

**Extended Producer Responsibility in Canada:
Business Stakeholder Perspectives - The View So Far**

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Introduction

This paper was commissioned by the Canadian Product Stewardship Council (CPSC) to summarize the findings of a research project consisting of qualitative one-on-one interviews with key stakeholders in industries that participate in Extended Producer Responsibility (EPR) programs in Canada. Interviewees included EPR-responsible representatives from the retail, manufacturing, packaging, pharmaceutical, foodservice, stewardship agency and material processing sectors. This is the first comprehensive study of business stakeholder perspectives on EPR policy in Canada. The study is intended to provide insights from the perspective of those who operate within the EPR programs. It identifies major strengths, obstacles, opportunities and weaknesses of the EPR model and provides a starting point for dialogue amongst delegates to the 2017 Conference on Canadian Stewardship.

What is Extended Producer Responsibility (EPR)?

Extended Producer Responsibility (EPR) emerged in Sweden and Germany in the early 1990s where it was conceived as an environmental policy strategy that had several interconnected goals, from creating incentives for the eco-design of packages and products to shifting the financial burden of waste management from municipalities and taxpayers to firms and consumers.

Over the years, EPR and other product stewardship initiatives have gained momentum throughout the European Union, Japan, South Korea, Taiwan, Australia, most Canadian provinces and to a lesser extent some US states.¹ Products most commonly identified for EPR treatment have included batteries, electronic equipment, used beverage containers, packaging, printed paper, ozone-depleting substances, paints, pesticide containers, pharmaceuticals, used oil and used tires.

In Canada, the Canadian Council of Ministers of the Environment (CCME) defines EPR as “a policy approach in which a producer’s responsibility, physical and/or financial, for a product is extended to the postconsumer stage of a product’s life cycle.”² EPR shifts responsibility for a product’s waste upstream from the taxpayer-

¹ Government of Canada – Environment and Climate Change Canada <https://www.ec.gc.ca/gdd-mw/default.asp?lang=en&n=246D12C9-1>

² Canadian Council of Ministers of the Environment, “Canada-wide Action Plan for Extended Producer Responsibility,” October 2009, p. i.

funded public sector (typically municipalities) to the producer (individual brand owners, manufacturers or first importers).

Since publication of the Canada-wide Action Plan on Extended Producer Responsibility, Canada has seen a dramatic growth in the implementation of EPR programs. In 2014, CCME reported that 94 product categories were covered by legislated EPR programs or requirements versus 33 in 2009, and that nine of ten provinces had legislated programs or requirements in place.³ Since then the numbers have grown, particularly when voluntary and shared-responsibility programs are taken into account alongside legislated EPR programs.

Research methodology used in this study

The research was conducted on behalf of CPSC by Robert Hutton of the Innovative Research Group, a leading Canadian market research and consultation firm with extensive experience in EPR and sustainability. Thirty qualitative interviews were conducted by telephone and some quantitative questions were asked. The majority of the interviews were conducted in September 2016 and the balance were completed in January 2017. The respondents were selected by CPSC to represent a cross section of stakeholders from key product categories and program formats in Canada: brand owners, consumer packaged goods, electronics, tires, oil, pharmaceutical, paint and retail, supply chain, and industry funded recycling organizations and their processors.

Views of stakeholders: Top-Line Observations:

Industry stakeholders provided their views on various aspects of Canadian EPR systems and whether they relate to *circular economy* concepts, the background theme of this year's conference. Some of the stakeholders interviewed are obligated (legally or voluntarily) to participate in EPR programs and some operate voluntary take back programs.

“EPR is neither a success or a failure but rather a work in progress.”

Top-line observations from the stakeholder interviews include:

1. EPR is seen as neither a success nor a failure – it is a work in process.
2. EPR is viewed as a funding mechanism that typically operates as a tax.
3. EPR has no broader aspirations than recycling, in particular waste avoidance or reuse. It is not seen as part of a circular economy strategy in Canada.

³ Canadian Council of Ministers of the Environment, “Progress Report on the Canada-wide Action Plan on Extended Producer Responsibility,” 2014, p. iv.

4. EPR's limiting factors are government policy and governance.
5. Linkages between EPR and consumer behaviors are important, but largely missing.
6. Weak and uneven enforcement of EPR, either inherent in legislation or in administration, is a significant barrier.

Detailed Observations:

Harmonization

Harmonization is seen as a significant challenge. There are issues that are unique to each geographic area and there is no single consensus definition of harmonization, or of the materials to be captured in EPR. Legislation is different between provinces and is not consistent across the country. This can pose severe complications for companies doing business in multiple jurisdictions; for instance, harmonization is particularly difficult for large retail chains with stores in different provinces.

The desire for harmonization is universal but defining it remains difficult.

Respondents say full program harmonization is not realistic but administrative harmonization is. Administrative harmonization (e.g., registration, classification, reporting) would help streamline the process and encourage consistency between provinces. It was suggested that stewardship organizations should operate in every province but harmonize administratively and promote their programs based on local community considerations since retaining regional identity is often viewed as important.

“Efficiencies in harmonization can help fund innovation.”

Many respondents believe that efficiencies in harmonization can help fund innovation. But without harmonization, consistent program improvement cannot be achieved and EPR will be stuck, effectively operating as a “tax” or compliance cost.

Legislative harmonization across provincial boundaries would allow for greater efficiencies and is seen as the ultimate goal, but is also seen as not practical.

Governance

The governance of stewardship agencies (sometimes known as Producer Responsibility Organizations (PROs) or Industry Funding Organizations (IFOs) - for the purposes of this report we will refer to them as stewardship agencies) is still in its infancy. In general, interviewees believe most stewardship agencies follow good governance practices. However, one obstacle they face is in representation. Many agency boards are populated by a variety of stewards so there can be a tendency for conflict between minimizing costs and achieving increased performance. This can result in missed opportunities for innovation, market development and a lack of interest in moving beyond recycling. Interviewees believe that legal, audit and brand expertise at the board level would help facilitate such opportunities. In addition, some believe that having consumer groups at the table would help balance the current representation and lessen the disconnect with consumers.

“Good governance requires collaboration and transparency.”

Interviewees generally believe that good governance requires collaboration and transparency. It was said this could be achieved by a “realistic partnership approach,” which we assume to mean a more effective partnership between governments, industry, municipalities and consumers.

Regulation and Enforcement

Regulation is complex in EPR programs and one respondent characterized regulators as “feckless.” Some argue that to date, there have not been strong policy objectives in place amongst regulators and so there is a lack of alignment in policy and legislative objectives. Respondents argue further that regulatory frameworks are politically driven and not driven by the end result; it is therefore suggested that regulators may look to economic incentives for innovation.

“Regulators have been feckless.”

Weak and uneven enforcement of regulations is seen as a significant barrier to success. Enforcement is often focused on compliant companies rather than, for example, online companies or ‘free-riders’. Lack of broader aspiration in enforcement is also an issue – landfill bans were often cited as an example.

Competition

Although other countries have built EPR around a competitive market, stakeholders in our research suggest that there is not enough money in the system to make a competitive market *scalable* in individual provinces or even nationally, and that there is still a need for more collected commodities and interprovincial consolidation to achieve scale even among existing Stewardship Agencies. Moreover, government has no way to create competition even where legislation allows it. Stakeholder feedback suggests that competition should be at two levels – municipal and supply chain, where both cost efficiencies and commodity efficiency can be gained.

Public Awareness and Advocacy

Almost all interviewees say that public awareness and advocacy are key, citing in particular RecycleBC (formerly Multi-Material British Columbia). Some argue that increasing the promotion and celebration of successes by stewardship agencies pushes governments to strengthen enforcement and engage free riders. One respondent asserted that “the main reason a province does not come on board is that public awareness is not there yet or the provincial stewardship programs have not yet raised awareness.” It is thought that advocacy, education and promotional initiatives are key measures and drivers of program success.

In the area of pharmaceuticals, raising awareness is seen as an avenue for consumers to increase safety and decrease improper uses of disposal. It provides a mechanism to engage consumers and indirectly enhances the brand. One pharmaceutical interviewee said “customer awareness is emerging, independently. An occasional question will come from a consumer on environmental compliance.” Others suggested that stewardship agencies should get in front of emerging awareness and values, rather than lurking in the background.

In the grocery sector, it is argued that EPR, configured as consumer facing and driving innovation, can enhance brand marketing by introducing new ways of doing things and creating new opportunities to connect with consumers.

EPR is seen as a good model in electronics as it provides a mechanism to allow all materials to be properly recycled. Nevertheless, it is felt that there needs to be more promotion to the consumer. To increase recycling rates there needs to be higher awareness.

For some, aligning consumers to cost impacts is a challenge due to a lack of visible fees. Those respondents argue that consumers need to see that they are contributing to end of life costs. This is a signal to the consumer that raises awareness. Many interviewees said a change of mindset among both consumers and stewards is needed to promote recycling and voluntary actions.

“A change of mindset is needed to promote recycling and voluntary actions.”

EPR has been a success in increasing businesses’ awareness that their footprint does not end at the checkout counter. Companies now have to consider how their consumers interact with their products and packaging after sale and at the end of its useful life.

Circular Economy

In many jurisdictions throughout the world, a circular economy is seen as the next step in the evolution of product stewardship. Proponents see the circular economy as an alternative to the traditional “linear” economy, moving beyond recycling and current-state EPR to keep resources in use for as long as possible, extract maximum value from those resources while in use, and then recover and regenerate products and materials at the end of each life cycle.

In Canada, Ontario’s “Strategy for a Waste-Free Ontario: Building the Circular Economy” asserts that “a circular economy aims to eliminate waste, not just from recycling processes, but throughout the lifecycles of products and packaging. A circular economy goes beyond recycling. The goal is not just to design for better end-of-life recovery, but to minimize the use of raw materials and energy through a restorative system.”⁴ The Netherlands, which has made a government-wide commitment to achieve a circular economy by the year 2050, puts it even more succinctly: “Waste will disappear in this circular economy. Waste will be a new raw material.”⁵

In introducing this topic, the interviewer asked respondents to describe their understanding of the circular economy. In general, their views aligned with the definitions cited above. The circular economy is not equated with recycling; at the very least it implies making something new from used materials, and that there are larger goals beyond existing EPR programs.

However, respondents overall saw EPR as lacking broader aspirations beyond executing the recycling mandate at lowest cost, and as a result, felt that EPR may be

⁴ Government of Ontario, “Strategy for a Waste-Free Ontario: Building the Circular Economy,” February 2017, p.4.

⁵ Government of the Netherlands, “A Circular Economy in the Netherlands by 2050: Summary,” September, 2016, p. 3.

an interim model that is unable, particularly given current lack of corresponding regulatory ambition, to evolve to a broader circular ambition.

Within the research, various comments suggest that EPR can be a tool to drive the circular economy. But a first step is to integrate the programs with a focus on education and promotion becoming a core part of the mandate. It is argued that at this time there are competing forces from producers to governments and that incentives and subsidies are either lacking or misapplied. In addition, there is no legislative framework for circular economy development. Administrative harmonization followed by legislative harmonization is required first, followed by a change in governance and consumer mindset.

The optimal EPR model

From the research conducted, EPR is viewed as neither a success nor a failure, but rather as a work in progress. While acknowledging the existence of different programs, several respondents identified RecycleBC (formerly Multi-Material British Columbia) as an optimal EPR model to date, not just for the 100 per cent industry responsibility model on which it is based but also for its mandate for promotion and advocacy with consumers, for supply chain innovation and for being a market matchmaker. That said, some caveats were raised with regard to its cost reduction focus and governance. RecycleBC is a not-for-profit agency, responsible for the development, submission and implementation of a stewardship plan for packaging and printed paper. It is governed by a Board of Directors consisting of retailers and manufacturers that acts as a stewardship agency on behalf of producers in order to discharge their legal obligations under Schedule 5 of British Columbia's *Recycling Regulation*.

In general, it is suggested that good models have industry fund 100 per cent of the costs of EPR, controlling costs right down to the municipal level. Models that are not 100 per cent industry funded can restrict innovation and efficiency. However, the drawback of the 100/100 model is seen as a natural tendency to become focused on cost reduction at the expense of higher level aspirations.

Industry-owned, national, not-for-profit organizations offering stewards in several provinces harmonized services, thus enabling them to manage multiple recycling programs across jurisdictions, are seen as a potential 'umbrella' model and a route to administrative harmonization. The Canadian Stewardship Services Alliance (CSSA) was identified by many as one such model, although at this time it is considered a work in progress.

Views on Canadian Stewardship – Original Research

The research described in this paper was presented by Rob Hutton of the Innovative Research Group at the Canadian Stewardship at the Conference on Canadian Stewardship on September 27, 2017.

The Conference on Canadian Stewardship was established in 2005 by the Canadian Product Stewardship Council and is the premier gathering of industry professionals and other stakeholders in the burgeoning field of Product Stewardship. Presented once every two years, the conference explores key topics in stewardship and EPR by encouraging discussion between business leaders, practitioners and policymakers from across Canada and around the world. Now in its twelfth year, the conference routinely draws more than 400 delegates and is widely considered Canada's pre-eminent forum for dialogue on issues, trends and developments in Product Stewardship.

APPENDIX: Summary of Interview Questions Used to Guide this Research

Benchmarking – EPR as A Category:

1. To what extent are you involved with EPR?
 - a. Highly
 - b. Significantly
 - c. Moderately
 - d. Very little
2. How would you describe your engagement with EPR?
 - a. Actively managing/directing
 - b. Overseeing, higher level accountability
 - c. An interested observer
 - d. Involved but at a distance
 - e. Other
3. Which of the following best classifies your organization as an EPR stakeholder?
 - a. An obligated steward
 - b. A supply chain partner
 - c. An involved third party organization (NGO, NFP, etc.)
 - d. Government

Nature of EPR Obligation:

4. a. Which programs are you participating in? (list)

- 4.b How many Provinces are you obligated in? (Rotate, check all that apply)
 - i. British Columbia
 - ii. Ontario
 - iii. Quebec
 - iv. Manitoba
 - v. Saskatchewan
 - vi. Alberta
 - vii. Nova Scotia
 - viii. Prince Edward Island
 - ix. Newfoundland & Labrador
 - x. New Brunswick

5. How would you describe your role in these programs?

6. Do you feel your company is in EPR primarily: (select one)
 - a. Fulfilling a regulated (legislated) obligation
 - b. Fulfilling an obligation, but also engaged as an active partner

- c. A committed partner viewing EPR as an opportunity with your stakeholders
- d. In an adversarial way, opposed to EPR

8. Where does EPR fit in your corporate hierarchy? (Select one)

- a. At the C-level
- b. At the VP level
- c. At the Director level
- d. At the Manager level
- e. Other (specify)_____

EPR as a Category:

9. How would you rate your overall feelings towards EPR (on a scale of 1 to 10, where 1 is very poor, and 10 is very high)?

10. Would you describe your experience with EPR programs as:

- a. A success
- b. A work in progress
- c. A failure
- d. A success with some problems
- e. Neutral, just part of doing business
- f. Other(specify)_____

11. What have been the successes, or greatest positives for your business?

12. What have been the major failures, or negatives for your business?

13. What was the biggest mistake made when the program(s) was (were) conceived?

14. What was the biggest missed opportunity?

15. If you were consulting on EPR with a foreign government, what would you recommend as their first step in creating a program?

16. What legal measures are obstacles?

17. What functional, or program delivery measures are obstacles?

18. What are the multinational issues you have to deal with?

19. What are the more local, internal obstacles you encounter?

EPR Programs:

20. How much *time* does EPR take in your organization?

- a. Excessive
- b. Substantial
- c. Significant but reasonable
- d. Significant but unreasonable
- e. Minimal

21. In terms of *resources*, how would you characterize the costs as a range?

- a. Minimal
- b. Significant, but reasonable
- c. Cost neutral
- d. Excessive

22. Are there economic challenges arising from EPR?

23. What is the first thing you would change operationally?

24. What is the biggest policy obstacle?

25. How has EPR impacted the relationship with the consumer?

27. Has your organization made changes to supplier contracts as a result of EPR?

- a. Yes, primarily in contract language
- b. Yes, primarily changes to supplier responsibilities in EPR
- c. Yes, primarily legal changes to responsibilities and liabilities
- d. Yes – other (specify) _____
- e. No/Don't Know

28. Have you made or demanded changes to packaging as a result of EPR?

- a. Yes, to lower costs
- b. Yes, to increase compliance
- c. Yes, primarily for consumer or social responsibility reasons
- d. No/Don't Know

29. Is there a role for competition in the EPR program delivery space?

- a. Yes
- b. No
- c. Maybe
- d. Don't Know

29. AA: Who would benefit?

29. BB: If competition is desirable whose responsibility is it to make competition happen?

30. How would you recreate EPR if you could?

Possible subjects: collectives, competitive scenarios, governance, implementation, policy

EPR Harmonization:

There are 187 EPR programs in Canada.

31. Does the number of EPR programs in Canada create any challenges for your organization? (accept all that apply)

- a. Yes, rules & requirements are not harmonized
- b. Yes, reporting is not harmonized
- c. Yes, due to different fee structures
- d. Yes, in creating product packaging issues
- e. Yes, in costs and resources
- f. No

32. Discuss harmonization across jurisdictions of EPR programs:

- a. Compelling reason to harmonize?
- b. Drawbacks?

- c. Policy obstacles to harmonization?
- d. Industry obstacles to harmonization?

e. Financial implications – Corporate? Consumer?

f. How is reporting to all programs an issue for your company?

g. Would standardized reporting and rules be helpful?

h. How can standardized reporting be achieved?

i. Whose responsibility is it to make harmonization happen?

33. Thinking of Producer Responsibility Organizations (collectives)- how would you describe:

- a. Compelling reasons for PRO's?
- b. Drawbacks of PRO's?
- c. Policy obstacles to creating PRO's?
- d. Industry obstacles to PRO's?
- e. Financial implications of PRO's- corporate? Consumer?

34. From the perspective of your organization, to what extent, if any, does the governance of these EPR programs present challenges? (accept all responses)

- a. Due to level of resources required from our organization
- b. Due to different governance models
- c. Due to different compositions of governors
- d. Due to differing levels of control or influence over programs
- e. Due to imbalance of commercial and non-commercial stakeholders
- f. Other (describe)

35. What would be the optimal governance model?

EPR Going Forward:

36. Is the current balance between social, steward, consumer and environmental concerns:

- a. About right
- b. Out of balance
- c. Neither

37. Is EPR heading in the right direction?

- a. Yes
- b. No
- c. Not sure

38. To what extent are shifting consumer values impacting your company's view towards EPR?

39. How can EPR be made an advantage to your brands, services, customers?

40. Are there short term solutions to the economic challenges you noted relative to EPR?

41. Are there longer term economic challenges on the horizon?

42. What might mitigate those challenges?

Circular Economy:

43. What does the phrase "Circular Economy" mean to you?

44. Is there a distinction between EPR and sustainability?

- a. Yes, EPR is a lower subset part of sustainability
- b. Yes, EPR is separate from sustainability
- c. No, EPR and sustainability we consider part of each other
- d. No, EPR and sustainability are two different things
- e. DK/Other

45. How important is sustainability to your organization (rank on a scale 1 to 10, 1 is completely unimportant, 10 is a key corporate value)

46. Is EPR, as presently configured, a form of circular economy thinking?
- a. Yes
 - b. No
 - c. Not sure

47. What are the missing and not fully formed elements?

48. What is the most important element, from an EPR viewpoint, that would close the loop?

49. Where can EPR find opportunities in the circular economy going forward?

50. How can stewards benefit from the circular economy?

51. What is your greatest fear in the development of circular economy thinking and policies?

52. How can competing interests impacting EPR be balanced to create a win-win situation? Please consider social interests, corporate profits, consumer interests, governments and environmental concerns.

Policy Changes:

53. What government initiatives are needed to facilitate development of circular economy policies?

54. How well do you feel governments understand your concerns or issues with EPR?

- a. Very well
- b. Moderately well
- c. Neutral
- d. Somewhat poorly
- e. Very poorly

aa. If not well, how can concerned businesses bring the discussion to a positive outcome?

55. How well do you believe governments understand how to optimize PRO's for all stakeholders?

- a. Very well
- b. Moderately well
- c. Neutral
- d. Somewhat poorly
- e. Very poorly

56. Has government regulation:

- a. Created effective PRO's and let them manage themselves?
 - a. Yes
 - b. No
 - c. Not sure

- b. Placed regulatory obstacles that inhibit collectives?
 - a. Yes
 - b. No
 - c. Not sure

- c. Created effective regulatory frameworks that allow stewards to create an optimal ecosystem?
 - a. Yes
 - b. No
 - c. Not sure

- d. In general, do you believe that PRO's are exhibiting good governance policies?
 - a. Yes
 - b. No
 - c. Not sure

e. Which ones are governed best?

f. Which ones are disappointing in their governance models?

57. In terms of enforcement, how would you characterize the current enforcement regimes in place? (Select one)
- a. There is little to no true enforcement
 - b. There is some enforcement, but not effective
 - c. There is overly strong enforcement
 - d. The level and nature of enforcement is about right
 - e. The level of enforcement is less an issue that the standards themselves being enforced

Enforcement:

58. In terms of enforcement, are the penalties for non-compliance: (select one)
- a. Fair
 - b. Unclear and/or fairly random
 - c. Unfair
 - d. Fair but unevenly enforced/applied
 - e. Neither fair nor unfair, but based on the wrong measures
 - f. Should PRO's financially penalize those that are not complying?
59. In terms of the costs and resources imposed by EPR regulation, would you say:
- a. Costs are reasonable
 - b. Neither reasonable nor unreasonable, just a cost of doing business
 - c. Costs are in line with goals and outcomes
 - d. Costs are out of balance with goals and outcomes
60. Is the relationship with regulators: (select the one that most closely represents your experience)
- a. Enforcer-enforcee
 - b. Collaborative
 - c. Bureaucratic
 - d. Politicized
 - e. None/Other

Media/Pubic Opinion:

61. Do you feel the media covers EPR adequately and accurately?

- a. Yes
- b. No
- c. Not sure

62. Do you feel the general public : (select one)

- a. Understand EPR to the extent they need to
- b. Don't understand EPR sufficiently
- c. See EPR as "user pays" so they get it
- d. Are misinformed on EPR
- e. The general public doesn't care about EPR

65. Are there any other aspects of EPR that we have not covered today?

Thanks for completing this survey. Your input is critical to the success of this project, and the industry overall. Please be assured that your responses are absolutely confidential, will only be reported to our client in aggregate and without any personal or organization identification.