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Senator Stacy Brenner, Senate Chair  
Rep. Ralph Tucker, House Chair  
Joint Standing Committee on Environment and Natural Resources  
100 State House Station  
Augusta, ME 04333

*Regarding LD 1467 'An Act To Promote a Circular Economy through Increased Postconsumer Recycled Plastic Content in Plastic Beverage Containers'*

Chairwoman Brenner, Chairman Tucker, members of the Environment and Natural Resources Committee:

With respect to the bills before you today, I am here to voice support for LD 1467, and share with you some ideas, based on our experience in other jurisdictions, to make this a successful initiative.

In the past three years, recycling system conditions eroded significantly. Factors such as falling oil prices, the nearly total ban of plastic exports through the China National Sword policy and industry fluctuations related to the Covid-19 pandemic have shaken recycling programs to their core. Cities that once were paid to tip mixed recyclables now must pay more per ton for material processing than per ton sent to landfill or incineration. Moreover, an urgency to address climate change and growing consumer awareness of the plastic crisis and other packaging-related problems has translated into mounting pressure for producer responsibility and accountability.

Now, more than ever, there is a need to stimulate investment and address deficient recycling markets. By legally requiring producers to use a minimum amount of recycled material in packaging, recycled content or PCR mandates are one of the most effective mechanisms to drive demand for material recycling, irrespective of the price of virgin material.

We are seeing a sharp rise in the exploration of PCR mandates as a policy tool, especially for PET beverage containers, across the US and internationally. In 2019, through the Single Use Plastic Directive, the European Union mandated that by 2025, all plastic PET beverage bottles must have 25% recycled content, and by

2030, the requirement jumps to 30%. In 2020, California became the first US state to require up to 50% minimum post-consumer recycling content in plastic water bottles. In the first part of 2021, the states of New Jersey, Oregon and Washington have all introduced standalone bills. Recycled content provisions are included in some form in 68 bills across 20 US states.

Achieving recycled content is a question of both quantity and quality. Maintaining purity in collected material, and avoiding contamination from non-food grade containers, is needed to enable increased uptake of recycled content. This is why most jurisdictions with exceedingly high recycling rates for beverage containers have modern deposit return systems, which are run in a complementary fashion alongside recycled content mandates. Upholding and strengthening Maine's deposit return system, or bottle bill, to ensure that it follows best-in-class design principles, is imperative for successful implementation of recycled content mandates.

As with any government intervention in the marketplace, careful steps are needed in the legislative drafting and rulemaking process to ensure the law achieves its full intended impact. The following set of guiding principles, which have been designed with the specific challenges of plastic packaging in mind but apply generally to all packaging types, offer a framework for effective and responsible rulemaking for recycled content mandates.

## **GUIDING PRINCIPLES FOR RECYCLED CONTENT MANDATES**

Effective recycled content mandates are marked by accurate and consistent measurement of recycled content; the development of robust and transparent standards around definitions and targets; and clear producer obligations on the calculation, verification and reporting of recycled material.

The following guiding principles, contextualized with regard to LD 1467, establish the ways in which this legislation holds the capacity to bring Maine closer to a high performing and transparent closed loop recycling system for packaging.

### **1. ESTABLISH CLEAR DEFINITIONS AND SCOPE**

The first guiding principle for recycled content legislation is establishing clear definitions and covered scope. Clear, objective definitions help to eliminate loopholes that might allow producers to report inflated recycled content numbers or navigate around using actual recycled materials.

- LD 1467: We are encouraged to see this bill specifically call for post-consumer recycled material, excluding post-industrial and pre-consumer material.

### **2. SET APPROPRIATE TARGETS**

Minimum post-consumer recycled content mandates should be appropriately aggressive, but not technically unfeasible. While ambitious long-term goals are important, milestone targets must also be set to ensure intended outcomes and drive appropriate action and investment. It may be better to start with a more modest target than to “go big” and fail or set a target that does not take technical supply chain limitations into consideration.

- LD 1467: We are pleased to see that Maine has started with a more achievable target. However, the potential to undo the target upon department review – as provided in subsection 7 of the bill - could put the legislative goals at risk by sending mixed messages to the market. We encourage the department to view that the target is the most important signal to the market to trigger investment and create demand and continue to encourage industry to put forward the investment needed to guarantee sufficient feedstock and ensure compliance, rather than looking for a way out of the regulated requirement. Furthermore, in rulemaking, the department should consider a wide geographic marketplace when conducting the annual review, without going so far as to compromise positive environmental impact. Provided here is a sample framework for continued analysis that can be used to set and adjust targets:

#### **Setting targets: Important Steps to Follow**

- Use sales and collection data to determine how much post-consumer material there is.
- Determine how much more could be made available through deposit system return improvements, thinking about what it would take to get that system in place.
- Identify whether any of the supply chain limitations (both in terms of quantity and quality) can be mitigated, to avoid eroding the recycled content target.
- Use independent analytical findings, rather than rely on industry-provided information, to determine whether action need be taken to adjust the target.

### **3. DEVELOP ROBUST STANDARDS**

Developing robust, harmonized standards ensures that expectations are clear and system stakeholders know exactly what is expected of them. As most organizations treat their data as proprietary and will not share information unless required, it is essential that knowledge sharing is built into the system.

- LD 1467: Again, we hope to see producer responsibilities clearly defined and the prerequisites for a transparent system of independent calculation, verification and reporting of recycled content established in rulemaking.

We believe the following approach will drive clearly defined producer responsibilities and a transparent system of recycled content verification:

**Independent calculation, verification and reporting of recycled content**

- Set clear requirements on private sector recycled content certification systems. The proliferation of such schemes by third party companies, without strict oversight, will discourage transparency and runs the risk of diluting the meaning of compliance and compromising consistency across industry.
- Standards should also cover labelling requirements, regulate marketing claims and address the issue of additives. Legislating what is allowable in all of these areas will help set clear standards and ensure a level playing field and avoid potentially false marketing claims that bring consumer confusion.

**CONCLUSION**

The success of recycled content mandates is measured by their capability to increase demand for and prices of recyclable material, thereby promising long-term recycling market growth and stability.

Recycled content mandates are complementary to and can be developed alongside other policy interventions like extended producer responsibility, deposit return systems and single-use bans. Indeed, the long-term success of this bill may depend on supportive, tangential legislation that address the full range of systemic issues and create multiple, reinforcing streams of demand for material recycling.

For example, upholding and strengthening Maine’s bottle bill, so that it follows best-in-class design principles, is imperative for successful implementation of recycled content mandates.

We consistently find that jurisdictions with high bottle-to-bottle recycling rates for beverage containers have modern deposit return systems. This is because cost effective utilization of recycled material content depends on access to high volumes of uncontaminated collected material.

Just as we hope our guiding principles can serve as useful planning and technical tools, we hope LD 1467 can serve as a template for replication beyond Maine.

**We support LD 1467 and hope to see it passed into effect swiftly, with careful consideration given to oversight in the course of rulemaking.**

## About Reloop Platform



Reloop is a platform of stakeholders with common interests and a similar vision of the circular economy. The founding members of this organization bring together agents from industry, government and non-governmental organizations: they form a network that aims to promote policies that support the European circular economy. With members from different sectors across Europe, the platform aims to be a catalyst for economic and environmental opportunities for all stakeholders in the value chain. This includes producers, distributors, recyclers, universities, NGOs, trade unions, green regions and cities. Reloop was founded to connect these stakeholders, provide them with shared information and motivate decision makers to implement policies that introduce measures and systems that support the circular economy.

## About Elizabeth Balkan



Before launching Reloop Americas in 2020, Elizabeth Balkan served as Director of Food Waste at the Natural Resources Defense Council. Previously she worked in New York City government, both at the Department of Sanitation and in the Mayor's Office, developing and overseeing implementation of the city's zero waste plan, and leading on legislative initiatives including the banning of EPS styrofoam and plastic bags, as well as the NYC's commercial organics mandate. She began her career doing corporate social responsibility work in China, and consulting with international NGOs and private sector cleantech investors.