – province subsidizes blue box
- Canadian Industry Packaging Stewardship Initiative (CIPSI)
- 1995 provincial government ends municipal blue box subsidies
  - August 1996 City of Toronto discovers their Blue Box program costs net \$5.5 million
  - North York proposes LCBO recycling fees
- Industry rallies...



## An abridged history of the “blue box”

- Concerted municipal lobby for LCBO deposit-refund continues
  - September 1998 City of Toronto Council by-law mandates a deposit/return program for wine and spirit containers and bans them from the Blue Box as of Jan 1, 1999.
- October 1998 MOE announces “Waste Diversion Organization” and LCBO contribution of \$4 million to Ontario municipalities to help offset their costs of recycling LCBO container through the Blue Box
  - WDO Secretariat: Corporations Supporting Recycling
  - WDO established November 1999 – CSR to work with MOE to develop statutory construct...

# Ontario's Waste Diversion Act 2002



*“Municipalities will be key players in many of the waste diversion programs created under this act...”*

*“Corporations Supporting Recycling, a key partner in this initiative whose membership includes many of the largest manufacturers, brand owners and distributors of food and consumer products in Ontario, appeared before the committee to enthusiastically support the bill. The CSR stated that it ‘will return Ontario to the forefront of recycling in Canada.’ They further stated, ‘This bill is a good solution that was built through a process of consultation and consensus and it is based on a shared responsibility model that sets the framework for economic and environmental sustainability.’” (con’t)*

# Ontario's Waste Diversion Act 2002



*“The CSR also spoke on behalf of private sector industry associations such as the Canadian Manufacturers of Chemical Specialties Association, the Canadian Paint and Coatings Association, the Canadian Council of Grocery Distributors and the Canadian Cosmetic, Toiletry and Fragrance Association.”*

*“The Hon. John Baird Associate Minister of Francophone Affairs on behalf of the Hon. Chris Stockwell, Minister of Environment. Debate in the Ontario Legislature, Bill 90 3<sup>rd</sup> reading Thursday 13 June 2002”*



# Moving closer to EPR for packaging and paper in Ontario

## Part 2 – Where we are today



# The WDA

- Demands collective action by producers (IFOs)
  - Competition policy issues (i.e. absolute IFO market power);
  - Competition law issues; and
  - Consumer protection issues (i.e. visible fees)
- Sets a non-compete arrangement amongst producers
  - The “level playing field” as rationale for a no-competition zone trades market efficiency for administrative simplicity
  - Stifles innovation
- A complicated morass of monopoly regulation
  - IFO governance,
  - stewards’ rules,
  - steward “pay-in funding models”,
  - constitutional law issues associated with fees etc. etc.
  - monopoly service provider contracting / utility pricing



# Blue Box

- In essence a “regulatory compact” between the Government of Ontario of the time and packaging using industries
  - Province “defaults” on compact in September 2006 by announcing LCBO deposit-refund;
  - Major concessions are made to packaging using industries by Ontario Government
- Industry avoids costs through effective entrenchment of status quo municipal based waste diversion approach
- A scheme to placate municipalities - some with billion dollar budgets - with nominal industry stewardship payments
- Sold as “industry led” extended producer responsibility

# Select observed effects



- Solid waste diversion:
  - Costs up, recovery of packaging fairly static (>1 billion aluminum cans still go to landfill)
  - Negative recycling incentives
  - Diffuse and cross-subsidized “stewardship fees” = no behavioral change
  - Municipalities provide blue box “public utility” service for \$0.50 dollars and are left to deal with politics of PAYT, operations, contracts and volatile materials markets
- IC&I diversion 12%



# Moving closer to EPR for packaging and paper in Ontario

## Part 3 – How to get to there from where we are



*The BBPP does not reflect full Extended Producer Responsibility (EPR) funding since the WDA requires Blue Box stewards to fund 50% of municipal program costs, with municipalities funding the rest.*

*Recommend how to move the BBPP towards full EPR funding. Since different collection and processing systems for Blue Box wastes are the result of decisions made by local municipalities, in your review and recommendation, please consider the potential impact to the management of municipal recycling programs as industry moves to full EPR funding.*

October 16<sup>th</sup> 2008. The Hon. John Gerretsen, Minister of Environment requesting Waste Diversion Ontario undertake a review of the Blue Box program Plan (BBPP)



# What won't work...

- Blue box stewards pay municipalities 100% of blue box, landfill and litter costs under the status quo blue box system;
  - Requires ongoing “utility pricing” of every muni’s delivery of blue box services to stewards;
  - Potential for “taxation without representation” – why should stewards pay for something that they have no control over?
  - How do you set diversion targets (and penalties) for stewards when someone else other than the obligated steward controls the diversion system?
- There needs to be a new approach...

# Reassign property rights - blue box materials



- Repeal S. 25(5) of the WDA: the “50%” clause
- Repeal O. Reg. 101/94 (EPA): the requirement for municipalities with >5,000 in pop. to provide recycling service
- Amend the definition of Blue Box waste under O. Reg. 273/02 (WDA) to designate any and all materials used to package products (i.e. bio-plastics)

continued

# Reassign property rights - blue box materials



- Pass a new regulation under EPA or WDA mandating Stewardship Ontario to:
  - Provide recycling services for designated blue box waste to municipalities with >5,000 in pop.
  - Provide recycling services for designated blue box waste to all IC&I facilities identified under O. Reg. 102/04
- Set out individual material targets and associated penalties in regulation
- Require SO to submit its provincial recycling program to an analysis by the Competition Bureau
  - It's an even bigger monopoly!
  - Specifically S. 45(3)(i) measures to protect the environment in the context of S. 45 (4) where the program is likely to lessen competition (e.g. in the waste service market)



# Maintain property rights - residual waste

- Litter and landfill costs of unrecovered residual residential blue box waste continue to be borne by municipalities
- A matter of effective price signals
  - Municipalities continue to engage homeowners to increase efforts to divert waste since recycling services are “free” to the munis but disposal is not;
  - Stewards cannot be asked to bear litter and disposal costs the unit costs of which are largely beyond their control and which are difficult to apportion onto residual designated blue box materials still in the waste stream.
- Waste disposal costs for IC&I waste continues to be borne by IC&I generators
  - IC&I generators continue to be motivated to increase recycling efforts since recycling is “free” but disposal is not;
  - Landfill tax on IC&I waste as a further incentive to divert?

# Transition to a steward delivered BBP



- SO assumes municipal 3<sup>rd</sup> party recycling contracts where necessary and retenders when on expiry;
- Where muni delivers blue box program SO pays municipality as service provider in year one and tenders out for year 2+
  - Muni as incumbent service provider can choose to bid or get out of the recycling business



# Economic effects

- Excess/duplicate recycling capacity rationalized out and program delivery costs drop;
- Full costs of various materials will be exposed as cross-subsidies dissolve
  - High cost, difficult to recycle materials will be burden to stewards that use them – high fees, incentives to lower them;
  - Certain stewards may choose to exit system to alternative systems if collective system cannot deliver environmental performance targets at reasonable cost;
- All R's driven: reduction, new recovery options, reuse and recycling
  - Single-stream collection that fails to meet mandated environmental targets may be revisited
- Overall effectiveness and efficiency will increase
- Innovation drives economic development



# BBPP review issues addressed

*The approach addresses:*

- ✓ *Program performance*
- ✓ *Material-specific performance*
- ✓ *Consistency across municipalities*
- ✓ *Problematic wastes*
- ✓ *Blue Box wastes from the IC&I sector*
- ✓ *Blue Box wastes collected outside of the Blue Box*
- ✓ *Additional Blue Box wastes*
- ✓ *Environmentally responsible management*
- ✓ *Stewardship fees*



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