

December 5, 2013

To: Ontario MPPs

Re: Bill 91, Waste Reduction Act

We are writing to you today to provide our industry's perspective on Bill 91, specifically as it relates to the bill's potential impact on the Used Tire Program and the industry funding organization, Ontario Tire Stewardship (OTS). We believe the tire program may well be unique amongst those affected by Bill 91, as there is near unanimous support for the existing OTS model by tire consumers, Producers, tire dealers, major retailers and the waste management sector including tire transporters and tire recycling Processors. A few important facts may help to explain why the tire program has such wide and deep support:

- Since the inception of the Used Tire Program in September 2009, OTS has responsibly managed virtually 100% of the scrap tires in the province, including those generated by the ICI sectors – over 50 million scrap tires and counting
- OTS program policies have encouraged nearly \$70 Million of new investment in Ontario's Green Economy, with over 300 good-paying fulltime jobs created as a result.
- OTS investments in R&D and with recycled rubber product manufacturers are having tangible success in creating new markets for rubber recycling products and in turn creating a hub of expertise and innovation.

Those of us who work closely in this sector rightly ask the question, what problem is Bill 91 trying to fix? The reality is, the tire program, by almost any measure, has been extraordinarily successful. And yet, Bill 91 would see the dismantling of OTS and the creation of a whole new bureaucratic authority that would do little but add unnecessary costs to a system that currently works remarkably well.

### **The Used Tire Program Can and Is Being Improved**

The Used Tire Program in Ontario is not perfect. The fees charged to Stewards are the highest in the country. Why? In part because the original directive and legislation from Government added certain provisions which added costs not borne in other provinces. In addition, government put restrictions on certain end markets such as forbidding the use of tire derived fuel or daily landfill cover, two traditionally important end markets for scrap tires.

The other primary reason tire fees are higher was strategic: when OTS began operations in 2009, Ontario had scrap tire processing capacity of approximately 50%. OTS knew it had to offer an attractive proposition to entice new investment to ever reach sufficient processing capacity. In four short years OTS now has more than sufficient processing capacity to handle all the scrap tires in the province.

OTS is now strategically reducing processing incentives (inviting negative reaction from some processors, though interestingly, not all object to the approach). The net result will see reduced stewardship fees for consumer and Off-the-Road tires.

### **Tire Producers' Concerns With Bill 91**

There is general agreement and acknowledgment throughout the sectors that the Waste Diversion Act is deeply flawed, a position with which we agree. While Bill 91 will fix some of the issues with the current legislation, we fear it will create many unintended consequences which will actually inhibit the tire program from continuing along its successful path. Herein are some of our major concerns:

#### ***a) The Waste Reduction Authority***

Tire Producers operate successful Extended Producer Responsibility (EPR) programs throughout the industrialized world. We are unaware of any jurisdiction where such an Authority as contemplated by Bill 91 exists. The reason it doesn't exist is because it is unnecessary. The audit regime alone under WRA (whereby diversion and collection targets are to be verified and audited, subject to stiff penalties) will create a costly, unnecessary bureaucracy. We believe a more simple, elegant solution to verify diversion rates and collection targets is to require the producer collective to have a third party auditor verify the annual report given to government, as is done in British Columbia.

#### ***b) Integrated Pricing***

The Integrated pricing provision under Bill 91 will do nothing more than increase costs to consumers, without any ancillary benefit to environmental stewardship. This will be a result of normal mark-ups being applied throughout the distribution chain. Under the current program for example, the stewardship fee of \$5.69 for a passenger tire is passed through the chain without any increase. Under integrated pricing, \$5.69 turns into \$8.19 going from producer to distributor to retailer to consumer, assuming a 20% mark-up each. This is clearly not sustainable and not a good outcome for any stakeholder.

#### ***c) Industry Funding Organizations and Intermediaries***

One of the key objectives of Bill 91 is to abolish the Industry Funding Organizations (IFOs), imposing responsibility directly on the Producers, and allow them, if they so choose, to create Intermediaries in their stead. The rationale offered is that IFOs are monopolistic entities that stifle innovation and have higher costs. While in the case of OTS the costs may be higher, this is in part a result of well-founded strategic decisions by OTS, and on the other a result of government edicts affecting program design and eligible end markets.

Tire Producers believe the vision and strategic direction of OTS to support, fund and promote rubber recycling markets is the right approach and in our collective best interests. If there was no OTS, we would need to create it. Bill 91 would have us go through the process of unwinding OTS, only to re-create it under another name. This makes no sense.

### **The Industry's Challenge to Government**

The tire industry, including Producers and Processors and others, have collectively done a very good job over the years in diverting scrap tires from the waste stream and developing sustainable

markets for recycled rubber material. But the job of developing new markets is a never ending challenge, more so here in Ontario perhaps than virtually any other industrialized jurisdiction in the world, as Ontario has refused to allow tire-derived fuel, the single largest market for scrap tires. This is a political decision and within the Government's prerogative and that is fair enough.

But what of rubberized asphalt, the second largest market for scrap tires in North America? The science and economics are irrefutable – adding rubber to asphalt improves the asphalt, giving it longer life, less maintenance and ultimately less cost. This is but one example of an important market for which we believe Government should have a role to promote and adopt. Government has a responsibility to support end markets for the materials they spend so much time and effort attempting to regulate.

Our industry has never shied away from its responsibilities and environmental stewardship. But over many years and operating under many jurisdictional regimes, we believe we do understand the type of approaches which work well and which do not. We look forward to the opportunity to discuss how best to continue the good work of the Ontario tire program to ensure it remains exceptional.

**For more information please contact:** Glenn Maidment, President, The Rubber Association of Canada (905) 814-1714 or [glenn@rubberassociation.ca](mailto:glenn@rubberassociation.ca)

The Rubber Association of Canada, founded in 1920, represents tire and general rubber product manufacturers. Our tire company membership includes: Bridgestone, Continental, Cooper, Falken, Giti, Goodyear, Hankook, Kumho, Michelin, Nexen, Nokian, Pirelli, Toyo, Yokohama.

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