

August 24, 2020

Toxics in Packaging Clearinghouse
139 Main St.
Suite 401
Brattleboro, VT 05301
Via email at info@toxicsinpackaging.org

Re: CTA Comments on Model Legislation for Toxics in Packaging

Dear Toxics in Packaging Clearinghouse:

The Consumer Technology Association™ (CTA) appreciates the opportunity to provide comments on the Toxics in Packaging Clearinghouse's (TPCH's) recently proposed [Model Legislation for Toxics in Packaging](#). CTA supports TPCH's interest in eliminating or reducing the amount of toxic chemicals present in packaging. However, we have serious concerns about the proposed Model Legislation and unintended consequences that may result from its adoption by member states.

CTA is the trade association representing the U.S. consumer technology industry. Our members are the world's leading innovators – from startups to global brands – helping to support more than 18 million American jobs. CTA's members have long been recognized for their commitment and leadership in innovation and sustainability.

Packaging plays a critical role in protecting and safely delivering consumer electronic devices to households throughout the U.S. PFAS and phthalates are not intentionally added to the packaging used by the consumer electronics industry. However, incidental presence of these chemicals is possible from the manufacturing process. With this in mind, CTA recommends the following changes to the proposed Model Legislation:

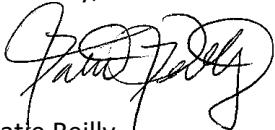
- **Broad Category Distinction:** CTA's members are concerned that the proposed Model Legislation defines PFAS and phthalates too broadly. Chemical compounds within these classes are distinct and broad class-based assumptions about risks and hazards given the various uses within different types of packaging are not an approach based on sound science. Additionally, class-based restrictions are difficult to implement especially when there is no evidence that the substance is used in packaging yet no de minimis threshold limit is established. CTA encourages TPCH to focus on specific PFAS and phthalates that are of concern in specific packaging applications/uses.
- **Threshold / De Minimis Limits:** The threshold / de minimis limit for phthalates is 100 ppm [Section 4(b)] and a threshold / de minimis limit does not exist for PFAS [Section 4(c)]. These thresholds are overly burdensome and confusing given no evidence is available that demonstrates the health

risks attributed to exposure to phthalates and PFAS from consumer electronics packaging. Additionally, these threshold limits are inconsistent with restrictions found elsewhere in the world. For example, RoHS and REACH in the European Union set phthalate restrictions at 1000ppm and regulations already exist for certain PFAS chemicals. At minimum, CTA encourages TPCH to harmonize with restriction levels found elsewhere in the world. Additionally, TPCH should set an exemption for the presence of these chemicals as impurities or byproducts given that they are not intentionally added in packaging for consumer electronics.

- **CAS Registry Numbers (CASRNs) Required:** Effective regulation and implementation requires identification of the substances that are in scope of the restriction. Broad class-based restrictions are extremely difficult to implement, especially when there is no evidence that a substance is intentionally used in packaging. The proposed Model Legislation should focus in on specific PFAS and phthalates that are of concern in packaging and list those chemicals by CASRNs to ensure any restrictions are implementable by industry.
- **Implementation Timeline:** CTA understands there is a two-year grace period for implementation. However, if PFAS and phthalates are restricted as broad classes and no CASRNs are provided, it would take industry several years to comply as well as find adequate substitutes. Additionally, there should be an exemption for any packaging material put into the marketplace prior to the effective date of the rule which is standard for material restriction laws.
- **Recycled Content Exemption:** Exemptions for the use of recycled material in packaging must remain. Many product manufacturers, including manufacturers of consumer electronics, have commitments to increase the use of recycled material in packaging. Packaging supplier bases are global in nature. In order to keep continuity of supply, avoid burdensome testing and promote the use of recycled content material, an exemption for recycled content packaging material must be included in any Model Legislation.
- **Future Regulation:** Section 6 is a departure from the standard of how chemicals are regulated here in the U.S. There does not appear to be any assessment of the risk of a chemical or evaluation of the specific uses of that chemical. Additionally, Section 6 does not provide any details on how the addition of new substances will be communicated to stakeholders and what opportunities stakeholders will have to comment on any proposed additions. The approach to this section does not appear based on sound science or the type of review and evaluation processes established by other regulatory agencies (e.g., EPA).

CTA appreciates the opportunity to provide comments on the proposed Model Legislation. We urge you to withdraw the current version of the proposed Model Legislation and take into consideration the concerns set forth above. Please do not hesitate to contact me with any questions or requests for additional information.

Sincerely,



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