



SUMMARY OF COMMENTS SUBMITTED ON GOVERNANCE, MARKET DEVELOPMENT & FEES FOLLOWING AUGUST 31ST CONSULTATION

At the Phase II Consultation on Governance and Market Development (August 31), Stewardship Ontario invited comments on the contents of the presentations and discussion by September 7. Stewards and stakeholders could also submit comments on the preliminary stewards' fees for 2005 presented on that day. In all, seven submissions were received, four from stewards and three from stakeholder associations. Submissions came from:

- Wal-Mart Canada
- Canadian Tire Corporation, Limited
- Kellogg Canada Inc.
- Whirlpool Canada Inc.
- Refreshments Canada
- Canadian Plastics Industry Association
- Ontario Community Newspaper Association

Four focused on or contained comments on governance, one reiterated comments on market development and three offered suggestions on or questioned the preliminary stewards' 2005 fees. With the exception of the submissions from Wal-Mart and Canadian Tire, the suggestions and recommendations were essentially disparate.

In addition to the submissions, Stewardship Ontario received and dealt with questions of clarification on technical matters related to the preliminary stewards' 2005 fees from:

- John Mullinder, Paper and Paperboard Packaging Environment Council
- John Paulowich, Dofasco Inc.
- Shelley Ford-Kohler, Ontario Community Newspaper Association

Following is a summary of the comments received in the written submissions.

Governance

The comments and recommendations on governance centred on the key issues of:

1. allocating seats according to fees
2. defining membership in the sectors
3. number of seats per sector
4. size of the board and observers
5. advisory committee
6. length of term
7. formalizing procedures
8. stakeholder/supply chain representation on the board

1. **Allocating seats**-Wal-Mart and Canadian Tire recommended allocating seats to stewards only according to fees paid in to better reflect the stewards obligated by the Blue Box Program Plan (BBPP). Canadian Tire noted other stakeholders already have input through membership on the Waste Diversion Ontario Board of Directors. Kellogg advocated a board comprising one-third stewards, one-third municipalities and one-third other stakeholders (including consumer groups), believing each has an integral role in the implementation of the BBPP. However, if the decision is to populate the board only with stewards, Kellogg supports the points made below concerning fees and advisory committees. On the issue of “other stakeholders,” Kellogg believes they should have “equal access to and input to all board decisions with the exception of voting privileges.”
2. **Defining membership in sectors**-Canadian Tire and Wal-Mart asked that the Consumerable & Retail Distributors sector be broken down further, perhaps into edible and non-edible consumables (food and non-food). Canadian Tire noted that better definitions are required before appropriate comments can be offered.
3. **Number of votes per sector**-Wal-Mart and Canadian Tire recommended that regardless of the fees paid, no sector should have more than one-third of the votes on the board. They both said the CEO should not have a vote.
4. **Size of the board and observers**-Wal-Mart suggested 15 members plus observers was too large and recommended between 10 and 12; Canadian Tire suggested the ideal number was 10 but the absolute maximum should be 15 and that no “formal” observers should be permitted. Canadian Tire recommended that non-members should be invited to attend board meeting as appropriate and that Board of Directors’ minutes should be available to all members.
5. **Advisory committee**-Canadian Tire and Wal-Mart supported the idea of seeking input from “other industry sectors” through one or more advisory committees and suggested it should be chaired by a board member, reporting to the board through member presentations. Roles and responsibilities would need to be clearly defined.
6. **Length of term**-Canadian Tire and Wal-Mart said the three years was too long a term on the board and recommended two years as more appropriate.
7. **Formalizing procedures**- Canadian Tire and Wal-Mart suggested formalizing the procedures for electing the board. Wal-Mart noted the need for an annual general meeting which should be open to all stewards where elections and voting on policy, etc. would take place.
8. **Stakeholder/supply chain representation on the board**-the Canadian Plastics Industry Association (CPIA) submission expressed disappointment that the governance recommendation offered on August 31st did not include board representation for stakeholders or companies in the supply chain. It noted these “stakeholders” have a significant financial interest in the program and its levies, because fees are pushed up the value chain by stewards to be absorbed by the suppliers of materials. CPIA said there appeared to be nothing in the Stewardship Ontario bylaws preventing it from allowing stakeholders or members of the supply chain to be represented on the board. Kellogg said that “other stakeholders” such as packaging material manufacturers, municipalities, service providers and consumer



groups should have “equal access to and input to all board decisions with the exception of voting privileges.”

Market Development

In its submission, Kellogg reiterated some points it made in its comments on the July 15th consultation, including those on market development. These were the only comments made on market development; however, CPIA noted it had insufficient time to provide comments on this subject and would do so before the board meeting.

The three points Kellogg reiterated on Market Development were that Stewardship Ontario should:

- consider a supply chain management approach to increase use of recycled material (rather than focusing on end uses for materials);
- consider working with stakeholders to develop recycled material standards and standardized product labelling to assist consumers to make appropriate decisions;
- continue to promote the education of consumers concerning proper recycling procedures for all materials accepted in the system.

Preliminary 2005 Fees

Four submissions contained comments on fees: two from stewards, Kellogg and Whirlpool and two from an association, Refreshments Canada and the Ontario Community Newspaper Association. CPIA noted it had insufficient time to prepare comments on fees and would submit them before the board meeting.

The points expressed concerning fees were generally exclusive to single submissions (with the exception of unregistered obligated stewards which both Kellogg and Whirlpool commented on). Comments covered the following topics:

1. schedule for setting fees
 2. offsetting shortfall
 3. obligated companies in default
 4. increase in fees for “other printed paper”
 5. recognizing and applying principles in setting stewards’ fees
 6. maintaining a discount until cost containment issues can be resolved
 7. municipal accounting for Blue Box revenues
 8. formula for allocating administrative costs
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1. **Schedule for setting fees**-Kellogg supports the setting of fees after stewards report packaging quantities only if the levied fees for the following year can be provided before September of the reporting year. This is essential for budgeting purposes. If this is not possible, Kellogg recommends using steward packaging information reported for the second to last year to calculate the levied fees.

2. **Offsetting shortfall-** Kellogg recommends that unexpended program funds be applied to help offset the current shortfall, and that the balance should be covered from the fees accumulated from obligated companies not yet contributing. Companies that have registered and paid should not have to make up the shortfall. Concerning the current year's shortfall, Kellogg recommends it be distributed across all media.
3. **Obligated companies in default-** Kellogg and Whirlpool both had comments about companies in default. Kellogg noted they should be required to pay arrears to the beginning of the program (recommending April 2004 but probably meaning February 2004). Whirlpool questions Stewardship Ontario's practice of "rewarding" obligated stewards who have not registered by requiring them to pay fees only from the date of notification. This creates an unfair situation when companies such as Whirlpool registered and paid according to the requirements from February 2004. It recommends stewards in default be required to pay as of February 1, 2004 whether they are "caught" in September 2004 or September 2008. (This is the position of Stewardship Ontario and will be clarified in a correction statement.)
4. **Increase in fees for "other printed paper"** – Whirlpool expressed significant concern about the eight fold increase in the proposed 2005 fees over the 2004 fees, which suggests this category of paper is eight times more expensive to recycle than other categories of paper. For example, Whirlpool questioned the logic of their black and white 'use and care guides' costing 11 times more to recycle than four colour catalogues or magazines. Their major premise is that the fees formula isn't working for the category because it reflects the low quantity of reported printed paper recovered when, in fact, the guides do not make their way into the waste stream because consumers keep them, as they are expected to do. Whirlpool believes this unfairly penalizes their company.
5. **Recognizing and applying principles in setting stewards' fees** – Refreshments Canada applauded Stewardship Ontario for ensuring there is fairness and equity in how industry meets the obligation of paying 50% of the next cost of recycling packaging the printed paper. It noted that the "activity-based costing" methodology and the three year rolling average for revenues achieves that end. This practice of tracking and applying costs to their source as an important underpinning of the principles of cost-effectiveness and transparency was the primary basis of Refreshment Canada's support for the WDO/Stewardship Ontario model. The association expressed concern about escalating stewards' fees and recommended that in order to maintain pressure on future increases, true costs must be accounted for and made transparent. It recommended a review of how fees for various packaging types/materials are set; and further that Stewardship Ontario apply the principles of cost-effectiveness and transparency by ensuring stewards' fees accurately reflect the agreed-upon costs for the specific packaging categories defined in the posted 'pay-in model.' The association noted the stewardship fee applied to specific packaging needs to recognize the nexus between the complexity/cost of recycling that type of packaging in the municipal recycling system and the factors that drive the use of specific package types (resulting in separate fees for materials as in the pay-in model). The precedent for applying fees using separate packaging categories within broader material streams is established in the 2003 and 2004 fee schedule and is apparent in the setting of the 2005 fees. A greater number of fees for various

packaging types/materials also ensures there is no cross-subsidization of stewards costs. Refreshments Canada said the Stewardship Ontario Board of Directors agreed to review how fees for various packaging types/materials are set one year ago. It requests that Stewardship Ontario review these matters with a view potentially to adopting such a policy for the 2005 fees.

6. **Maintain a discount until cost containment issues can be resolved** – the Ontario Community Newspaper Association (OCNA) argues that a discount must remain in place until matters of cost containment can be resolved and controls put in place. It expressed serious concern that the increase in municipal costs this year amounts to 22% (\$32.7 million which is the aggregate of a municipal cost increase of \$21 million plus making up the discount of \$11.7 million). It says that the precedent for negotiating discounts has already been established and that municipalities have successfully negotiated the timeline for bringing cost controls forward to future years. It recommends that “stewards must now negotiate the discount back into the formulae in light of this relatively new timetable for cost containment” and says that removing the discount now negates future efforts at cost control, “since municipalities are increasing their base funding without demonstrating accountability...”
7. **Municipal accounting for Blue Box revenues** – the OCNA is very concerned about how material revenues are reported by municipalities, specifically how they are accounted for (netted against cost or shown independently) and whether they adequately reflect market conditions. It notes that little data are provided about revenue calculations and that Stewardship Ontario has raised concerns about municipal contracts in the past. The OCNA argues that by accepting municipal practices and incorporating the data into the 2005 fees, Stewardship Ontario embeds the problem of material prices in the cost allocation formula.
8. **Formula for allocating administrative costs** – the OCNA points out that the share of administrative costs allocated to newsprint (from less than 2% to 10%) lacks a clear rationale and should be revisited. It argues that the proposed formula lacks transparency, does not clearly show the rationale for the specific amounts assigned and is based on inputs and measures internal to Stewardship Ontario. It recommends that administrative fees allocated to materials should reflect the proportion of net program costs attributable to that material.