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**RE: A Regulatory Framework Paper for the proposed *Recycled Content and Labelling for Plastic Products Regulations* and a Technical Paper for the Federal Plastics Registry**

The Canadian Produce Marketing Association (CPMA) and its members welcome the opportunity to provide comments to the Environment and Climate Change Canada consultation on the proposed Regulatory Framework Paper for the proposed Recycled Content and Labelling for Plastic Products Regulations and a Technical Paper for the Federal Plastics Registry.

As a point of reference, CPMA wishes to express its objection to the deadline for submission of comments being only one month after the framework and technical papers were posted. Given the complexity of multiple points enclosed in the draft documents, CPMA considers the time allocated insufficient to fully consult its members.

**About CPMA**

Founded in 1925, the CPMA is Canada's leading not-for-profit trade association representing member companies growing, packing, shipping and selling fresh fruit and vegetables in Canada. In a sector supporting roughly 249,000 jobs across Canada, our members are responsible for 90% of fresh produce purchased by Canadians. This submission reflects a complex supply chain that works tirelessly to provide fresh fruit and vegetable across Canada.

The Canadian produce industry continues to be deeply engaged across all segments of the supply chain to reduce and mitigate the use of plastics. CPMA has deliberately taken a leadership role in this space through the work of our [CPMA Packaging Working Group](#) and as an implementation partner with the Canada Plastics Pact to assist the produce industry in navigating the highly complex goal of utilizing plastic packaging in the most economically and environmentally responsible means possible while also considering the food safety and food security implications of reducing the use of plastics for fresh produce.

The CPMA Packaging Working Group was established in May 2019 to begin the process of identifying a path forward to address the use of plastics within the produce sector, including identifying efforts already undertaken by industry, determining best practices, and developing an industry-supported roadmap to maintaining food quality and safety while reducing the environmental impact of plastics.

Current Working Group efforts are focused on the creation of resources to inform industry decision-making and to address sustainability concerns with PLU stickers used on bulk produce through supporting a voluntary transition to the use of industrially compostable stickers. In addition, a national pilot project is underway to develop a tool that will encourage effective pathways to migrate from current packaging with limited recyclability to an array of sustainable packaging form factors and related materials. This pilot, undertaken in partnership with Food and Beverage Canada, will help to advance the collective efforts of Canada's produce and food sector in reducing the environmental impacts of food and produce packaging.

The business and regulatory context within which Canada's fresh produce operates is critical to its success, especially given its reliance on highly complex global supply chains which deliver fresh produce to Canadians year-round. Fresh produce packaging plays an integral role in the safe and efficient movement of fresh produce, and as such, the Government's proposed regulatory framework for recycled content and labelling, as well as the establishment of a federal plastics registry will have direct impact on the availability and affordability of fresh produce across Canada.

### General Comments

On behalf of the fresh fruit and vegetable supply chain, CPMA supports the Government of Canada's efforts to reduce and mitigate the use of unnecessary and problematic plastics in Canada. CPMA and our members are active partners in finding effective and workable solutions that reduce plastics waste and pollution. However, the CPMA has several comments, and concerns, with the Regulatory Framework Paper for the proposed Recycled Content and Labelling for Plastic Products Regulations, as well as the Technical Paper for the Federal Plastics Registry. These are outlined below.

### **Recycled Content Requirements**

- The CPMA agrees with the exemption of PCR content for food contact packaging. Given the challenges of securing food-grade recycled resins, as noted in the Government's Framework Paper, submitting fresh produce packaging to mandatory PCR content would introduce significant risk and costs.
- In addition, the CPMA is concerned with global PCR content availability for primary and secondary packaging, especially given the significant portion of fresh produce being imported into Canada, with \$4 out of every \$5 spent on fresh produce in Canada being spent on imported produce. As such, CPMA agrees with the exemption for PCR content being applied to secondary and tertiary packaging, including packaging intended for export.

### **Compostability and Recyclability Labelling Rules**

- The CPMA has significant concerns with the proposed recyclability labelling rules, and their feasibility of implementation for the fresh produce industry at large. The proposed Recyclable Label Criterion are not compatible with the fresh produce sector, due to the following considerations:
  - Fresh produce packaging has a higher potential for the presence of food or other product residue at the time of disposal that may render produce packaging "non-recyclable"; as such, fresh produce packaging may vary from meeting the criterion of 'collected' or "sorted" depending on consumer behaviour at the

point of disposal (i.e., discarding packaging with food waste) combined with the state of the collection and sorting systems region by region.

- At present, there is a wide range of barriers to the implementation of clear and consistent collection, sorting and re-processing criterion at the provincial level, let alone at a national level. As such, the variance in collection, sorting and re-processing by region will differ to the extent that packaging labelling will very likely need to vary by province. This regional packaging labelling requirement is not compatible with the realities of fresh produce supply chains which are optimized to deliver fresh produce to their destinations in a timely manner, minimizing fresh produce waste, and keeping the cost of produce down. The requirement for fresh produce packaging labelling to accurately reflect regional/provincial plastics systems will introduce significant cost and risk to the fresh produce industry. Under the proposed approach, there is increased risk for consumer confusion in what constitutes a recyclable package, adversely impacting consumers' purchasing of fresh produce.
- Given the evolution of the packaging collection, sorting and/or re-processing systems across various regions, the labelling of fresh produce packaging would need to be adjusted to reflect these changes. The fresh produce industry operates with significant inventories of pre-labelled packaging as well as pre-printed labelling to maximize supply chain efficiencies which operate across international borders year-round. Consequently, any updates to packaging labelling requirements to reflect changes in the waste management system would need to account for the time required for the fresh produce industry to discharge existing labelling while also building up inventory with updated labelling to avoid the undue creation of waste and related costs being incurred. The CPMA has significant concerns with the lack of clarity on how labelling requirements will be updated as waste collection systems evolve regionally, and the effect such changes could adversely have on the effectiveness and efficiency of the fresh produce supply chains. This concern is compounded by the resulting need for each individual company to house recyclability information on their websites and the associated burden to ensure consistency and clarity in the information provided, including ensuring timely and accurate updates. As such, the Government should give serious consideration to the development of national labelling requirement for select applications such as produce packaging as the only feasible solution which would permit compliance across all provinces and territories.
- The CPMA considers the proposed timelines for implementation as overly ambitious, notably given the lack of accounting for the key considerations outlines above. Given the complexity in confirming the current state of regional waste collection systems and how any regional variances and changes over time will be accounted for, any changes to regulatory labelling requirements should provide a minimum of 5 years from the date of publication.
- Although the CPMA agrees with the exemption of PCR content for food contact packaging, the labelling requirements are silent on the requirements or guidelines under which PCR content will be incorporated into "sustainable packaging" labelling. Given food contact packaging will be exempt from PCR content, the produce industry wishes to avoid any undue risk or confusion with consumers arising from mandated PCR-containing packaging being possibly labelled as "more sustainable" than non-PCR-containing packaging (e.g., produce packaging under the proposed regulations). PCR-exempt packaging such as produce packaging should not be subject to unfair labelling requirements which may create undue pressure to incorporate PCR content, competing with packaging applications which will be mandated to incorporate PCR content.
- The produce industry is a leading adopter of labelling innovation, active in the adoption of advanced bar-coding and other data-rich methodologies to meet regulatory requirements such as those related to

traceability, while also providing consumers with quick links to supplier websites to inform fresh produce purchasing. As such, the inclusion of additional QR codes providing links to information on packaging recyclability will need to be managed to avoid any undue conflict with existing bar-code practices. This should include identifying what information must be provided to consumers with respect to packaging recyclability. Furthermore, flexibility must be provided with respect to the location and type height requirements for recyclability labels (i.e., chasing arrows symbol with terms, including QR codes), because of the limited space on fresh fruit and vegetable packaging. Consequently, any required symbols and terms should be as concise as possible.

- The CPMA is concerned with the labelling requirements for compostable items, notably the increased labelling space requirements to include the combined statements of “compostable” along with “non-recyclable” and any other related terminology and/or bar coding; this concern is compounded by any requirements for such terms to be in both official languages in Canada. With labelling space being at a premium for many forms of fresh produce packaging, the increased labelling could lead to increased consumer confusion and ineffective waste disposal actions. In addition, there are concerns that use of the term “compostable” could be misinterpreted as “home compostable” or other biodegradable formats. A labelling standard should be developed to provide consumers with the assurance and clarity that a packaging meets the required compostability standards and related testing, building on existing certification standards such as those provided by BPI, BNQ and others.
- The CPMA is concerned with the proposed prohibition of green-coloured labelling, striping, tinting of non-compostable plastic items due to the prominence of green-coloured branding applied in the fresh produce industry. Such a prohibition could have direct and adverse operational and economic impacts on the branding and marketing activities of many of our members.
- Lastly, there is general concern that any additional and undue complexity of packaging labeling could result in increased consumer confusion, leading to a reduction in fresh produce purchases and consumption, and by extension, reduce the benefits that fresh produce consumption has on the health and well-being of Canadians.

#### **Requirements Specific to PLU Produce Stickers**

- Reinforcing the key concerns outlined in the CPMA letter sent to the ECCC Minister the week of April 17 2023, the CPMA has significant concerns with the proposal to make compostable plastic PLU stickers mandatory. Key concerns with the proposed approach include the introduction of mandatory compostable plastic PLU stickers introducing a substantive risk to food security in Canada related to fresh produce. Canada is not a major market when compared to the U.S. China, the EU and others. Given there are already substantive regulations (including existing labelling regulations) that make it difficult for shippers to comply and differentiate product bound for Canada, some major shippers have already indicated that mandatory compostable PLU stickers could make Canada an undesirable or secondary market. The industry response would be either an increase in packaging to eliminate the need to comply with the PLU regulations OR shippers would decide not to ship to Canada. This could adversely impact the availability of a considerable portion of the fresh produce imported into Canada. In addition, mandatory compostable plastics stickers could lead to less bulk produce being available to consumers, preventing consumers from purchasing exactly the amount they want. This would result in increased costs to consumers purchasing larger packaged volumes, opting to eat less fresh produce, all of which would increase the likelihood of fresh produce waste both at the retail level and in consumers’ homes.

- The proposed approach insufficiently differentiates between PLU stickers composed of plastic and other materials (i.e., paper, others). Consequently, the proposed approach introduces significant risk that non-plastic non-compostable PLU stickers will be adopted to avoid the mandatory regulations for compostable plastic stickers, significantly undermining the industry's efforts to address the underlying concern with non-compostable PLU stickers – the contamination of industrial composting systems. In addition, the proposed approach would give select vendors competitive advantage over others, while not necessarily leading to an increased adoption of industrially compostable PLU stickers. There are concerns that requiring mandatory compostable plastic stickers would lead to the increased adoption of lower-quality (and cost) non-plastic PLU stickers to simply avoid the mandatory requirement for plastic PLU stickers.
- The CPMA is also concerned that the proposed approach fails to recognize the importance and need for an international industrial composting standard to promote the development and adoption of industrially compostable PLU stickers – irrespective of sticker composition. The lack of an international industrial composting standard is a major barrier to the broader adoption of compostable PLU stickers applied to both imported and exported fresh produce. Any proposed actions to promote the adoption of compostable PLU stickers needs to recognize the need for Canada to drive for and support the development of an international standard for industrially compostable PLU stickers. Such an international standard would also benefit the development and adoption of compostable packaging.
- Although key markets and regions (i.e., EU) have aggressively pursued actions to reduce the environmental impacts of PLU stickers, there is a growing concern that individual countries and regions are developing PLU-related policies and regulations which increasingly diverge from each other. Consequently, the Government's proposed approach risks creating a Canada-only approach which will further reduce Canada's standing as a market for fresh produce from around the world. This risk would be mitigated through the promotion of international standards for industrially compostable PLU stickers.

#### Other Comments

- The inspection and assessment of compliance of environmental labelling should be undertaken by a body with experience and the capabilities to assess labelling compliance alongside other labelling requirements, the Competition Bureau being arguably well positioned for this role. There is concern that establishing a new inspection body without the necessary experience or staff of seasoned inspectors could result in undue disruptions in the produce supply chain.
- Given the importance of developing a valid RIAS to fully assess the market impacts of the proposed regulations, the CPMA is concerned that the necessary data to produce a valid RIAS may not be available on food-contact plastics packaging, PLU sticker types and usage, and related waste management figures, notably where food waste hinders packaging collection, sorting and/or re-processing.

#### Federal Plastics Registry

- The CPMA is concerned with the potential for duplication of reporting activities for members reporting both into provincial EPR systems alongside a federal registry. The proposed registry provides insufficient justification for a national registry rather than focus on the harmonization of provincial EPR reporting requirements. Without a clear benefit to industry for the added reporting into a federal plastics registry, this will be considered an administrative burden with undue costs and related risks. Benefits such as linking the federal plastics registry to the production of guidance documents to industry on labelling requirements nationally and/or regionally would be seen as a positive step in justifying the added reporting burden. A

Federal Registry could also reduce the burden on industry if it acted as the central repository for information on the current state of collection, sorting and re-processing, avoiding the need for individual firms to provide such information on their respective websites accessed via QR codes.

- Although the CPMA supports the concept of an open standard for plastic data, experience with other open and international standards reveals that such open standards exercises are very technical and require considerable industry consultation to “get right”, otherwise they will fail to provide the necessary framework for effective and efficient data collection. As an example, the current reporting framework does not appear to address circumstances where mixed material packaging is utilized. Fresh produce utilizes a mix of mono-material and mixed material packaging – a consideration which should be reflected in open standards for plastic data.
- Irrespective of the open data standard established for plastics data collection, standards should avoid technology lock-in, thereby allowing industry to leverage existing and planned supply chain management systems and related investments.
- CPMA is concerned that there is insufficient differentiation in the data collection of packaging used in food-contact applications vs. non-food contact applications, resulting in a loss of insight and understanding of the state of the food-contact packaging applications and sectors (all subject to food-grade resin requirements) vs. applications and sectors where food-grade materials are not required. Plastics data collection should seek to identify the underlying applications to inform future decisions – both government and industry – on increasing the sustainability of the overall packaging ecosystem.
- The CPMA supports the Government’s recognition of needing to account for confidential business information when collecting plastics data. Packaging information can, in some cases, provide important and competitive insights into supply chain volumes, variations in imports or exports, or other strategically valuable numbers. The identification of what packaging information is considered confidential and sensitive for the produce sector should be accounted for before imposing any reporting requirements.
- Although the CPMA supports a phased implementation approach for data reporting, the proposed timelines are considered very ambitious given the current state of plastics data reporting vs. the proposed and comprehensive approach, combined with the lack of an established open standard for plastic data. Furthermore, the proposal for Phase 1 reporting to begin June 1, 2025 implies that plastics data would need to be collected for the period starting June 1, 2024, introducing significant risk and cost to industry to effectively be ready to start collecting data less than one year after the final regulations and reporting requirements are published.

Given the material risks and impacts to Canada’s fresh produce industry, and to Canada’s standing as a leading market for imported fresh produce from around the world, the CPMA recommends that the above considerations be accounted for in its final regulations and frameworks.

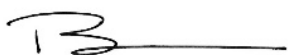
Furthermore, the CPMA acknowledges the Government’s intentions to consult on the use of a pollution prevention notice requiring the preparation and implementation of a pollution prevention plan as an alternative instrument to address primary food plastic packaging. Given the lack of details with respect to scope, timelines, and how the many considerations listed above would be incorporated into a pollution prevention plan, the CPMA reserves comments on the proposed use of a pollution prevention notice until further details are provided. In the interim, the Government is encouraged to consider the above comments as it develops its related consultation on the use of a pollution prevention notice.

Given Canada's produce sector operates within a national retail context, the CPMA endorses the comments provided by the Retail Council of Canada (RCC) in their submission to this consultation, including the RCC's points in regard to the proposed requirements for packaging labelling, recycled content, and reporting into the Federal Plastics Registry.

On behalf of its members, the CPMA is appreciative of the opportunity to provide comments to the Environment and Climate Change Canada consultation on a Regulatory Framework Paper for the proposed Recycled Content and Labelling for Plastic Products Regulations and a Technical Paper for the Federal Plastics Registry

Please advise if you have any questions regarding these comments.

Regards,

A handwritten signature in black ink, appearing to be 'RL', followed by a horizontal line extending to the right.

Ron Lemaire  
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