

April 18, 2019

Senator Brownie Carson and Representative Ralph Tucker
Chairs, Committee on Environment and Natural Resources
100 State House Station
Augusta, ME 04333

Re: CTA Comments on LD 1431 – Resolve, To Support Municipal Recycling Programs - OPPOSE

Dear Senator Carson, Representative Tucker, and Members of the Committee on Environment and Natural Resources:

The Consumer Technology Association™ (CTA) respectfully submits these comments to express our concerns and opposition regarding Legislative Document No. 1431 (LD 1431) which directs the Maine Department of Environmental Protection (DEP) to develop a product stewardship law for packaging.

CTA is the trade association representing the U.S. consumer technology industry, which supports more than 15 million U.S. jobs. Our membership includes more than 2,200 companies – 80 percent are small businesses and startups; others are among the world’s best-known manufacturer and retail brands. 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.

CTA supports Maine’s interest in identifying and evaluating additional opportunities for the management of packaging in the state. It is vital to the conversation 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. Packaging as a part of the waste stream is a complex issue involving many independent stakeholders without a single, simple solution. With this in mind, CTA has the following concerns with the LD 1431.

A state by state approach is not efficient and lack of market forces could negatively impact the recycling system in Maine. For more than a decade, the consumer electronics industry has implemented and complied with state-level product stewardship laws for electronics in Maine 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 over \$1 billion complying with these various state laws over the past six years alone. 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, product stewardship 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. Product stewardship 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 a product stewardship program lead to higher costs for the collection and recycling system. Based on the consumer electronic industry's experience with Maine's product stewardship program for electronics, the Maine program recycles less electronics than many other state programs at a higher per pound than the cost of comparable jurisdictions due to the lack of market forces in place. The Maine system for electronics is not market based - the state has sole control over selecting recyclers, the state sets the price for recycling, and then consolidators' bill manufacturers at non-competitive rates blessed and mandated by the state. The Maine collection infrastructure for electronics is some of the costliest in the U.S. with no incentive for local governments to strive toward efficiencies. Product stewardship does not always equate to an efficient or effective system.

Connecticut determined that product stewardship was not the right approach to managing and reducing packaging. Maine is not the first state to explore a producer responsibility for packaging. 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 CTA served as a member, released its recommendations in February 2018 after a year of stakeholder meetings, expert testimony, and public comments.¹ The final recommendations did not recommend product stewardship as a means of reducing consumer packaging that generates solid waste. 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 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 EPR programs in other countries.

It is unclear what the potential economic impact and costs of a plastics packaging stewardship program would be to businesses operating in Maine. A full economic impact analysis is needed and strongly encouraged prior to moving forward with any mandatory policy approach as called for in LD 1431.

Product stewardship doesn't necessarily lead to product redesign or achievement of the lowest levels of environmental impact. The consumer electronics industry has seen product stewardship for electronics fail to drive design for the environment. Producer responsibility in Maine state alone will do little to impact packaging design. This same rationale was acknowledged by the Connecticut Task Force which recognized the inability of a single state to drive product design improvements. As noted previously, a state-by-state approach starting with Maine will not achieve the results touted under product stewardship programs elsewhere around the world.

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

¹ 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.

the recycling system. The collection, transportation and recycling of packaging 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 especially important as society moves toward consumers managing more and more packaging waste in an E-Commerce environment.

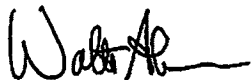
Many consumer technology manufacturers already utilize innovative and sustainable packaging. Consumer technology manufacturers take a deliberately innovative approach to their packaging design choices – voluntary decisions and programs that yield environmental benefits. As highlighted in CTA’s 2017 Sustainability 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.² These efforts are driven by industry innovation and efforts to reduce environmental impact, not by government mandated approaches.

Manufacturers of consumer technology need flexibility in choosing appropriate materials for packaging their products to avoid situations that cause product breakage and damage during transport (which ultimately increases the lifecycle impact of the product) as well as to deter theft of smaller, high value electronics from retail establishments. LD 1431 would increase costs for the industry thereby limiting the available resources for companies to invest in innovative and sustainable packaging solutions. A combination of voluntary initiatives and market forces encouraging more efficient packaging is already driving significant packaging design and reduction efforts without the costly burden of a product stewardship system.

Conclusion: CTA appreciates the opportunity to provide comments on LD 1431 and asks the Committee on Environment and Natural Resources to oppose. A comment by Joachim Quoden, Managing Director of the Extended Producer Responsibility Alliance (Expra) in Europe, during his presentation to the Connecticut Task Force sums up CTA’s thoughts on LD 1431. Mr. Quoden stated that all stakeholders in the value chain must agree on the program to avoid undermining of the product stewardship system. The necessary stakeholders have not yet reached such agreement in Maine, and it would be premature to push forth with product stewardship legislation without the support of the product manufacturers; packaging producers; and the waste and recycling industries.

CTA welcomes further discussion with the Committee and other stakeholders. Please do not hesitate to contact me with any questions or requests for additional information.

Sincerely,



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² Consumer Technology Association. “2017 Sustainability Report”. Available at <https://www.cta.tech/Sustainability-Report/resources.aspx>.

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CC: Senator Justin Chenette
Senator Robert Foley
Representative Lydia Blume
Representative Dick Campbell
Representative Jessica Fay
Representative Lori Gramlich
Representative Daniel Hobbs
Representative Chris Johansen
Representative Peter Lyford
Representative Thomas Skolfield
Representative Stanley Zeigler