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October 18, 2023

Senator Pete Harckham, Chair
Senate Standing Committee on Environmental Conservation
Assemblymember Deborah J. Glick, Chair
Assembly Standing Committee on Environmental Conservation
181 State Street, Roosevelt Hearing Room C
Albany, NY 12247

Dear Chair Harckham, Chair Glick, and Members of the Committee:

Thank you for the invitation to provide oral testimony. Unfortunately, I will be on vacation at the time of the hearing, but I appreciate the opportunity to submit written testimony.

As the Founder and CEO of the Product Stewardship Institute, I have been part of the tremendous change in New York State and around the country regarding producers taking greater responsibility for eliminating the human health and environmental impacts from the consumer products and packaging they put on the market. What started as a simple idea in Europe is now a reality in the US and across the globe.

Over the past 23 years, PSI has worked with hundreds of government agencies, companies, and organizations nationwide to build the capacity for understanding the policy concept of EPR and translating it into EPR bills and laws. New York State has enacted EPR laws on electronics, rechargeable batteries, paint, carpet, pharmaceuticals, and mercury thermostats. Nationally, there are 135 EPR laws enacted on 18 product categories in 33 states. When PSI started, there were 8 laws on one product in seven states. This transformation represents hundreds of millions of dollars of government and taxpayer savings, reduced environmental impacts, significant innovation and job creation, and a path toward a sustainable future.

Although gaining support for EPR bills in New York has not been easy, we have succeeded. However, I am concerned at the discussions that have taken place during the past three years in relation to packaging EPR. In 2019, our organization worked with the New York Product Stewardship Council, many New York local governments and organizations, and some companies to develop what many considered to be a strong EPR bill with options for local governments, flexibility for producers, considerations for recyclers, and strong government oversight. It also included a multi-stakeholder advisory council to provide a voice for local governments, environmental and equity groups, and others not represented in the producer responsibility organization (PRO). Although it was not perfect, it was a solid bill.

The policy we developed was turned into legislative language and introduced, with moderate changes, by Senator Todd Kaminsky. That bill was based on over two decades of collective EPR knowledge among PSI's staff and our state and local government members. By that time, PSI had worked on packaging EPR policy for nearly 15 years. Unfortunately, I have watched as certain interest groups have seized hold of the narrative in New York State so that the possibility of bill passage has significantly declined. Although New York State could have been one of the first states to enact a packaging EPR law, it is now mired in cross-cutting interests among those who would rather lean on their sword than start down the EPR path toward sustainability.

EPR is a complex policy, but we have shown that 135 EPR laws can be established. Most of these laws include strong environmental protection standards. The EPR movement globally always intended to remove the significant financial and management burden carried for nearly 50 years by governments and place a significant amount of that responsibility on producers. Other stakeholders, like recyclers, collectors, state and local governments, and even consumers, still have a responsibility in a well-crafted EPR law. In fact, EPR is best described as a network of accountability for all stakeholders.

As I have worked nationally on packaging EPR policies, one thing is clear – EPR bills, particularly for packaging, must be viewed as a multi-decade transformation. Just as the recycling revolution evolved over the past 50 years, we are now entering a new phase of waste management – a paradigm shift – that requires producers, as well as others, to assume unique responsibilities. No matter how urgent global warming and plastic pollution are, paradigm shifts do not happen overnight. While the climate crisis is urgent, we need to consider a longer horizon in policymaking. EPR bills cannot include provisions from every special interest group right from the start unless it is under an extended timeframe to which all stakeholders commit to follow.

Although zero waste, plastics reduction, deposit return systems, reuse, toxics reduction, and greenhouse gas emissions are all extremely critical to a sustainable future, we cannot load up an EPR bill with all these provisions at the start. But we can include them all in a broader policy over time. For example, while goals on post-consumer recycled content might be included at the start of an EPR statute, a plan for adding toxics to New York State's Toxics in Packaging law might be enforced in year three, either in a stand-alone bill or as part of the original EPR bill.

The last three years have shown the result of stakeholder discord on packaging EPR in New York State – no law, no experience, and no financial relief for local governments. Meanwhile, Maine, Oregon, Colorado, and California have gained tremendous experience on their way to millions of dollars in municipal savings and greater environmental protection. Illinois and Maryland have also moved forward with legislatively mandated needs assessments and other provisions that will identify reuse, recycling, and composting system needs before reconsidering full EPR bills.

I pledge PSI's support to work with all stakeholders to craft a strong packaging EPR bill for New York State that gets the train moving toward sustainability. That train will have many stops along the way as it addresses each of the important issues that encompass environmental quality, equity, justice, jobs, and financial stability. We cannot achieve all our goals at once, but we can achieve them in a timeframe that will be in synch with reducing the existential threat from global warming, climate change, and resource over-consumption.

If I can be of assistance, please feel free to contact me at scott@productstewardship.us, or 617-513-3954.

Sincerely,

A handwritten signature in cursive script that reads "Scott Cassel".

Scott Cassel
Founder and CEO