

Memorandum of Opposition A.5801 (Englebright)

MPA - the Association of Magazine Media (MPA) opposes A.5801, as it would establish a new and unnecessary mandate upon a longstanding media industry that employs thousands of people and continues to make New York its “home state.”

New York is Home to the Magazine Industry: MPA represents about 500 magazine media brands, many based in New York. Our members provide trusted, edited and curated content that informs, inspires and entertains more than 90 percent of all U.S. adults. New Yorkers receive more than 11 million magazine subscriptions, representing an average of 1.5 subscriptions per household. Our readers depend on our publications for reliable news and information – needed by society now more than ever. Further, magazines are an important part of the New York economy, employing more than 18,000 people in New York, plus many more freelance contractors. \$2.6 billion total annual wages were paid to magazine industry employees in New York in 2019. In addition, the magazine industry supports more than 53,000 indirect and induced jobs in New York.

A.5801 should not include paper products in the Extended Producer Responsibility (EPR) system proposed by the bill. However well-intended, this bill would punish magazines, newspapers and other paper users without improving recycling rates for paper products or benefitting the environment. Magazine publishers and other manufacturers of paper products are already proactively engaged in sustainability initiatives that A.5801 would not enhance. This bill would simply transfer the costs of existing recycling systems from municipalities to publishers, resulting in major negative impacts to the magazine industry in New York, the New York economy, and to New York’s consumers. EPR legislation should focus on products with severe environmental impacts and with low current recycling rates, not on products that are recyclable and biodegradable, with current recycling rates near maximum achievable levels.

Magazine publishers care about the environment: MPA’s long-standing engagement in environmental stewardship and initiatives stems from publishers’ desire to support and implement responsible, economically-sound environmental policies related to the full lifecycles of our magazine products, from raw materials to well-read copies. Although most magazine publishers provide content across a wide range of media streams, many of our readers still desire the tactile feel and enjoyment of physical magazine copies they can save and reuse over time. They may want to keep recipes, travel information for a longed-for destination, iconic cover pictures, and interesting long-form journalism.

Our readers expect us to be good stewards of the environment, and we are. Magazines are recyclable, made from environmentally certified paper, and biodegradable. Our paper is sourced from sustainable forests via certified chain of custody protocols, our inks are linseed oil based and non-toxic, our adhesives water soluble, and any protective packaging used is recyclable. MPA has engaged in several industry wide campaigns to promote recycling of magazines after use.

Magazines, newspapers and the broader paper industry are already highly successful recyclers:

- Paper is 100% recyclable and has been recycled at rates exceeding 63% every year since 2009. Further, 100% of magazines unsold at the newsstand have perennially been recycled. According to the U.S. Environmental Protection Agency (EPA) paper far exceeds other materials for recycling: 8.5% for plastics, 17.2% for aluminum, 18.2% for rubber and leather, 25% for glass and 68.2% for paper.¹
- Magazines only accounted for 0.3% of total municipal solid waste generated in 2018, following a long-term trend of magazines having productive reuse and not being landfilled.²
- Approximately 80% of all U.S. paper mills utilize recovered fiber to make everything from paper-based packaging to tissue products to higher grade paper.
- After a period of negative market prices for recovered paper, the market is expected to slowly improve through 2023.

EPR for paper will not help the environment or achieve the bill's environmental goals, but will hurt the magazine and other paper products' industries. Available data shows the failure of EPR for paper:

- EPR programs in Europe do not include paper products. Several EPR programs in Canada do include paper products and the experience there is instructive. Rather than improving environmental performance and efficiency, the system in Canada demonstrates how simply shifting costs from municipalities to paper producers actually reduces the efficiency of the recovery system and increases costs. In British Columbia, recycling rates have stalled and are trending downwards while the fees have fluctuated wildly and increased markedly. The 2020 printing paper fee of \$175 (US)/ton represented an 86% increase compared to 2019. In 2021, the fee has increased dramatically once again, to \$255 (US)/ton, close to 50% over 2020 fees. These types of volatile uncapped fees will devastate many New York companies and industries, including the magazine industry, when coupled with the continuing economic devastation related to the COVID-19 pandemic.
- Requiring paper to pay fees into a structure that combines all products together disrupts systems that have been successful and would require magazines and newspapers to subsidize producers of less environmentally-friendly materials, thereby rewarding them for not undertaking successful recycling programs.
- Paper is not toxic, hazardous or hard to handle. Inks and adhesives used by the magazine industry have no residual negative impacts on the recycling process. In contrast, other materials take years to decompose, release toxins into the environment and can release toxic pollution if burned. These are the materials causing the majority of the problem and should be the target of EPR legislation – not paper.

The Legislature endorsed a preferred approach to address waste disposal and recycling through the Climate Action and Community Leadership Act: Passed in 2019, the Legislature created the Climate Action Council, which is responsible for developing a scoping plan and making recommendations to reduce greenhouse gases and environmental impacts in accordance with nation-leading and aggressive climate targets. That process is currently underway, advised by

¹ EPA, *Advancing Sustainable Materials Fact Sheet* (Dec. 2020). See https://www.epa.gov/sites/production/files/2020-11/documents/2018_ff_fact_sheet.pdf

² EPA, *Facts and Figures about Materials, Waste and Recycling*. See <https://www.epa.gov/facts-and-figures-about-materials-waste-and-recycling/nondurable-goods-product-specific-data#tab-3>

agency and industry experts, environmentalists, and other stakeholders. But even as this process is ongoing, this bill would ignore that process and seek to make significant changes to waste and recycling policies that may conflict with that of these assembled experts. This bypassing of the Waste Advisory Panel, specifically, prior to its offering science-based recommendations is irreconcilable with the path laid out by the Legislature less than 2 years ago – and is incomprehensible during a time when additional costs to struggling industries jeopardizes economic recovery and New York jobs.

First Amendment Concerns: Long-form magazine journalism is a trusted and compelling source of news and information of great value to readers and society on a vast range of topics, including environmental issues. It is important to protect this source of information. We are concerned that A.5801 would:

- Discriminate against printed media compared to other media formats by enacting an onerous regulatory regime and fees on print media in a manner that would discourage the dissemination of news and information in such formats.
- Impose a mandate for a consumer education campaign determined by government agencies, at publishers' cost, potentially compelling speech by print media.
- Establish an open-ended fee structure that could be used by the government to restrict speech.

What is the role for the paper industry? We will continue to do our part:

- The paper industry has been successful in growing recycling rates. China's departure from the market for recovered fiber disrupted the trend. Once the market for recovered paper recovers, existing systems will once again be successful, although it is notable that the movement from dual recycling streams to single stream programs has introduced much higher levels of contamination that will continue to affect market price and recyclability.
- Magazines and newspapers can be part of the solution to educate consumers. MPA members have run multiple campaigns in the pages of our magazines, raising awareness about the recyclability of magazines and providing resources for consumers to obtain additional information on magazine recycling. Once the market for recovered paper improves, it may be time for another such campaign.

We appreciate your consideration of the information contained in this memo, and we urge the Assembly to reject A.5801 in its current form. If you have any questions or comments, please contact Rita Cohen, Senior Vice President, at rcohen@magazine.org or (202) 369-1237 or Jim Walsh at jwalsh@manatt.com or (518) 431-6717.