

UPSTREAM Comments to CalRecycle on the Manufacturer's Challenge

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I. Introduction

UPSTREAM is a US-based environmental organization dedicated to creating a healthy, just and sustainable society by addressing the root causes of environmental harm. Our mission is to advance sustainability, end plastic pollution and reduce climate disruption through product-focused environmental policies. We primarily act as a solutions-oriented policy and strategy think tank, and as conveners and coalition-builders around environmental issues related to products and packaging.

UPSTREAM's work on sustainable packaging began more than five years ago as part of a larger campaign focusing on the development and advancing of product stewardship and extended producer responsibility policies on a state-by-state basis in the United States. Our staff and organizational partners have engaged with many of the trade associations, and the brands they represent, in these policy debates in state houses and agency hearings across the country.

The primary take-away from the presentations and comments provided at CalRecycle's Manufacturer's Challenge workshop is that brand owners and trade associations want to continue to have the public subsidize their businesses through public expenditures. These entities are still seeking to avoid taking financial responsibility for the waste, whether valuable or not, that their businesses and economic practices create.

II. Tackling responsibility

The issue of responsibility for meeting the goals set either by the California Assembly or CalRecycle directives was not fully addressed during the workshop. By issuing the Manufacturer's Challenge, CalRecycle is clearly indicating that the brand owners of packaging material have an explicit responsibility to achieve these goals on behalf of the public. However, much of the discussion by the manufacturers was directed at obfuscating that responsibility or otherwise highlighting national efforts rather than those taking place in California.

The presentations associated with the Closed Loop Fund and the Recycling Partnership are clear demonstrations that manufacturers are aware that they have some responsibility for the overall system, but seek to meet that responsibility with as minimum of an investment as possible. By directing the attention towards targeted loans for capital infrastructure there is an effort to avoid meeting a much larger need. Additionally, these investments are not happening in California and play no role in meeting the specific challenge presented by CalRecycle.

There was also a significant amount of "blame-shifting" taking place. While manufacturers were asked to present on how they are working to meet the specific goals set out by CalRecycle, there was more highlighting the need to tackle organics diversion and other efforts in order to

meet the 75% Assembly goal rather than addressing the 50% packaging diversion rate. There is no question that progress needs to be made with respect to additional materials types. It is important for CalRecycle to not discount the need to act on one material stream simply because there are others where work is also needed.

At the core of this conversation is which entities should be responsible for achieving these public interest goals. UPSTREAM asserts that product manufacturers, primarily through brand owners, need to meet this responsibility. Shifting blame to local governments or citizens through poor recycling decisions only serves an attempt to reduce regulatory burdens by saying that other entities need to act instead. However, it is critical to consider which entities are best situated to respond to market signals and make decisions that are necessary to moving California towards its 50% packaging landfill diversion rate.

Local governments are currently and will continue to be responsive to pressures outside of recycling system optimization. They have labor contracts, resource constraints and political pressures that may push them to make decisions that compromise landfill diversion in order to achieve competing goals. This should be no surprise, yet trade association presentations continually point to the need for local government adoption of “best management practices” despite the fact that, from their perspective, those recommendations may not be feasible.

Instead, there is much more to gain by putting responsibility and decision making authority on those market actors who are most influenced by and best positioned to influence these systems and respond to the inherent economic forces that create feedback signals to drive material design and system changes. Brand owners and their subsidiary manufacturers, if responsible for end-of-life management will be able to optimize packaging design to meet infrastructure capabilities, or, in the alternative, invest in infrastructure such that it meets the needs of packaging design. By having decision makers in these two spheres existing without common feedback signals, we have a core weaknesses in our system.

UPSTREAM would like to highlight that it shares the opinion of Conrad Mackerron of As You Sow, that the lack of data and metrics submitted by the industry should be treated with skepticism. These companies operate in a rigorous data driven environment governing minute decisions that are made with respect to the development and marketing of their products. If the same rigor were applied to understanding the end-of-life impact of their products, agencies like CalRecycle would be able to make better data driven decisions. Their opinion that the data is not available so that action should not be taken is a stalling tactic designed to sow confusion and uncertainty. The data is not available because these same associations have chosen to either not track it or not make it public. Either way, claims that decisions are operating in a data vacuum is cynically bolstered when the data vacuum is perpetuated by those making the claim.

III. Strengthening infrastructure

Multiple trade associations highlighted the need to “partner with” or “strengthen” local infrastructure that has been developed to operate existing the existing recycling collection and processing system. There is no question that existing infrastructure is not able to handle the

rapidly changing cross-section of packaging materials that are currently being utilized in the existing economic systems.

When industry points out that there needs to be targeted investment in these areas and best management practices need to be implemented, that speaks to the fact that they are in the best position to make those decisions. Clearly, their research indicates ways in which targeted infrastructure upgrades and service changes can result in greater quantities of higher quality material moving through the existing system. In the same motion they request that other players make decisions that are optimized to their needs, without regard to potentially competing pressures on those decisions makers.

This returns to the need for responsibility for infrastructure investment and maintenance and system operation to be placed with entities that are best able to make decisions based on the economic factors that are driving the market. As mentioned by the representative from the Closed Loop Fund, the existing system is fundamentally broken, and these failures are primarily the result of fragmented responsibility and decision making. If we are to look at root causes of the issues we are seeking to address, we need to look not just at management practices but at what decision making structure is necessary in order to optimize this system. Those with the most power and resources benefit from the gray area created by fragmentation of authority and responsibility. Only at the state or federal level is there sufficient power to mandate the creation of decision making entities that represent the full scope of the system and the role it plays in an interconnected and complex international economic system.

IV. Conclusion

It was a positive development to bring the manufacturers and their trade associations together for this day-long workshop. There needs to be continued pressure and focus on the question of how to sustainably manage these materials to meet legislative mandates and regulatory targets. UPSTREAM wants to be a productive and active partner with all entities seeking to tackle this issue. Based on the best data available in California, other US jurisdictions and foreign jurisdictions it appears clear that sustainable material management goals are only met when mandatory targets and centralized regulatory authority is asserted over the system. The continued fragmentation of the system benefits those that seek to minimize the problem and leads to public entities, primarily local governments, to fill in the gaps.

It is time for us to move towards centralized decision making with regards to packaging and management of the infrastructure necessary to process that material. It is time to move past landfilling as the disposal technique to cover for system and market inefficiencies. Under our predominant economic model, government intervention into the existing free market system is essential when there are market failures. Our recycling system is an economic market that is failing, and it is time for the state to take action.