

November 13, 2007

Manitoba Conservation
Pollution Prevention Branch
160-123 Main Street
Winnipeg, MB R3C 1A5

Submitted by email to: pollupreve@gov.mb.ca

Re: Manitoba Product Stewardship Program

The Canadian Wireless Telecommunications Association (CWTA) submits the following comments regarding the *Stewardship Regulation Guidelines for Industry Stewards* (the "Guidelines") and the proposed *Electronic Waste Stewardship Regulation* (the "Regulation"). Neither CWTA nor its members were contacted directly by Manitoba Conservation (the "Department") for comments on these proposals.

CWTA is the authority on wireless issues, developments and trends in Canada. It represents cellular, PCS, messaging, mobile radio, fixed wireless and mobile satellite carriers as well as companies that develop and produce products and services for the industry.

Since 2005, CWTA has worked with various provinces as they developed their electronic waste recycling programs. As a result of these discussions, the Association has developed expertise in practical legislative solutions.

CWTA members have for several years run voluntary corporate programs to recycle wireless phones. These successful and established programs now collect phones and distribute any profits to Canadian charities:

- ✓ MTS Allstream has partnered with THINKGREEN to recycle wireless phones and accessories. All proceeds are donated to the Mike Komenda Memorial Skateboard Park. Further, THINKGREEN plants 1 tree for every rebated cellular phone.
- ✓ Rogers *Phones for Food*, is a national program that accepts phones, PDAs and batteries for recycling through Rogers and FIDO stores and by mail. The funds raised are donated to food banks across Canada.
- ✓ TELUS is the national sponsor of the Rechargeable Battery Recycling Corporation, which recycles batteries across the country. In addition, TELUS'

own recycling program accepts phones, PDAs, batteries and accessories through TELUS Mobility stores. TELUS also plants one tree for each cellular phone collected.

- ✓ Bell Mobility's national *Mobile Take Back* program donates refurbished phones to women's shelters, children's charities and the World Wildlife Fund.
- ✓ SaskTel has a wireless phone recycling program in place in partnership with Think-food. Funds raised are used to support food banks in Saskatchewan.

In addition, Canada's wireless carriers operate their own refurbishment programs whereby re-useable handsets are repaired and resold to consumers in other markets. This diverts phones from landfill and gives them a useable second life.

The industry is committed to continuing its environmental programs, and we urge the Department to consider the significant recycling initiatives undertaken by the industry in its determination of the need for, and the timing of, an official program to designate cell phones as e-Waste under the proposed Regulation.

While industry strongly supports effective and efficient recycling programs and commends Manitoba's goal of reducing waste that is diverted into landfills, we have specific concerns with the Guidelines and Regulation which are outlined below. The CWTA believes that there is need for further consultation on the many outstanding issues regarding the Regulation and Guidelines.

Need to Address Priority Items First

CWTA strongly believes a phased-in approach is the best method to recycle diverse electronic products. We believe the first phase should focus on items that create large volumes of waste or contain high toxicity. Any other items the province should wish to recycle, such as toys or wireless devices should be covered under subsequent phases.

Similar to other consumer electronics such as DVD players, CD players and MP3 players, wireless phones today are "lifestyle" products that consumers not only value, but keep for as long as possible. CWTA surveys indicate that Canadians tend to keep their phones for 5 years plus, rather than the "industry standard" of 18 months. This means fewer phones, per annum, than estimated by various government reports will find their way into landfills. In addition, wireless device manufacturers have significantly decreased the hazardous content of handsets by eliminating lead solder and nickel cadmium batteries. If wireless phones are considered as designated products under the new Regulation we recommend they are included in a later phase of the program.

Need for a National Harmonized Program

Many of CWTA members doing business in Manitoba operate national networks or sell their product across Canada. We believe a harmonized Canada-wide approach, based on

the principles endorsed by the Canadian Council of Ministers of the Environment, is the most efficient in enabling our industry to effectively recycle wireless phones. We recommend the Department strive for such a harmonized program, while addressing the particular aspects of Manitoba law.

Furthermore, the wireless industry is one of the few industries selling products that are dual-branded. Each wireless phone has both the corporate name of the carrier providing the individual customer's service and that of the manufacturer which makes the handset. As wireless telecommunications carriers are federally-regulated enterprises, there are many obligations at the federal level to which they must conform. Harmonization of recycling regulations across provinces facilitates industry compliance with provincial regulations and eases the process of continued conformity with federal regulations.

Clear Definitions

While CWTA and its members fully support the need to base recycling programs on the principles developed by the Canadian Council of Ministers of the Environment, we encourage the Department to use concepts and terminology that mirrors those used in other provinces where possible. Common definitions for important terms such as who will be the obligated steward are key for the industry.

Stewards

As a national industry, with firms supplying dual-branded products in various provinces across Canada, the wireless industry urges the province to harmonize its definition of steward with that of other provinces. Different definitions or approaches force companies to create different systems for each province, a costly and ineffective endeavour.

CWTA is unsure of the definition of "steward", as different definitions are used within the Regulation and the Guidelines, respectively.

The Regulation defines "steward of designated material" as:

- (a) the first person who, in the course of business in Manitoba, supplies designated material to another person; or
- (b) a person who, in the course of business in Manitoba, uses designated material obtained in a supply transaction outside of Manitoba.

It is unclear what is meant by "in the course of business in Manitoba", and the Association recommends this statement be clarified in the Guidelines.

The Guidelines defines a "product steward" as:

- to another person or uses designated equipment obtained outside of Manitoba, or
- A person who solicits orders, directly or through an agent, for the designated material from persons in Manitoba by
 - o advertising or other means;
 - o accepts orders for the designated material that originate in Manitoba; and
 - o causes the designated material to be delivered in Manitoba; is deemed to be the first person who supplies designated material to another person in the course of business in Manitoba.
- The steward is sometimes referred to as the “first seller” or “first importer” of a product. This may include a brand owner, producer, manufacturer, distributor, retailer or a business that imports designated materials for its own use.

CWTA is unclear about the Department’s intent in its definition of steward. Rather than clearly defining a single steward or designating a particular part of the supply chain, as worded it appears that multiple companies at various levels of the supply chain will all be considered stewards.

For example, in CWTA’s reading of the Regulation and Guidelines, a manufacturer selling in Manitoba could be considered a product steward under this definition, but so could a service provider and retailer selling the exact same units.

Other provincial recycling programs across Canada have designated “brand owners” as the stewards for the recycling of concerned products, and CWTA recommends that a similar definition is utilized in Manitoba.

As such, the CWTA seeks clarification about the intent of Manitoba’s definition of a product steward.

Targets

CWTA fully supports the Department’s suggestion that stewards take the lead in setting acceptable recovery targets. As stated in the Guidelines,

The program plan will propose program targets and performance measures after consultation with stakeholders. p.6

In consultation with the program operator and other stakeholders, the Minister will confirm minimum performance targets for designated electrical and electronic equipment that are ambitious, yet achievable. p.12

CWTA would like to see this condition also explicitly included in the Regulation.

Minister's Guidelines

CWTA understands that many of the specifics of the proposed regulation, for example the type and amount of fee levied per designated product, will be subsequently clarified in some sort of Ministerial Guidelines, to be published after the regulation comes into force. In order to allow stewards to begin quickly and effectively designing e-Waste recycling programs, we urge the province to publish the guidelines for cell-phone recycling in the near future, or provide clarity in some other manner.

The CWTA trusts that the Minister's guidelines will be in line with the regulatory framework under Manitoba's *Waste Reduction and Prevention Act* which, according to the Guidelines, is partly intended to reduce the government's direct involvement in program design and management.

Fee Setting

We understand from verbal communication with Green Manitoba that the agency is considering establishing a fee per product, in the amount of \$6 per wireless phone levied at point of sale, to fund industry recycling activities. The CWTA would like to see the province provide clear justification for a fee. The CWTA believes that further discussion on this point is warranted, and urges the province not to proceed with any fee before further consulting with industry.

Reporting Processes and Public Consultation

The reporting process as outlined in the Regulation appears reasonable; however, CWTA notes there is an elaborate description in the Guidelines of what the annual report "should" also include. The requirements of the Guidelines could prove to be quite onerous for industry, and in some instances would lead to a requirement to disclose confidential commercially proprietary information. For example, sales numbers, which, according to the Guidelines, "should" be reported, constitute competitive intelligence data that must not be disclosed.

The consultation requirements included in the Guidelines are unclear to the CWTA. It is our understanding that existing recycling programs could be deemed adequate to operate as stewardship programs in Manitoba. We are concerned, however, about the requirement of the Guidelines for stewards to consult and "seek input at strategic points (development and amendment of program plans, annual reporting, continues of review of operations)" from stakeholders including the public. Similar public consultation is required under the Guidelines prior to submitting a program plan for Ministerial approval.

As noted above, the wireless industry has operated national recycling programs for several years. To-date, these successful programs have recycled approximately 170,000 handsets nationally. While the industry supports the need for our involvement in public education activities to inform consumers about recycling programs in the province, we are concerned that the requirement for public consultation during program design in

Manitoba could prove onerous and have an unintended negative impact on existing national recycling programs that are already effectively recycling wireless devices in Manitoba.

Implementation Timelines

CWTA notes that implementation timelines are noticeably absent from the Regulation and Guidelines. As stated above, CWTA recommends a phased-in approach to any recycling program, as this will allow the province to focus on electronic waste with the highest volumes and hazard levels while creating a more manageable program. Given the wireless industry's hazardous waste minimization accomplishments and existing recycling programs CWTA recommends inclusion of wireless devices in a latter phase of any program.

However, if the Department does not proceed with a phased-in approach, CWTA urges the Department to ensure that implementation timelines are reasonable to ensure that industry can meet the necessary program requirements while ensuring that electronic recycling is addressed in a timely manner.

Conclusions

The wireless industry is concerned the Government is considering establishing a per product fee to fund recycling activities prior to any industry consultation on this matter. CWTA encourages the Department to consult widely on this issue as there are implementation processes that need to be adequately considered by the Department before reaching a decision.

When finalizing any changes to the Guidelines and Regulations as a result of this consultation process, Canada's wireless industry encourages the Department to give due consideration to appropriate implementation timelines. We look forward to the opportunity to meet with officials to undertake such discussions at your earliest convenience.

Please do not hesitate to contact me should you have any questions regarding our comments. I can be reached at (613) 233-4888 extension 206 or by email at dfarnes@cwta.ca.

Sincerely,



J. David Farnes
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