Gouvernement du Québec

O.C. 284-2014, 26 mars 2014

Environment Quality Act (chapter Q-2)

Approval of RecycleMédias' 2013 schedule of contributions for the "newspapers" class

WHEREAS sections 53.31.1 to 53.31.20 of the Environment Quality Act (chapter Q-2) establish a regime to compensate municipalities for the net costs of the services they provide to ensure the recovery and reclamation of residual materials;

WHEREAS, under section 53.31.13 of the Environment Quality Act, the certified body RecycleMédias, as a body certified for the "newspapers" class, may collect from its members and from persons who, without being members, carry on activities similar to those carried on by the members where the designated classes of materials are concerned, the contributions necessary to remit the full amount of compensation, including any interest or other applicable penalties, and to indemnify the body for its management costs and other expenses incidental to that compensation regime;

WHEREAS, under section 53.31.12.1 of the Environment Quality Act, the Government may determine on what conditions the amount of the annual compensation owed to the municipalities that is allotted to the "newspapers" class may be paid in whole or in part through a contribution in goods or services;

WHEREAS, under section 53.31.14 of the Environment Quality Act, the contributions payable must be established on the basis of a schedule of contributions that may provide for exemptions or exclusions and specify the terms according to which the contributions are to be paid to the certified body;

WHEREAS, under the same section, the schedule of contributions must be submitted to the Government, which may approve it with amendments;

WHEREAS, under section 8.9 of the Regulation respecting compensation for municipal services provided to recover and reclaim residual materials (chapter Q-2, r. 10), the amount of the annual compensation owed to the municipalities that is allotted to the "newspapers" class may not exceed \$6,460,000 for the year 2013; WHEREAS sections 8.12 and 8.12.1 of the Regulation respecting compensation for municipal services provided to recover and reclaim residual materials provide that the annual compensation allotted to the "newspapers" class may be paid, in part, through a contribution in goods or services provided the certified body proposed a schedule of contributions to RECYC-QUÉBEC, in accordance with sections 53.31.14 and 53.31.15 of the Environment Quality Act, determining the contributions payable and the manner in which payment may be made;

WHEREAS, under section 53.31.14 of the Environment Quality Act, RecycleMédias conducted a special consultation of the persons concerned before establishing such a schedule and submitting it to the Government for approval;

WHEREAS, under section 53.31.15 of the Environment Quality Act, RECYC-QUÉBEC must give its opinion to the Government on the advisability of approving the schedule of contributions proposed by a certified body and a favourable opinion was given by RECYC-QUÉBEC with respect to the 2013 schedule of contributions established by RecycleMédias;

WHEREAS, under Order in Council 135-2007 dated 14 February 2007, the Regulations Act (chapter R-18.1) does not apply to the proposed schedules or schedules of contributions established under section 53.31.14 of the Environment Quality Act;

WHEREAS it is expedient to approve the schedule of contributions established by RecycleMédias for 2013, with amendments;

IT IS ORDERED, therefore, on the recommendation of the Minister of Sustainable Development, Environment, Wildlife and Parks:

THAT the schedule of contributions established by RecycleMédias, entitled 2013 schedule of contributions for the "newspapers" class, for 2013, attached to this Order in Council, be approved.

JEAN ST-GELAIS, Clerk of the Conseil exécutif

2013 Schedule of Contributions

for "Newspapers"

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1. Definitions

1.1 Definitions

In the Schedule, unless the context indicates a different meaning, the following words and expressions mean or designate:

- a) "brand": a mark that is used by a person for the purpose of distinguishing, or so as to distinguish, newspapers marketed by the person from newspapers marketed by others;
- b) "cash contribution": the amount that must be paid in cash to RecycleMédias by a person prescribed under the Schedule;
- c) "class of materials": a class of materials covered by the compensation regime, i.e. the class "newspapers" marketed in Québec;
- d) "compensation regime": the compensation regime for municipalities established by sub-section 4.1 of Division VII of Chapter I of the Act and by the Regulation, as amended from time to time;
- e) "contribution in ad placements": the amount that may be paid in the form of ad placements by a prescribed person under the Schedule. Such contributions in ad placements must consist of publishing, at the national, regional and local levels, messages intended to inform, educate or raise awareness about environmental matters, particularly in terms of promoting the recycling and recovery of residual materials, and may be made either in newspapers or through digital products;
- f) "costs of RecycleMédias": the management costs and other expenses of RecycleMédias incidental to the compensation regime that may be collected by RecycleMédias under section 53.31.13 of the Act;
- g) "costs of Recyc-Québec": the management costs and other expenses of Recyc-Québec incidental to the compensation regime and payable to Recyc-Québec by RecycleMédias under section 53.31.18 of the Act and section 8.14 of the Regulation;
- h) "digital products": websites (including portals) and other digital products devoted primarily to current events, that are owned by the prescribed person or another member of the person's corporate group, or through which a contribution in ad placements may be made;
- i) "distinguishing guise": the format of a newspaper, the appearance of which is used by a person for the purpose of distinguishing, or so as to distinguish, newspapers marketed by the person from newspapers marketed by others;

- j) "first supplier": a person who is domiciled or has an establishment in Québec and who is the first to take title, possession or control, in Québec, of a newspaper covered by the Schedule;
- k) "foreign publication": a newspaper that markets less than 25% of its total materials in Québec;
- "materials": paper and other cellulosic fibres belonging to the class of materials concerned here. Quantities of marketed materials are measured in metric tons;
- m) "name": the name under which any business is carried on, whether or not it is the name of a legal body, a partnership or an individual;
- n) "newspapers": as set forth in section 2 of the Regulation, this class includes paper and other cellulosic fibres used as a medium for written current affairs periodicals published on newsprint, particularly dailies and weeklies, as well as containers and packaging used to deliver newspapers directly to the ultimate consumer or recipient;
- o) "prescribed person": a person subject to the compensation regime, as designated in Chapter 3 of the Schedule;
- p) "RecycleMédias": an organization accredited by Recyc-Québec that represents newspapers;
- q) "Recyc-Québec": the Société québécoise de récupération et de recyclage, as designated in section 1 of the Act respecting the Société québécoise de récupération et de recyclage, R.S.Q., c. S-22.01;
- r) "the Act": the *Environment Quality Act*, R.S.Q., c. Q-2, as amended from time to time;
- s) "the Regulation": the *Regulation respecting compensation for municipal services provided to recover and reclaim residual materials*, R.R.Q., c. Q-2, r. 10, as amended from time to time;
- t) "the Schedule": the present Schedule of Contributions, including appendices.

- 2. Interpretation
 - 2.1Explanatory note
 - 2.1.1RecycleMédias may publish an explanatory notice or interpretation guide on its website at www.recyclemedias.com to explain its interpretation of the Schedule and how it will be administered.
 - 2.2 Continuance of the Schedule
 - 2.2.1 If any provision of the Schedule is deemed invalid or unenforceable by a competent court or for any other reason, it shall not affect the validity of the other provisions of the Schedule, which shall be interpreted as if the invalid provision were omitted.
- 3. Designation of prescribed persons
 - 3.1 Prescribed persons
 - Only the person who is the owner of the brand, name or 3.1.1 distinguishing guise that identifies a material subject to contributions under the Schedule shall be required to pay a contribution with regard to that material.
 - However, if the owner has neither a domicile nor an establishment 3.1.2 in Québec, payment of contributions may be required of the first supplier in Québec, whether or not it is the importer of that material.
 - 3.2 Exempted persons
 - 3.2.1 Prescribed persons who demonstrate to RecycleMédias that the contributions prescribed in Chapters 5 and 6 of the Schedule have been paid in full, on their behalf, by a third party recognized by RecycleMédias as a voluntary contributor under section 3.3, are exempted from those contributions.
 - 3.2.2 Prescribed persons who, in 2012, marketed materials weighing no more than a total of three (3) metric tons, are also exempted from the contributions prescribed in Chapters 5 and 6 of the Schedule.
 - 3.3 Voluntary contributor
 - A third party whose domicile or establishment is outside of 3.3.1 Québec, and who is the owner of a brand, name or distinguishing guise, may be accepted by RecycleMédias as a voluntary contributor, notably if the person satisfies the conditions stipulated below.
 - 3.3.2 A voluntary contributor may only act to fulfill the obligations that, under the Schedule, would be the responsibility of the first supplier of materials identified by a brand, name or distinguishing guise that is owned by the voluntary contributor. The latter may not act to fulfill the obligations of persons prescribed under section 3.1.1.

- 3.3.3 A third party may be recognized as a voluntary contributor if it concludes an agreement to that effect with RecycleMédias, which agreement shall include the following provisions:
 - that it agrees to fulfill the obligations related to contribution in ad placements under the Schedule;
 - that it agrees to pay the cash contribution under the Schedule;
 - that it agrees to produce the reports required in Chapter 7 of the Schedule, under the terms set out in that Chapter;
 - that it agrees to the foregoing with regard to all of its first suppliers in Québec;
 - that it agrees to respect the laws of Québec, and accepts that any legal proceedings will take place in Québec, under the laws of Québec.

A third party recognized as a voluntary contributor thus becomes a prescribed person with respect to both cash contribution and contribution in ad placements.

- 3.3.4 RecycleMédias may decide to conclude an agreement such as that described in section 3.3.3 with a third party whose domicile or establishment is in Canada but outside of Québec, and which, without being the owner of a brand, name or distinguishing guise, is its principal distributor in Québec. Section 3.3.2 also applies to such a third party, which for the purposes of the Schedule is considered as a voluntary contributor.
- 3.3.5 The first supplier and the voluntary contributor are solidarily liable for their obligations under the Schedule.
- 3.4 Publication of the names of prescribed persons
 - 3.4.1 RecycleMédias will publish on its website the name of every person that has registered or been automatically registered, as set out in section 7.1 of the Schedule.
 - 3.4.2 RecycleMédias may publish on its website the name of any person that meets the criteria for a prescribed person in section 3.1 and that has not registered as set out in section 7.1 of the Schedule.

- 4. Compensation regime
 - 4.1 Annual compensation payable

For the year covered by the Schedule, the amount of the annual compensation payable for the class "newspapers", under the Act and the Regulation, will be \$6,460,000. This amount will be paid through contributions in ad placements in the amount of \$3,420,000 and cash contributions in the amount of \$3,040,000.

4.2 Costs

As well, the amounts corresponding to the costs of Recyc-Québec and RecycleMédias will be paid by the prescribed persons through cash contributions.

- 5. Contribution in ad placements
 - 5.1. Determination of contribution in ad placements
 - 5.1.1 For 2013, the contribution in ad placements by a prescribed person corresponds to the quantity of materials marketed by that person in 2012 multiplied by the applicable rate , i.e. \$26.42 per metric ton.
 - 5.2 Foreign publication
 - 5.2.1 For newspapers qualified as foreign publications, the contribution in ad placements is converted into cash contribution that is additional to that provided in Chapter 6. This additional cash contribution is paid to Recyc-Québec as partial payment of compensation due to municipalities under the Regulation by prescribed persons in the "newspaper" class.
 - 5.2.2 The payment rules for cash contributions set out in Chapter 6 of the Schedule also apply, with the necessary modifications, to the additional cash contribution.
 - 5.3 Terms and conditions
 - 5.3.1 For each prescribed person, ad placements for a maximum value corresponding to the amount of the person's required contribution (as determined in section 5.1.1) must be made by no later than September 30, 2014 for publication by no later than December 31, 2014 in respect of contributions in ad placements for 2013.
 - 5.3.2 To determine the value of each ad placement and the terms and conditions under which it is provided, the customary government rate card (or national rate card) of the prescribed person (or member of the person's corporate group, as the case may be) shall be applied.

- 5.4 Conversion into additional cash contribution
 - 5.4.1 A prescribed person who has not fulfilled the contribution in ad placements, in whole or in part, by the date set in the Schedule and after receiving the statement of contributions owing (section 7.6.1), will be liable to an additional cash contribution corresponding to the value of the unpaid contribution in ad placements.
 - 5.4.2 The payment rules for the cash contribution set out Chapter 6 also apply, with the necessary modifications, to the additional cash contribution.
- 6. Cash contribution
 - 6.1 Determination of cash contribution
 - 6.1.1 For 2013, the cash contribution by a prescribed person corresponds to the quantity of materials marketed by that person in 2012 multiplied by the applicable rate, i.e. \$27.07 per metric ton.
 - 6.1.2 Notwithstanding the above, each prescribed person must pay a minimum cash contribution of seventy-five dollars (\$75.00) for each obligation year.
 - 6.2 Date, place and form of payment
 - 6.2.1 The cash contribution must be paid to RecycleMédias within ninety (90) days after the invoice is received. Unless otherwise decided by RecycleMédias, payment must be in full.
 - 6.2.2 RecycleMédias may specify a different deadline for payment of the cash contribution.
 - 6.3 Penalties, interest and recovery
 - 6.3.1 Cash contributions that are due and unpaid to RecycleMédias bear interest as set out in section 53.31.16 of the Act, i.e. at the rate determined under the first paragraph of section 28 of the *Tax Administration Act*, R.S.Q., c. A-6.002. Such interest will be calculated daily on the unpaid amount of the cash contribution, starting from the date when the cash contribution became due and ending on the date of payment, at the rate mentioned above. Any change to that rate automatically changes the interest rate applying under the present section.
 - 6.3.2 In addition to the interest applied under section 6.3.1, a prescribed person who has not paid the cash contribution within two hundred and ten (210) days after receipt of the invoice in respect of the contribution for 2013, will be liable to a penalty equal to 10% of the cash contributions owing.
 - 6.3.3 Pursuant to section 53.31.16 of the Act, when RecycleMédias exercises a remedy to claim a sum that it is owed, a penalty equal to 20% of the amount of the cash contribution will be applied.

- 6.4 Form of payment
 - 6.4.1 Payment of cash contributions under Chapter 6 of the Schedule must be made in the legal tender of Canada.
- 7. Registration and reporting by prescribed persons
 - 7.1 Registration of prescribed persons
 - 7.1.1 Any prescribed person (including a prescribed person exempted from contributions under section 3.2.2 of the Schedule) must register with RecycleMédias by sending it the information specified in Appendix A of the Schedule.
 - 7.1.2 The prescribed person must send the information by no later than the ninetieth (90^{th}) day following the effective date of the Schedule.
- 7.2 Reporting of materials
 - 7.2.1 Any prescribed person (including a prescribed person exempted from contributions under section 3.2.2 of the Schedule) must produce a report on the materials marketed during the 2012 reference year as per sections 5.1.1 and 6.1.1 of the Schedule, by sending to RecycleMédias the information specified in Appendix B of the Schedule, notably:
 - a) A description of the methodology and data used to prepare the materials report;
 - b) A list of the brands, names and distinguishing guises covered by the materials report;
 - c) A list and description of any excluded materials that were omitted from the materials report;
 - d) A statement certifying that the content of the materials report is true and accurate.
 - 7.2.2 The materials report must be submitted by no later than the thirtieth (30^{th}) day following the effective date of the Schedule.
 - 7.3 Reporting of ad placements
 - 7.3.1 Any prescribed person that is not exempted under section 3.2.2 of the Schedule must produce, within thirty (30) days after the final date indicated in section 5.3.1, an ad placement report describing the person's contribution in ad placements during the period concerned, except in the case of newspapers covered by section 5.2 of the Schedule, by sending to RecycleMédias the information specified in Appendix C of the Schedule, notably:
 - a) A description of the methodology and data used to prepare the ad placement report;

- b) A list and description of the newspapers and digital products for which the prescribed person is registered, specifying any that may be covered by section 5.2 of the Schedule ("foreign publications");
- c) For each newspaper or digital product not covered by section 5.2 of the Schedule, a list of the ad placements made, with a description of the content, publication date and value in Canadian dollars of each ad placement;
- d) A statement certifying that the content of the ad placement report is true and accurate.
- 7.3.2 A prescribed person whose newspapers are all covered by section 5.2 of the Schedule is exempted from the requirements of the present section.
- 7.4 Changes and amendments
 - 7.4.1 Any change in the content of documents submitted by a prescribed person must be reported in a modification notice sent to RecycleMédias within thirty (30) days after the change occurs.
- 7.5 Transmission medium and format
 - 7.5.1 Documents and modification notices must be transmitted to RecycleMédias using digital media. They must be submitted using the forms provided for that purpose in the Schedule's appendixes and on the website of RecycleMédias, using the procedure described on the site.
- 7.6 Billing
 - 7.6.1 RecycleMédias sends each prescribed person a statement of the contribution owing in ad placements and an invoice for the cash contribution owing (and any additional cash contribution).
 - 7.6.2 If a person fails to register under section 7.1.1 of the Schedule, or fails to send to RecycleMédias the materials report required under section 7.2.1 of the Schedule, the amounts of the contribution in ad placements and the cash contribution and additional cash contribution (if any) will be determined and billed based on an estimate by RecycleMédias.

- 7.7 Verification of reports
 - 7.7.1 Besides the information and documents that must be produced for the purposes of Appendices B and C of the Schedule, RecycleMédias reserves the right to ask for additional information, such as tables of data, audit reports, or any other information used in preparing the reports.
 - 7.7.2 RecycleMédias may review the materials report and require that corrections be made by the prescribed person. RecycleMédias may also choose to make the necessary corrections itself, after notifying the prescribed person. Following such corrections, the prescribed person will be sent a revised statement adjusting the contribution in ad placements and a revised invoice adjusting the cash contribution and, where applicable, the additional cash contribution.
 - 7.7.3 A prescribed person that has not followed through on an adjusted contribution in ad placements, in whole or in part, or that has not concluded an agreement with RecycleMédias within sixty (60) days after the revised statement was issued, will be liable to a penalty, payable in cash, of an amount corresponding to the value of the unpaid contributions in ad placements.

The payment rules for the cash contribution set out in Chapter 6 of the Schedule also apply, with the necessary modifications, to such penalties. In the case of a credit, RecycleMédias will apply the value of the credit to the next statement.

7.7.4 An adjustment made to the cash contribution must be paid in full to RecycleMédias within thirty (30) days after the revised invoice is issued. In the case of a credit, RecycleMédias will apply the value of the credit to the next invoice.

The payment rules for the cash contribution set out in Chapter 6 of the Schedule also apply, with the necessary modifications, to such adjustments.

8. Conservation of files

- 8.1 Conservation of files
 - 8.1.1 A prescribed person must conserve all documents and other media used in preparing reports for a period of five (5) years after the reports were transmitted. Such information must be made available for consultation and copying by RecycleMédias, during normal business hours, following prior notice to that effect by RecycleMédias.
- 8.2 Confidentiality
 - 8.2.1 During the period in which RecycleMédias conserves information it has received in connection with the compensation regime, RecycleMédias is bound to take appropriate measures to ensure its

security, preserve its integrity, protect its confidentiality, and prohibit access to it by any unauthorized person. RecycleMédias must also ensure the respect of all other obligations prescribed by law with respect to the conservation of such information.

- 9. Dispute resolution
 - 9.1 Procedure
 - 9.1.1 In the event of dispute between a prescribed person and RecycleMédias concerning the materials or quantity of materials covered by contributions, or concerning the value of ad placements made by a prescribed person, both parties shall attempt to resolve the dispute through discussions between their respective representatives within thirty (30) days after a written notice of the dispute is issued, or by a common agreement, which will be consigned to writing.
 - 9.1.2 If the dispute persists after the expiry of the period mentioned in section 9.1.1, it shall be definitely settled by arbitration other than the courts, pursuant to the provisions of the *Code of Civil Procedure*, R.S.Q., c. C-25.
 - 9.1.3 Non-payment and failure by a prescribed person to submit a report are not subject to arbitration.
- 10. Adjustment
 - 10.1 Adjustment clause
 - 10.1.1 Amounts received as interest or penalties under the Schedule are applied to the costs of Recyc-Québec and RecycleMédias for the year after such amounts are received.
 - 10.1.2 In the event that RecycleMédias, for 2013, collects an amount exceeding by 5% the amount necessary to pay a) the amount of the annual compensation set forth in section 4.1, including the applicable interest, administrative costs and penalties, if any, b) the costs of Recyc-Québec and c) the costs of RecycleMédias, RecycleMédias shall grant a credit to the prescribed persons who have paid their cash contributions for 2013. This credit shall correspond to the amount collected beyond the excess of 5% and shall be allocated *pro rata* to the cash contributions paid by the prescribed persons.
 - 10.1.3 Notwithstanding the terms of section 6.1.1, in the event that RecycleMédias, for 2013, does not collect, or deems that it will not likely collect, the amount necessary to pay a) the amount of the annual compensation set forth in section 4.1, including the applicable interest, administrative costs and penalties, if any, b) the costs of Recyc-Québec and c) the costs of RecycleMédias, RecycleMédias may require from the prescribed persons the

payment of the necessary amount to make up the shortfall. This amount shall be allocated *pro rata* to the cash contributions payable by each prescribed person. In such case, the prescribed persons shall pay the said amount to RecycleMédias within thirty (30) following the submission of an invoice to them for this purpose by RecycleMédias. Chapter 6 of the Schedule shall be applicable to this amount, with the necessary adjustments.

- 11. Effective date and duration
 - 11.1 Effective date
 - 11.1.1 The Schedule shall come into force on the fifteenth (15th) day after its publication in the *Gazette officielle du Québec*.
 - 11.2 Duration
 - 11.2.1 The Schedule is valid for the obligation year 2013.

Appendix A

Registration of a Prescribed Person

Determination of the prescribed person Name of enterprise:			
Headquarters:			
Address:			
City:			
Postal code:			
Country:			
Telephone:			
Fax:			
If the headquar Address	rters are not in Québec, indicate domicile or establishment in Québec:		
City:			
Postal code:			
Country:			
Telephone:			
Fax:			
Company websi	te:		
First responder	nt of the enterprise		
1	ondent is the person authorized by the company to represent it for the purposes of its nder the compensation regime.		
Family	Family name:		
First nar	First name:		
Title:	Title:		
Office to	Office telephone:		
Office email			

Appendix B

Materials Report

Report year: Reference year (as per sections 5.1.1 and 6.1.1 of the Schedule):

		Quantity marketed in Québec (in metric tons) "Newspapers"	
		not covered by section 5.2 of the Schedule	covered by section 5.2 of the Schedule
Materials	Paper and other cellulosic fibres, and containers or packaging used for the delivery of newspapers		
	Total		
	Grand total		L

Together with this report, pursuant to section 7.2.1 of the Schedule the prescribed person must also produce:

- a) A description of the methodology and data used to prepare the materials report;
- b) A list of the brands, names and distinguishing guises covered by the materials report;
- c) A list and description of any excluded materials that were omitted from the materials report;
- d) A statement certifying that the content of the materials report is true and accurate.

Notwithstanding the foregoing, as stipulated in section 7.7.1 of the Schedule RecycleMédias reserves the right to ask for any additional information that was used in preparing this report.

Appendix C Ad Placement Report

Report year:

Summary table of the value of ad placements made in all newspapers and digital products			
Newspapers and digital products covered by contributions and not covered by section 5.2 of the Schedule	Value of advertising placement (in Canadian dollars)		
Total			

Together with this report, pursuant to section 7.3.1 of the Schedule the prescribed person must also produce:

- a) A description of the methodology and data used to prepare the ad placement report;
- b) A list and description of the newspapers and digital products for which the prescribed person is registered, specifying any that are qualified as foreign publications;
- c) For each newspaper or digital product not qualified as a foreign publication, a list of the ad placements made, with a description of the content, publication date and value in Canadian dollars of each ad placement;
- d) A statement certifying that the content of the ad placement report is true and accurate.

Notwithstanding the foregoing, as stipulated in section 7.7.1 of the Schedule RecycleMédias reserves the right to ask for any additional information that was used in preparing this report.

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