



OWMA workshop on role of competition law in EPR reform sets new tone for industry

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The OWMA's Economic Freedom and Circular Economy workshop on Nov. 8 in Toronto brought together a prominent group of more than 100 producers, consultants, officials and waste management professionals for an important discussion on how competition principles and Canadian competition law will influence the reform of extended producer responsibility programs across the country.

The main topic on attendees' minds was the future of Ontario's waste diversion programs under the province's new recycling legislation and how competition law will apply to producers and waste management organizations meeting their obligations under new provincial regulations.

Under the Waste Diversion Act, producers were shielded from Canada's Competition Act and relied on the "regulated conduct" defence to protect industry-funding organizations from charges of price-fixing and market domination.

The Waste-Free Ontario Act, by contrast, affirms the role of competition law. The inclusion of this provision in the legislation makes clear that nothing producers or waste management organizations do in complying with the law provides them with a defence for anti-competitive behaviour.

Catherine Hariton, a competition law officer at the Competition Bureau of Canada's Advocacy and Economic Analysis Directorate, stressed this point in her presentation at the workshop last week.

She explained how competition law would apply to producers that choose to work within a producer responsibility organization (PRO) and that the Competition Bureau would monitor the

industry and enforce relevant sections of Canada's competition laws in instances of market domination and collusion.

Ontario's new approach to EPR is in keeping with a worldwide trend to use competitive markets to increase waste diversion. Sally Van Siclen, author of the chapter on competition in the [OECD's Extended Producer Responsibility Updated Guidance document](#), discussed why so many developed countries are making the move to more competitive systems of EPR and empowering competition authorities to enforce the rules.

To keep costs low for consumers while increasing recycling, Van Siclen stated that there needs to be competition not only among waste management organizations, but also among producers and PROs. She cited the example of Germany, which introduced competition between PROs and, as a result, significantly reduced recycling costs.

The discussion at this workshop highlighted many of the concerns, priorities and challenges for the Ontario government as it moves forward with the implementation of the Waste-Free Ontario Act.

By the end of this year, the OWMA believes the Act will be proclaimed and the membership of the Resource Productivity and Recovery Authority's board will be announced.

The OWMA will continue to provide forums for discussion similar to our Economic Freedom and Circular Economy workshop and work with our members to develop policy positions and submissions as we continue to meet with government officials.