



TESTIMONY of VIZIO, Inc.

Regarding Senate Bill 800 – Changes to the Covered Device Recycling Act

Pennsylvania Senate Environmental Resources & Energy Committee
172 Main Capitol
Harrisburg, PA 17120

October 24, 2018

To Chairman Yaw and the Senate Environmental Resources & Energy Committee:

VIZIO, headquartered in Irvine, California, is one of America's leading HDTV and consumer electronics companies. As a trailblazer within the consumer electronics industry, VIZIO takes its responsibilities as a leader seriously and believes in the importance of protecting our shared environment. As an example of our commitment to the environment, VIZIO was one of the first companies to completely phase out mercury backlighting from our products. We are also a proud participant in the United States Environmental Protection Agency's Sustainable Materials Management Challenge, and since 2014 have helped to recycle approximately 154,000,000 pounds of electronic waste ("ewaste") in the United States.

VIZIO is currently subject to a patchwork of cumbersome, inequitable, administratively complicated, and patently unfair electronic waste recycling laws throughout the United States. These laws force VIZIO to recycle cathode ray tube ("CRT") televisions, a product which VIZIO never produced, manufactured, or sold. Senate Bill 800 ("SB 800"), which seeks to repeal Pennsylvania's Covered Device Recycling Act ("CDRA") and impose a recovery and management program for recycling certain electronic devices, further exacerbates this problem and places unnecessary burdens on VIZIO and other manufacturers without providing any additional environmental benefits to the citizens of Pennsylvania. In short, SB 800 is overly complicated, would impose severe financial burdens on manufacturers, and would not provide for better access to recycling facilities for Pennsylvania residents. While VIZIO would support a repeal of the CDRA in favor of a simplified and equitable recycling law similar to the advance recovery fee system currently operating in California, we absolutely cannot support SB 800.

I. **SB 800 is unnecessarily and overly complicated and if enacted would be an administrative nightmare for manufacturers, retailers, recyclers, and consumers.**

SB 800 does not provide manufacturers, retailers, recyclers, and consumers with a single, clear, well-defined recycling program. Instead, SB 800 attempts to impose several vastly different recycling programs all operating simultaneously within the Commonwealth. SB 800 seeks to implement an advance recovery fee implemented at the point of sale of new electronic devices, a state default recycling program, a manufacturer operated recycling program, all while attempting to maintain the current infrastructure that has been developed under the CDRA (See, §§ 402, 503, 509, 502). Such a complicated structure is completely unnecessary to ensure that Pennsylvanians



have adequate access to recycling opportunities and does not provide for any additional environmental benefits to the Commonwealth.

Advance Fee under Section 402:

SB 800 imposes an advanced recovery fee program similar to the recycling program used in California under the California Electronic Waste Recycling Act. (See, §402). However, unlike California where the fee goes directly towards funding the collection and recycling of discarded electronic devices, SB 800's advanced recovery fee would go towards funding Pennsylvania's Department of Environmental Protection ("DEP"). This source of funding from the advance recovery fee would be in addition to the annual registration fee that manufacturers are already paying, and would continue to pay under SB 800, towards funding the DEP. (See §601).

Further, the advance recovery fee under SB 800 requires consumers to pay a "fee that is equal to 0.5% of the full retail price." (See §402). This percentage based system for determining the fee retailers must charge consumers will create an administrative nightmare without providing any real benefit to Pennsylvania. Moreover, there is no rational basis to link the price of the advance recovery fee to the price of the electronic device. If an advance recovery fee is to be used, the amount of the fee should be based on the actual cost associated with responsibly recycling the product when it reaches the end of its useful life. While VIZIO fully supports advance recovery fee legislation similar to that of California, the fees collected must be reasonable, have a rational relationship to the costs associated with recycling, and be administered in a manner that does not create a burden on retailers that is so expensive it outweighs the benefit of the legislation itself.

State Default Plan (See §503):

Section 503 creates a "state default plan" for the "collection, consolidation, transportation, processing and final management of waste electronic equipment" that would be costly, in direct conflict with the existing privately financed collection infrastructure, and is unnecessarily complicated. Through the patchwork of existing laws in the United States, VIZIO participates in both state operated and manufacturer run recycling programs. Based on our experience, we have consistently seen that state run recycling programs are inefficient and are significantly more expensive than manufacturer operated recycling programs. For example, in Connecticut, where the state approves recyclers and manufacturers cannot choose which recycler to partner with, we see costs that are in some places close to double that of manufacturer operated recycling programs.

Additionally, the proposed state default plan is inconsistent with Pennsylvania's existing, privately managed and privately-financed collection infrastructure that is operated by manufacturers such as VIZIO. VIZIO has made significant investments in Pennsylvania through our recycling partners, who collect millions of pounds of electronic waste annually from Pennsylvania residents, which under SB 800 would no longer be able to count towards our annual recycling obligation.

Furthermore, the proposed state default plan is overly complicated because it creates an extremely complex payment system where manufacturers would have to make six different payments every year. (See, §606). Each of these six different payments would be based on the "allotted financial obligation for the total estimated cost of the geographic areas remaining the



State default plan for the next program year, as determined by the department or its agent.” (Id.). Moreover, the state default plan creates an adjustment and credit system that creates an accounting nightmare. (See §607). In its current form, SB 800 makes it impossible for VIZIO to account for the recycling of ewaste into our annual budget.

Manufacturer Operated Program (See §509)

SB 800 requires that manufacturer-operated programs operate on a countywide basis. (See §509 (a)). This means that VIZIO would have to submit an annual recycling plan according to county lines, adhere to county-specific goals, and receive approval for our plan from all 67 counties in Pennsylvania. (See §509 (a) and (d)). SB 800 places VIZIO at the mercy of negotiating with 67 individual local governments. This county level consent requirement creates an administrative burden the likes of which we have never seen under any state ewaste recycling law and serves as a disincentive for manufacturers to continue to run their own statewide collection programs. In essence, the complicated nature of the manufacturer operated program option under SB 800 could lead to manufacturers ceasing operation of their own collection infrastructure and participate only in the state run program, which would actually lead to less recycling opportunities for Pennsylvania residents.

Maintaining the Existing infrastructure (See §502)

Lastly, SB 800 also attempts to maintain the existing infrastructure of the CDRA. Section 502 of SB 800 calls for using “if possible” the existing collection, consolidation, transportation and recovery infrastructure. Calling for the use of the existing infrastructure “if possible” is extremely confusing for stakeholders. SB 800 does not provide any of the necessary parameters or guidance as to when it would be appropriate or “possible” to use the existing infrastructure. This will create confusion amongst all participants in the state ewaste recycling network and will likely cause significant disputes between manufacturers, recyclers, and county and local governments.

II. SB 800 will unnecessarily increase costs for VIZIO which in turn will increase costs on Pennsylvania residents.

Similar to the CDRA, SB 800 as written forces companies like VIZIO to subsidize the cost of recycling CRT televisions, which as noted above is a product category VIZIO has never manufactured, produced, or sold in the history of our company. With the overwhelming majority of electronic waste returns of televisions being CRTs – we believe that SB 800 penalizes companies like ours, and more importantly – our consumers, for the recycling and disposal of products that have never been a part of who we are as a business.

The patchwork of ewaste recycling laws already in place in the United States forces VIZIO to incur extraordinarily high costs, the majority of which go towards the recycling of CRT televisions. In 2016, VIZIO’s ewaste recycling expenditures were approximately 4.5% of our gross profit and 17.9% of our income before taxes. Ewaste recycling expenses are classified as a selling, general and administrative (“SG&A”) expense and made up approximately 9.63% of our total SG&A expenses for 2016. Our ewaste recycling legislative compliance costs have increased year over year, with no



end in sight, and these numbers demonstrate just how critical ewaste recycling legislation can be to the longevity of our company.

Under the CDRA, Pennsylvania currently accounts for approximately 12% of all of the costs VIZIO incurs for ewaste recycling compliance across the entirety of the United States. This percentage is due to the incredibly high pounds based annual obligation currently in place under the CDRA. VIZIO estimates that if SB 800 were enacted, the cost of compliance for Pennsylvania alone could easily double. This increased cost places a patently unfair burden on VIZIO and on our consumers in Pennsylvania who will have to cover these additional costs through not only an advance fee at the point of sale but also through the increase price of products in the marketplace.

Lastly, as someone who spent more than 20 years of their life living in Pennsylvania and graduated from Penn State, I know that the Commonwealth has the capacity to create an ewaste recycling program that is fiscally conservative, environmentally sound, and ensures access to recycling for all Pennsylvanians without needing to place unnecessary burdens on manufacturers, retailers, recyclers, and consumers. I would be happy to speak with any member of this committee to go over VIZIO's concerns in more detail and to offer suggested alternatives to SB 800 (such as an advance recovery fee approach similar to what is currently being used in California). Please do not hesitate to contact me directly at Caitlin.Sanchez@vizio.com, or at (949) 428-2558.

Sincerely,

Caitlin Sanchez
Counsel
VIZIO, Inc.