



MULTI-MATERIAL BC AND LOCAL GOVERNMENTS

Will the new industry-run recycling system cause backsliding?

by Rob Duffy
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Introduction

B.C. LOCAL GOVERNMENTS have a long and largely successful track record of running programs that get products like paper, glass and cans out of the garbage stream and into recycling. Reliable, easy to use curbside ‘blue box’ collection by municipalities has been central to the success of recycling programs in many parts of the province.

In 2011, the province amended the regulations governing recycling and began a process of shifting responsibility and jurisdiction over packaging and printed paper (PPP) recycling to industry. To meet the requirements of the Regulation, the key industry players formed a not-for-profit agency, Multi-Material British Columbia, (MMBC) to develop and implement a residential stewardship plan. Local governments and others are voicing concerns about how this new system is being implemented and raising questions about whether it is capable of meeting the stated goals of the BC Recycling Regulation.¹ An August 2013 letter from the Mayor and Council of Port Moody summarized many of these concerns, writing that “we do not feel the program, as presented, is helpful in increasing diversion and lowering waste generation, nor do we feel that it is respectful of the taxpayer who will continue to subsidize the packaging material life cycle.”²

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1 For examples, see Capital Regional District, Report to Environmental Services Committee meeting of Wednesday, July 24, 2013 (ERM 13-29); Mike Clay, Mayor of the City of Port Moody, Letter to the Board Chair and Waste Committee Chair of the Greater Vancouver Regional District (GVRD), July 3, 2013; Vincent Lalonde, Letter from Vincent Lalonde, Chair of the Metro Vancouver Regional Engineers Advisory Committee (REAC), to Mr. David Lawes, Director of the Environmental Standards Branch, Ministry of Environment, July 20, 2013; CoastFM (Nanaimo), “Recycling depot operators concerned about proposed MMBC contract,” 2013: http://www.917coastfm.com/coast_news/news/v/Local/227063/Recycling-depot-operators-concerned-about-proposed-MMBC-contract; Central Kootenay Regional District, “Recycling in the RDCK, changes on the horizon,” Media Release, July 19, 2013; “RDCK concerned about proposed recycling changes,” The Nelson Star, July 19, 2013: <http://www.nelsonstar.com/news/216193451.html>; Jeff Ainge, Zero Waste Coordinator, City of Nanaimo, “Packaging and Printed Paper - Curbside Collection Financial Incentive Report,” July 17, 2013; Village of Tahsis, Regular Council Minutes, July 18, 2013; Richard Stewart, Mayor of Coquitlam, BC, Letter to Minister Mary Polak, BC Minister of Environment, re: RE: Multi-Material BC Packaging and Printed Paper Stewardship Plan, August 1, 2013. An overview of MMBC offers can be found at <http://multimaterialbc.ca/service-providers>

2 Mike Clay, Mayor of the City of Port Moody, Letter to the Board Chair and Waste Committee Chair of the Greater Vancouver Regional District (GVRD), July 3, 2013

Background

> Local Government Recycling Programs in B.C.

In most large BC communities, local governments have been responsible for the creation of the residential recycling collection programs. This usually involves a curbside collection service in dense areas and a depot collection system in rural areas.

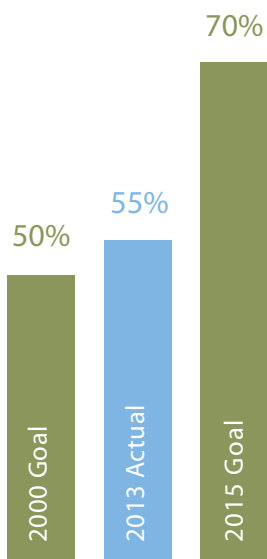
Local governments have a strong track record in implementing and managing these programs. Several municipalities in BC instituted the blue box curbside collection programs in the early 1990's. The success of these programs is based on a 20-30 year public investment and education on the part of local governments.

In the Lower Mainland, for example, Metro Vancouver established a goal of reducing per-capita solid waste disposal by 50% by the year 2000. That goal was met and then exceeded. The current overall waste diversion rate is 55% (i.e. 2 million tonnes) and Metro Vancouver has set a new goal of 70% diversion by 2015. Blue box residential curbside recycling programs have been central to Lower Mainland municipalities meeting their waste reduction goals.

> Extended Producer Responsibility and the shift to an industry-run recycling system in B.C.

Canadian local and provincial governments are increasingly looking towards 'zero waste' strategies that reduce and ultimately eliminate the flow of recyclable and reusable materials into municipal landfills and incinerators. Moving towards 'zero waste' is crucial to meeting greenhouse gas reduction targets, conserving resources and reducing environmental impacts associated with landfills and incineration.

An important component of the move towards zero waste is 'extended producer responsibility' (EPR). Under this approach, the producers are meant to assume responsibility for the whole life cycles of their products, all the way from production to 'end of life' collection, dismantling, recycling and material recovery. As a policy approach, EPR is meant to provide incentives for product design and production that emphasizes easier recycling, dismantling and repair, as well as reduced packaging.



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Most EPR programs to date have been for items not part of traditional curbside recycling (for example paint cans, electronics, beverage containers, etc) and instead use drop off depots as collection points. However, the B.C. provincial government is in the process of trying to launch an EPR program that targets a significant portion of what the public currently puts into their blue box, including packaging and printed-paper.

In May 2011, the B.C. Government amended the Recycling Regulation (the Regulation) to include packaging and printed paper (PPP) generated by the residential sector. This amendment shifts financial and administrative responsibility for managing PPP from local governments to the producers of packaging and printed paper.

To meet the requirements of the Regulation, the key industry players formed a not-for-profit agency, Multi-Material British Columbia, (MMBC) to develop and implement a residential stewardship plan for PPP by May 2014. This transfer of responsibility is intended to improve the recovery of PPP in BC as well as incent producers of PPP to incorporate environmental considerations into the design of their products. The ultimate goal is to generate less packaging and to have packaging that is more easily re-used and recycled.

In response to these changes, the UBCM established a Packaging and Printed Paper Working Group to act as a forum for discussing local government issues with producers, identify relevant issues that may require negotiating with industry and propose recommendations for resolving potential issues. The UBCM working group released a policy paper in August 2012 which recommended, among other things, that local governments be given right of first refusal for providing PPP collection services. This request was respected by MMBC in the creation of the stewardship plan.

In April 2013 the Province approved the MMBC stewardship plan. Under the plan, MMBC splits the delivery of the stewardship program into two elements: PPP collection services (from residential and multi-family households and depots) and PPP processing services.

MMBC has offered local governments that were providing residential PPP curbside collection services in November 2012 a financial incentive to continue providing PPP curbside collection after May 2014. Local governments who do not currently offer curbside are also being offered the incentive, e.g. Smithers and Terrace.

In addition, MMBC has offered a collection incentive to local governments and qualified private companies and not-for-profit organizations to provide collection of PPP from multi-family buildings and to operate depots for accepting PPP from residents. There are separate incentives for curbside and depot collection as well as top-up allowances for education and administration. The annual payment amounts are fixed for three years.

Post-collection activities, including transportation, processing and marketing of recyclable materials, will be contracted by MMBC through a competitive Request-For-Proposals process.

Concerns over the new recycling system and its implementation

Despite their lengthy experience running recycling programs, local governments have had only limited input in the process of making B.C.'s new recycling regulations. While B.C. local governments agree in principle that producers should assume more of the costs associated with waste management and recycling, they are not convinced that system being put forward by MMBC can do this fairly and effectively. In particular, local governments and other observers are raising concerns about the low financial incentives, problematic MMBC contract clauses and the limited, unilateral 'negotiation' process with MMBC.³ As one BC Mayor wrote in a letter to the BC Environment Minister, "the approach being taken by MMBC appears to favour MMBC's interests only, and conflicts with existing local government processes and policies."⁴

> One sided process, limited options

Curbside recycling for single-family households

MMBC's options for integrating existing local government paper and packaging collection services are non-negotiable and amount to essentially "a take-it-or-leave-it offer" that municipalities are required to individually commit to or reject by September 16, 2013. Many municipalities are concerned by the lack of consultation, the terms of the offers and the limited time frame in which to make a decision on a matter of such importance.⁵

There are three core options offered by MMBC. Option one is municipalities contracting their in-house collection services to MMBC, which unilaterally sets "market clearing prices" for materials and/or contract terms and conditions. MMBC 'financial incentives' under this option may not be sufficient to

3 Richard Stewart, Mayor of Coquitlam, BC, Letter to Minister Mary Polak, BC Minister of Environment, re: RE: Multi-Material BC Packaging and Printed Paper Stewardship Plan, August 1, 2013; Capital Regional District, Report to Environmental Services Committee meeting of Wednesday, July 24, 2013 (ERM 13-29); Mike Clay, Mayor of the City of Port Moody, Letter to the Board Chair and Waste Committee Chair of the Greater Vancouver Regional District (GVRD), July 3, 2013

4 Richard Stewart, Mayor of Coquitlam, BC, Letter to Minister Mary Polak, BC Minister of Environment, re: RE: Multi-Material BC Packaging and Printed Paper Stewardship Plan, August 1, 2013

5 Ibid.

cover the actual cost of running recycling programs and do not allow local governments to charge fees. This would likely lead either to service reductions or municipalities running programs at a loss.

Option two involves a municipality withdrawing from PPP collections and transitioning control and responsibility for recycling over to MMBC (and potentially taking a loss on capital and program development investments in the existing municipal system).

The third option is essentially the status quo; municipalities continue their programs without MMBC involvement. However, the third option puts local governments in the politically challenging position of appearing to 'refuse' cash incentives (even if these 'incentives' are in reality not sufficient to maintain effective recycling programs). Given the apparent inadequacy of MMBC pricing and the loss of municipal revenue from resale of recyclable materials, the third option could make sense for some municipal programs over the longer term. However it could be politically difficult to be seen 'refusing cash' from MMBC, given the challenging fiscal environment faced by BC local governments.

Multi-family building recycling

Under the new system, MMBC essentially has complete control over how multi-family residential recycling is administered. It is not required to provide municipalities a 'right of first refusal', as with curbside recycling. This may mean that the MMBC program will take over all multi-building collection, even if a municipality is currently providing that pick up.

A local government can accept or decline the multi-family building incentive. If it accepts, MMBC "will assess application against collector standards" that are self-determined by MMBC. Unfortunately, this offers no guarantee that successful municipal programs will continue.

Recycling Depots

Local governments that want to provide depot collection can also accept or decline the financial incentive being offered. If a municipality accepts, MMBC will then work with a collector to provide the depot service. In a similar fashion to multi-family collection, MMBC will "assess application against collector standards."

MMBC's financial incentives for depots are offered to local governments, non-profit groups and private operators. However, some staff and current depot operators are concerned as MMBC's financial incentives for depots are far below cost recovery, and MMBC will not allow local governments to charge for collecting PPP materials.⁶

It is unclear what MMBC will do if no municipalities accept these depot incentives. In their stewardship plan, which was approved by the Ministry, MMBC committed to provide service levels according to the Stewardship Agencies of BC (SABC) depot service standards. SABC is not expected to publish the standards until September 2013 - likely after or close to the deadline for a municipal response to MMBC offers - resulting in lack of clarity and uncertainty about the level of PPP collection services in areas with depots.

⁶ "Recycling depot operators concerned about proposed MMBC contract," CoastFM (Nanaimo), 2013: http://www.917coastfm.com/coast_news/news/v/Local/227063/Recycling-depot-operators-concerned-about-proposed-MMBC-contract; Village of Tahsis, Regular Council Minutes, July 18, 2013

Both private and non-profit depot operators across BC have expressed concern about the low financial incentives and uncertainties to Ministry staff and MMBC, and some smaller and rural communities are concerned that MMBC depot requirements will amount to a form of cost down-loading onto local governments.⁷

It is also worth noting that some non-profit depots and recycling processors perform important social service and economic development functions by providing employment for people with developmental disabilities and other employment barriers. This factor is given little weight in the introduction of the new regulations, and there is no guarantee that these important social capital programs will continue under MMBC governance.

> Inadequate financial incentives don't cover program costs

Many local governments are concerned that the non-negotiable financial terms offered by MMBC are not sufficient to address the real costs of delivering effective collection services. Having a process whereby MMBC sets the 'market clearing prices' being offered to local governments for materials may even place the agency in a conflict of interest. MMBC's incentives are based on self-determination of 'market clearing prices,' which may not match the actual costs incurred by collection services. It should be noted that MMBC has a structural imperative to pay as little as possible for material, both to keep costs down for industry and also to maximize revenue on resale of material collected through the program. When prices don't match actual program, local governments could be left to pick up the tab for the remainder. In effect, local governments could end up subsidizing materials collection for MMBC.

Concerns about pricing and incentives are wide ranging. According to the Metro Vancouver Regional Engineers Advisory Committee, "MMBC's overall contract and pricing methodology are so problematic that a clause-by-clause negotiation would not be the best way to reach agreement, and could potentially be long, expensive, and adversarial."⁸ Staff at the Capital Regional District similarly note that the way MMBC calculates households does not address the full costs of collection programs, and that the MMBC definition for single-family dwellings excludes secondary suites, which reduces the MMBC's incentive payments to the regional district.⁹

Several communities have also indicated that MMBC 'top-up allowances' for education and administration are below the current local government costs, and that MMBC reporting requirements will in fact generate new administrative expenses.¹⁰

Echoing these concerns, the Mayor of Port Moody authored correspondence stating that the MMBC offer would not cover the costs of continuing that city's highly successful recycling program, which

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7 Village of Tahsis, Regular Council Minutes, July 18, 2013; "RDCK concerned about proposed recycling changes," The Nelson Star, July 19, 2013

8 Vincent Lalonde, Letter from Vincent Lalonde, Chair of the Metro Vancouver Regional Engineers Advisory Committee (REAC), to Mr. David Lawes, Director of the Environmental Standards Branch, Ministry of Environment, July 20, 2013

9 Capital Regional District, Report to Environmental Services Committee meeting of Wednesday, July 24, 2013 (ERM 13-29)

10 See for example Capital Regional District, Report to Environmental Services Committee meeting of Wednesday, July 24, 2013 (ERM 13-29)

led the province by raising local recycling rates from 40% in 2006 to 75% in 2011. According to the Mayor, "...it appears that MMBC has offered a financial incentive of between 50 and 60% of what they themselves have identified as the 'average program costs.'"¹¹

In addition, municipalities have identified financial concerns regarding one-sided termination allowances and lack of inflationary cost accommodation.

The extent of response about MMBC's offers indicate not only concerns about integrating local government programs into the new system, but raise concerns about whether MMBC is willing to allocate enough funding for contractors— public or private – to provide effective services.

MMBC is governed by a board of directors drawn from large private sector corporations, whose interests and priorities do not necessarily coincide with the desire of local governments and citizens for effective, convenient recycling programs.¹² Without greater public oversight and ongoing consultation, the core imperative for an industry run organization like MMBC is likely to be cutting costs, rather than cutting the amount of waste products going to landfills or maximizing recycling. Many B.C. municipalities are concerned that could lead to backsliding in recycling programs, undermining years of public investment and progress in waste reduction. Local governments are concerned that they have invested significant resources into their waste and recycling programs and that their citizens rely on high standards.

> Other Contract Concerns

Unilateral right to terminate or amend contracts

MMBC's Master Services Agreement and Statements of Work listed online, give MMBC sweeping rights to terminate or amend their contracts. A clause such as this is very difficult for local governments to support. Communities already receiving curbside collection service have come to depend on reliable services and these clauses undermine that stability and certainty.

Contamination Penalties

Onerous financial penalties for contamination are one of the biggest financial risks for local governments in the MMBC offers. In the context of recycling, contamination occurs when unacceptable material is placed in a recycling container or bin. MMBC requires that the contamination rate must not be over 3%, or contractors can face penalties of up to \$5,000 per load. Several communities have expressed concern about this point, saying that established programs regularly go over a 3% contamination rate, and that 3% may not be a realistic objective. The threat of high penalties clawing back already inadequate MMBC financial incentives has been a significant concern for some local governments.¹³ This is one of the primary reasons the City of Prince George rejected MMBC's offer, with city staff estimating that the costs of contamination penalties could amount to \$2 million and potentially exceed the amount provided by MMBC as a financial incentive for a recycling program.¹⁴

¹¹ Supra note 3, Letter to the Board Chair and Waste Committee Chair of the Greater Vancouver Regional District (GVRD)

¹² The initial three member MMBC board is comprised of the Vice President of Unilever Canada, a Vice President from Loblaw Companies, Ltd and an internal MMBC managing director.

Undermining effective blue box programs?

The structure and funding model of the new recycling system also raises concerns about the continued viability of blue box programs. PPP is currently collected by local governments across B.C. at the expense of local governments, who own the materials after pick up. Local governments sell these materials to subsidize recycling collection and education. The revenue from more valuable, readily recyclable materials is important to the financial viability of blue box programs, which also often collect materials with less resale potential and provide revenue for recycling education, an important component of effective recycling programs.

Under the new system, MMBC will have control over collection, and also full ownership of valuable resources (like newsprint) that are currently managed by municipalities. Producers will not only be financially responsible for the costs of managing these products, but will also be physically responsible for the operational infrastructure related to collection of them. There are concerns that without effective regulation and oversight, MMBC's focus on minimizing recycling collection and processing costs for industry will result in less effective recycling services for the public.

For example, MMBC is requesting that glass be separated from paper and packaging in curbside programs. MMBC is allowing for a transition period of up to 18 months for glass, but this will be a major change for recycling pick up in many cities. Local governments that currently collect glass at curbside have major concerns with the exclusion of glass, including:¹⁵

1. That glass will continue to be put in the blue box and drive up contamination rates
2. That glass will move from the blue box to the garbage bin, where it will be landfilled and result in financial and penalties for local governments in jurisdictions with materials bans at their landfills
3. That it will result in the back-slipping of programs that have successfully diverted recyclable materials.

> Problems meeting Recycling Regulation goals

Targets Unclear

Local governments have identified concerns over the 75% recovery rate identified within the Regulation. MMBC must implement their program by May 2014 and must reach a 75% recovery rate of PPP within a reasonable time frame. However, the meaning of the recovery rate goal of 75% is unclear. Neither the Regulations nor MMBC's Stewardship plan explain if the 75% is to be applied to the aggregate of all materials or is required for all individual types of materials. Further,

14 Charelle Evelyn, "City turns down recycling offer," Prince George Citizen, August 27, 2013: <http://www.princegeorgecitizen.com/article/20130827/PRINCEGEORGE0101/308279993/0/princegeorge/city-turns-down-recycling-offer>

15 See for example City of Abbotsford, "Provincial Packaging and Printed Paper Recycling Program," Council Report No. ENG 41-2013 <https://abbotsford.civicweb.net/Documents/DocumentDisplay.aspx?ID=34936>

if the 75% target applies to the aggregate, it is not known if this will be calculated by weight or by volume.¹⁶

A UBCM policy paper from 2012 suggests that recycling rates should “focus on specific material categories as opposed to overall packaging composite,” and that it is important that regardless of rates, “the program should cover all areas that local governments are currently servicing.”¹⁷

No guarantees of reduced packaging

Municipalities and other commentators have also raised concerns that the design of the program is not sufficient to realize intended goals of reducing product packaging. B.C.’s EPR model for products and packaging is not based on individual producer responsibility. Instead, the stewardship agency (MMBC) becomes the regulated party. This reduces the incentive for companies to use less packaging – one of the purported goals of EPR programs.

As one expert commentator has noted, “over the past five years, British Columbians have paid almost \$500-million in eco-fees on various products that do nothing to drive innovation, efficiencies or recycling. Without incorporating recycling costs directly into the price of products, stewards are neither motivated nor encouraged to find innovative ways to reduce both waste and costs.”¹⁸ BC local governments are aware of this danger, and have called for the Ministry to intervene in the negotiations and strengthen regulations to ensure that any stewardship program actually has the objective of reducing packaging.¹⁹

Not enough focus on industrial, commercial and institutional (ICI) recycling

Several local governments have identified concerns over the product stewardship program’s focus on residential collection rather than industrial, commercial and institutional (ICI) collection.²⁰ The ICI sector generates more printed paper and packaging than the residential sector and improving ICI diversion could have more impact on waste reduction in B.C. This is especially the case given that much of MMBC’s initial focus is on transferring administrative control over existing residential services rather than expanding the actual scope and scale of recycling in B.C.

16 UBCM policy paper #2, “Packaging and Printed Paper Product Stewardship”, UBCM 2012 Convention, September 23, 2012, page 6

17 Ibid.

18 Rob Cook, “EPR: Ontario versus British Columbia; Ontario suddenly jumps ahead,” Solid Waste and Recycling, June 2013: www.solidwastemag.com/news/epr-ontario-versus-british-columbia/1002482762/

19 UBCM policy paper #2, “Packaging and Printed Paper Product Stewardship”, UBCM 2012 Convention, September 23, 2012, page 4

20 Supra note 15

Conclusion

Local governments have led the way on recycling in BC, and most support the principles of expanded recycling, zero waste, reduced packaging and producers bearing responsibility for the full life-cycle of their products. However, many are clearly concerned about the structure and implementation of B.C.'s new recycling system, and whether it will effectively move towards these goals and respect the experience and investments of municipalities and offer them a fair deal.

Limited consultation, coupled with a problematic pricing structure and seemingly one-sided terms and conditions, has left many local governments concerned about their ability to participate in the new system and maintain historic levels of service, much less expand and improve recycling. Municipalities and other observers have also pointed to a lack of clarity about targets and how they will be met, along with concerns that MMBC is out of sync with the Recycling Regulation's stated objectives of applying economic pressure on the producers to encourage better recovery rates and lower volumes of printed paper and packaging. These concerns have been compounded by the short time frame municipalities have been given to evaluate and accept or reject MMBC's offers.

A number of municipalities and municipal bodies are calling on the Province to intervene, and institute a process that is collaborative with local governments.²¹ The result could be more effective recycling services for B.C. residents, without imposing new costs and risks for municipalities.

²¹ Richard Stewart, Mayor of Coquitlam, BC, Letter to Minister Mary Polak, BC Minister of Environment, re: RE: Multi-Material BC Packaging and Printed Paper Stewardship Plan, August 1, 2013; District of Mission, Highlights of the Regular Council Meeting, August 6, 2013: <http://www.mission.ca/wp-content/uploads/Highlights-2013-08-06.pdf>; Vincent Lalonde, Letter from Vincent Lalonde, Chair of the Metro Vancouver Regional Engineers Advisory Committee (REAC), to Mr. David Lawes, Director of the Environmental Standards Branch, Ministry of Environment, July 20, 2013



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