



# CIF #1092 Municipal Enforcement Strategies in an IPR Environment

Sherri Tait, Niagara Region

# Steering Committee Members

## RPWCO Members

- Charlotte Ueta, Toronto, RPWCO lead
- Angela Storey, Hamilton
- Sherri Tait, Niagara Region
- Lindsay Milne, York Region
- Stephanie Mack, Muskoka
- Debbie Korolnek, Simcoe

## CIF Staff Representatives

- Carrie Nash, CIF, Senior Program Manager
- Mike Birett, CIF, Director

# Why this project?

- Ontario is on the path to transition to Full Producer Responsibility
- Could save municipalities ~\$140 M in recycling costs
- HOWEVER, there could be some unintended consequences
- What options do municipalities have to address any issues that may arise
- RPWCO & CIF hired EcoCompass Inc. supported by Green Earth Strategy & Love Environment

# Avoiding Unintended Outcomes

- Some concerns raised to-date include:
  - Maintaining service levels
  - Addressing missed pick-ups
  - Responsibility of rejected Blue Box materials at the curb
  - Responsibility for illegally dumped materials (& by extension, litter)
  - Storage/safety concerns at privately operated depots



# Relevant Municipal Legal Framework

- Legal Basis for Municipal Powers
  - The *Municipal Act, 2001*, for most Ontario municipalities
  - The *City of Toronto Act, 2006*, for the City of Toronto
- Municipalities have no constitutional standing (unlike provinces or federal government)
- But have **broad powers** & flexibility in dealing with issues for the “economic, social & environmental well-being of the municipality”
- This also includes powers over waste management including:
  - Limits on the amount of garbage
  - Requiring recycling of materials
  - Setting fees for waste collection service
  - Landfill bans/charges, etc.



# Limitations of Municipal Powers

- Powers to be exercised by by-law unless expressly authorized otherwise
- Only provide services for which they have legislative authority
- No conflict with (or frustrating the purpose of) provincial or federal laws
- Powers must be exercised for the public good (incl. health, safety, welfare)
- No bias or bad faith
- Procedural fairness – allowing affected groups & the public to comment or participate in by-law making process
  - e.g., CPBA lawsuit in 2012 against the City of Toronto's plastic bag ban
- Compliance with *Charter of Rights and Freedoms*, *Ont. Human Rights Code*

# Understanding Producer Collection Systems

- Producer in Ontario & globally utilize these primary collection systems:

Curbside Collection



Drop-off Depots



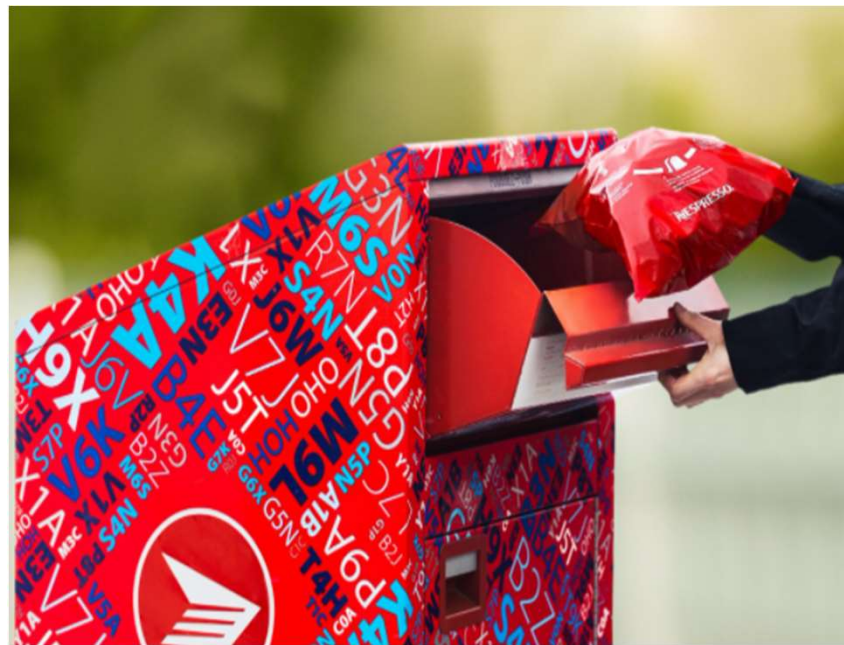
Return to Retail





# Understanding Producer Collection Systems (cont'd)

## Mail Back



## Deposits

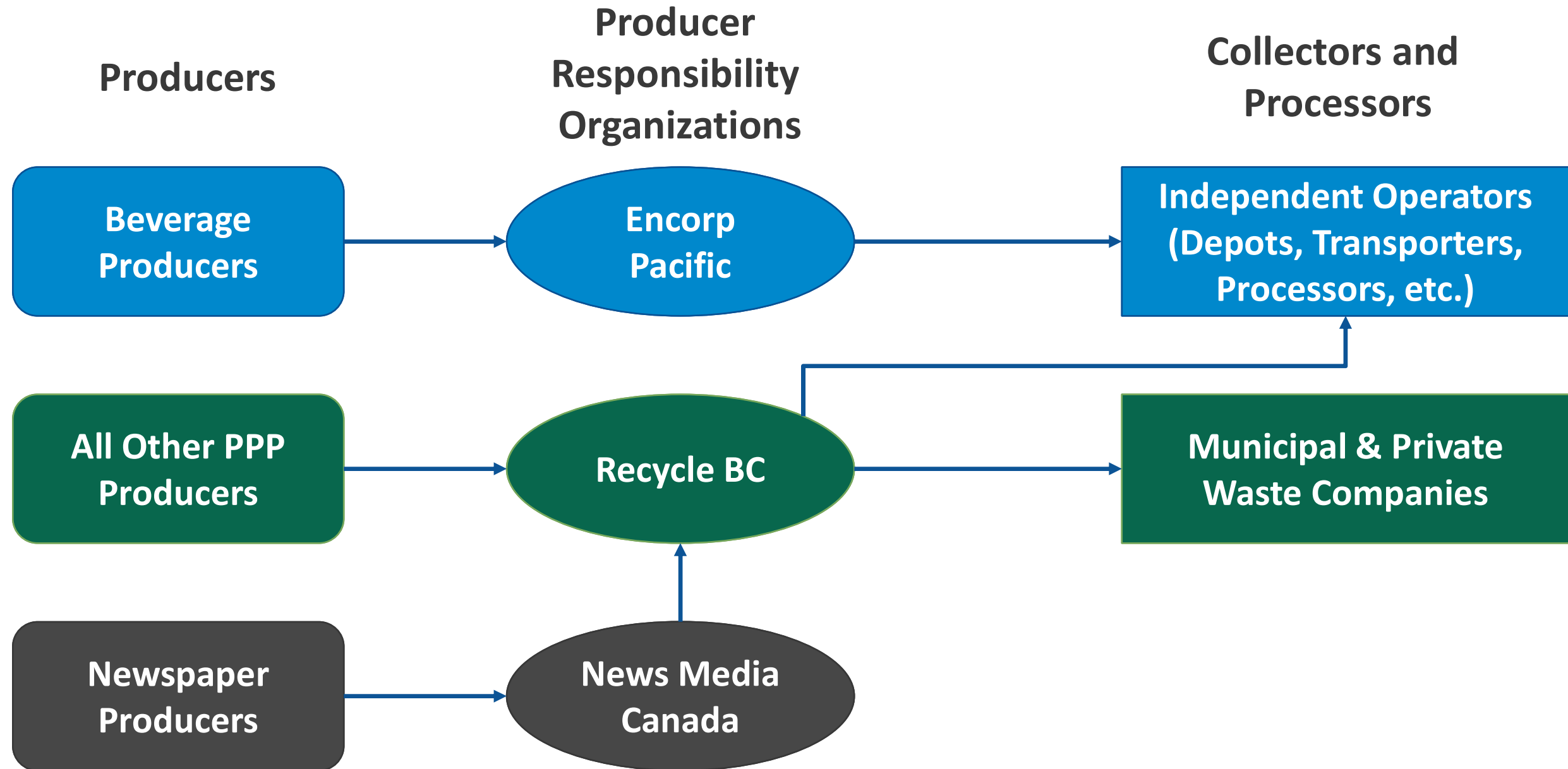


## Reverse Vending Machines





# Spotlight on BC



# Potential Municipal Issues

## Reduced Service Levels



## Longer Set-Out Period





# Potential Municipal Issues

## Unstaffed Drop-off & Retail Sites



## Placement of Reverse Vending Machines





# Mitigating Unintended Consequences

Reduced Service Levels	Longer Set-Out Periods	Drop-Off Depots & Return-to-Retail
Deny collection garbage/organics subject to meeting certain conditions	Litter from loads (Securing Loads)	<i>Similar recommendations as identified in Curbside Collection – Longer Set-Out Periods</i>
Pay-as-you-throw (PAYT) policies	Licensing Haulers	Signage
Tipping fees	Noise Control	EPA on disposal site approvals
Ticketing	Refuse control	
Clear bag policies	Nuisance	
Disposal bans		
Waste management plans		
Source separation requirements		

# Key Takeaways

- Can saddle municipalities with significant costs
- Bylaws can be effective but also require significant effort & consultation
- Not all municipalities can enforce bylaws; will result in patch-work of policies
- Bylaws are also subject to legal challenges
- Ideally, want to address issues within the regulations to harmonize policies

# Things to “Watch Out” for with the BB Regulations

- Will multiple PROs be allowed? How will they interact?
  - Increases municipal negotiating strategies & potential for municipal roles
- Timing to Achieve Targets
  - Waste diversion is a “current” issue; Producers should be working towards targets during & after transition
- No Disruption/Reduction of Existing Services
  - Special Advisor’s Report recommenced that no existing services be lost; ensure multi-family buildings, schools & other institutional sources, especially public space are eligible sources
- Full Producer Responsibility
  - Producers should be tracking all PPP, including compostables, & where they are managed (e.g., IC&I, garbage, organics, etc.)



# Provincial Acts over Waste Management

- Acts governing municipal waste management framework (among others):
  - *Environmental Protection Act* (the “EPA”);
  - *Waste Free Ontario Act*
    - *Sch 1: WDTA; Sch 2: RRCEA*
  - *Environmental Assessment Act* (the “EAA”); and,
  - *Planning Act*.

# Addressing Concerns

**Present Day**

**Post-Transition**



**More Opportunity**

**Less Opportunity**

## Possible Next Steps

- Review draft regulations to see how they address issues identified
- Review existing regulations to see how municipalities can leverage to mitigate issues
- Contact any of the project members to discuss possible next steps