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**Testimony of  
Hewlett-Packard Company  
Before the  
Subcommittee on Environment and Hazardous Materials  
Of the  
House Energy and Commerce Committee  
For the Hearing on  
“Electronic Waste: An Examination of Current Activity,  
Implications for Product Stewardship, and the Proper Federal Role”**

**September 8, 2005**

On behalf of Hewlett-Packard Company (HP), I am pleased to provide this testimony on the recycling of used electronics. My name is Renee St. Denis, and I am Director, Americas Product Take Back, based in Roseville, California. HP is a technology solutions provider to consumers, businesses and institutions globally. The company's offerings span IT infrastructure, global services, business and home computing, and imaging and printing. More information about HP is available at [www.hp.com](http://www.hp.com).

HP applauds Chairman Gillmor for convening this second part of the hearing to discuss electronic waste and for providing HP with an opportunity to testify. Today's hearing is a valuable first step in advising Members of the House and the public on the emerging challenge of managing and recycling used electronics in the United States. HP supports increased recycling to conserve natural resources and protect our environment through a harmonized national approach. HP calls on Congress to support a national solution to the challenge of recycling used electronics, the adoption of recycling incentives and the removal of regulatory barriers to cost-effective recycling, and market-based solutions to finance government recycling programs. HP believes that the Congress should reject attempts to impose a new tax on American consumers and to create bureaucratic recycling programs. Imposing more taxes on consumers will needlessly increase costs to the public and fail to achieve our nation's recycling goals in an efficient manner. Several decades of experience in implementing environmental laws and regulations in this

country have proven that environmental goals can best be achieved by providing the private sector with flexibility and incentives to innovate.

As a major manufacturer of a broad range of technology products, as well as a leading recycler of these products, HP has a strong interest in the development of policies relating to electronics recycling. HP has nearly twenty years of first-hand experience in product take-back and recycling. Since 1987, HP has successfully collected and recycled more than 600 million pounds of used or unwanted computer-related equipment globally. With our vast knowledge and experience, HP's goal is to recycle 1 billion pounds of equipment by the end of 2007. HP has established a recycling service throughout the US (as well as other countries around the world) that provides consumer and commercial customers with a convenient opportunity to recycle their old products in an environmentally sound manner. For more information see:

<http://www.hp.com/hpinfo/community/environment/productinfo/design.htm>.

HP currently operates two large, state-of-the-art recycling facilities in the U.S., in California and Tennessee, and recently signed a contract with a partner company for a third facility in Canada. All materials are managed in the U.S. and Canada in an environmentally sound manner; under HP's program, no waste materials are shipped overseas and no electronic material is sent to a landfill. In the past year, HP has recycled almost 3.5 million pounds of electronic waste each month and reused or donated an additional 400,000 pounds annually.

HP encourages Congress to allow companies such as HP to maintain this flexibility in implementing recycling – which provides American companies opportunities and incentives to continue to focus on innovation – and efficiently achieve superior recycling results that best protect our nation's natural resources for future generations.

We wish to emphasize the following points in our testimony today:

- A harmonized national approach to the recycling of used electronic products is necessary to avoid a patchwork of varying state and local requirements.
- As first steps in the development of a national approach, Congress should adopt incentives for recycling, such as those set forth in the "Electronic Waste Recycling Promotion and Consumer Protection Act" (S.510); expand federal support for recycling projects; and remove regulatory impediments to recycling.

- A comprehensive national approach should promote innovation and allow for flexible implementation to achieve recycling goals in the most efficient manner.
- Congress should reject calls for new taxes on technology products and new government recycling programs.

## **I. A NATIONAL APPROACH IS NECESSARY AND APPROPRIATE**

A national solution for the recycling of used electronic products can help promote efficiency and avoid a patchwork of inconsistent state approaches. Electronics recycling is an emerging national challenge resulting from the growing use and enjoyment of technology products and consumer electronics throughout our society. As an emerging environmental challenge, the country as a whole would benefit from a national approach that enables the U.S. to address this issue at a relatively early stage in its development. Environmental challenges are too often addressed by the Congress after a problem already exists. This issue presents an opportunity for the Congress to act proactively in developing a solution to an emerging challenge.

A patchwork has already begun to develop. Three states — California, Maine, and Maryland — have adopted comprehensive recycling laws for certain electronic products, but each of these laws is significantly different from the other. The most important differences are the varying methods of financing the recycling system. California has imposed a new tax on consumers to fund a bureaucratic government recycling program. In contrast, Maine has developed an innovative shared responsibility model in which the burdens of recycling are shared by various stakeholders. Manufacturers are required to pay for consolidation and recycling or to conduct recycling of their products on their own. Maryland has imposed a fee on manufacturers to finance computer recycling programs around the state, with the fee varying depending on whether a manufacturer offers a computer take-back program. Moreover, numerous states, and even some localities, have been and are considering proposals to address the management of used electronics, and we anticipate that this trend will continue.

This emerging patchwork of differing state laws is adding significant new costs and impeding the development of an efficient nationwide infrastructure, while creating the potential for consumer confusion. A consistent national approach is necessary and appropriate.

We recognize, however, that solid waste issues are traditionally managed by the states and localities. Nonetheless, a federal solution is needed in

this instance because of the potential for disparate state programs to result unnecessarily in added costs to consumers and companies, while failing to achieve our environmental goals in an effective manner. In addition, a national solution is desirable because of the connection between the recycling of used electronics and the adoption of state-specific design standards. Several states have adopted, or are considering, mandated design requirements on new technology products as part of their recycling laws or other environmental initiatives, driven largely by concerns with environmental issues associated with disposal of used electronic products. Differing state design requirements are problematic for HP and other technology companies because our products are designed and manufactured for global distribution. Conflicting state design requirements can impair our ability to sell products globally, may needlessly raise costs, and ultimately restrict innovation in the development of new products. An effective national solution can address the concerns of the states with the disposal of used electronics, thereby avoiding the need for design standards at the state level that may balkanize the global technology marketplace.

## **II. RECYCLING INCENTIVES, FEDERAL SUPPORT, AND REMOVAL OF REGULATORY IMPEDIMENTS ARE APPROPRIATE FIRST STEPS IN THE DEVELOPMENT OF AN EFFICIENT RECYCLING INFRASTRUCTURE**

To further the development of an effective recycling infrastructure for used electronics, HP believes that incentives to promote recycling are a useful first step. One such incentive is a tax credit for consumers to return their products for recycling and for manufacturers to offer recycling services to their consumers. In this regard, HP supports the “Electronic Waste Recycling Promotion and Consumer Protection Act” (S.510), a bipartisan bill introduced by Senator Talent and Senator Wyden. This bill would provide tax credits to help manufacturers, retailers, the recycling industry, and others to establish an efficient national infrastructure for the environmentally sound recycling of computers and other products and to encourage consumers to return their products for responsible recycling. These incentives can serve as a catalyst for voluntary, market-based solutions that avoid the need for potentially burdensome, costly mandates at the federal or state level.

Similarly, expanded government support for pilot projects and other initiatives can help promote the development of an efficient recycling infrastructure for electronics. Programs such as the “Plug-In to eCycling” initiative of the U.S. Environmental Protection Agency have played a useful role in successfully recycling large volumes of products and collecting data on the nature of the issue and the range of approaches

that can be successful. For example, during the summer of 2004 HP partnered with Office Depot stores nationwide on an in-store takeback program that collected and recycled approximately 10 million pounds of products in less than seven (7) weeks. The recycling of this amount of products was accomplished in a manner that was convenient for consumers and efficient for the two companies. Another retail return program, in which HP participated, involving Staples stores in New England also proved to be successful. Continued and expanded funding for these "Plug-In to eCycling" programs can facilitate more recycling of used electronics and the development of new approaches.

Finally, the federal government can play an important role in promoting recycling by removing regulatory impediments to cost-effective recycling. Under current federal and state regulations, used electronics are sometimes classified as "hazardous waste," even though they are routinely used in our homes and offices and, when recycled, pose no risk to human health or the environment. When these used products are classified as hazardous waste, they become subject to burdensome and costly regulatory requirements associated with their collection, storage, transportation, and processing. Congress and the EPA should reform these regulatory requirements to facilitate recycling of used electronics, while continuing to protect human health and the environment.

### **III. A NATIONAL APPROACH SHOULD PROMOTE INNOVATION AND ALLOW FOR FLEXIBLE AND EFFICIENT IMPLEMENTATION**

HP supports a comprehensive, national approach to the recycling of used electronics that allows for flexible implementation and innovative approaches that can achieve our recycling goals in the most efficient manner. In discussions with several states, we have advocated a Product Stewardship Solution that is based on implementing a market driven system for recycling CRT-containing computer monitors and TVs ("CRT devices"). The approach requires manufacturers to take responsibility for the recycling of a specified amount of CRT devices, either by implementing a recycling program to cover this specified amount or by assuming financial responsibility for this amount. It places limited responsibilities on retailers and state government and avoids creation of new taxes and government bureaucracies. It provides funds to local governments for CRT device collection, consolidation, and recycling. As a result, the approach promotes flexible and efficient implementation of CRT recycling.

Under the Product Stewardship Solution, manufacturers must take responsibility for their "equivalent share" of CRT devices -- including

orphan CRT devices -- returned by households (individual consumers and home businesses) for recycling. They can do this either (1) by establishing a recycling program or (2) by paying the state reasonable collection, consolidation, and recycling costs for their equivalent share.<sup>1</sup>

Manufacturers implementing a recycling program have the flexibility to design their program as they see fit, so long as they recycle their equivalent share in compliance with applicable laws and regulations.

Manufacturer equivalent shares are determined annually by the state. A manufacturer's equivalent share is that manufacturer's portion of the annual CRT device waste stream. The equivalent share concept allows manufacturers that choose to run a recycling program to satisfy their obligations with CRT devices of any brand or their own brand. This approach avoids the need for brand sorting, but preserves the ability of manufacturers to implement recycling programs that collect only their own brand products. It provides an efficient recycling system with multiple options for consumers.

Manufacturers will be held accountable to the state to meet their equivalent share obligations. This is a self-implementing performance standard keyed to a specific amount of CRT devices to be recycled. Thus, a manufacturer that chooses to provide a recycling program but fails to recycle its equivalent share has a predetermined payment obligation for the shortfall to the state. This system is designed to achieve recycling results by manufacturers, not merely to generate revenue or establish government recycling programs.

The Product Stewardship Solution has numerous benefits and advantages compared to alternative approaches such as advance recycling taxes or fees ("ARFs"):

- A. Provides efficiencies through market-based solutions and the opportunity for improvements over time, thereby offering a lower cost solution to consumers.**

*Relies on and leverages the expertise of manufacturers to produce competitive, market-based solutions.* Key recycling responsibilities are placed on manufacturers competing among themselves in the private

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<sup>1</sup> This is a hybrid approach that combines elements of a producer responsibility system and the widely supported Maryland Statewide Computer Recycling Pilot Program (HB 575). A producer responsibility system enables manufacturers to assume responsibility for their products by establishing a recycling program. The Maryland law requires manufacturers to pay to the state an annual registration fee -- the amount of which varies depending on whether the manufacturer offers a computer takeback program.

sector, rather than on the government, which faces no competitive pressure.

*Provides flexibility to allow manufacturers to develop over time least-cost recycling arrangements.* Manufacturers have broad flexibility to act individually or in partnership with others to develop recycling programs or to pay for their recycling responsibility. This provides manufacturers with maximum flexibility to be innovative and to work with recyclers to develop least-cost alternatives.

*Allows collection costs and responsibilities to be determined by the market.* Manufacturers that choose to run recycling programs are required to recycle their equivalent share of discarded CRT devices. But no particular entity has a mandated responsibility to collect discarded CRT devices. This fosters development of cost-effective, market-driven collection methods by manufacturers, non-profits, independent collectors, municipal governments, and others.

*Provides consumers a broad range of collection/recycling options.* Consumers may return their unwanted CRT devices to recycling programs offered by manufacturers or to any other recycling program -- whichever collection/recycling option best suits their needs.

**B. Avoids new taxes on consumers.**

*The Product Stewardship Solution imposes no point-of-sale taxes on consumers.* ARF proposals are simply a new tax on consumers to finance new government recycling programs.

**C. Places key responsibilities on manufacturers, not government, to achieve recycling goals, including recycling of orphan CRT devices.**

*Manufacturers are responsible for their contribution to the household-CRT device waste stream -- the fundamental performance goal of a recycling program.* Manufacturers are responsible for their equivalent share of CRT devices that are discarded each year by households, *i.e.*, the contribution that their products make to the annual CRT device waste stream.

*Manufacturers are responsible for the orphan waste stream.* This includes both unlabeled CRT devices and CRT devices for which the manufacturer is no longer in business and has no successor in interest.

**D. Places minimal responsibilities on retailers.**

*Retailers are not required to impose and collect new taxes and are not obligated to collect products. The only obligations of retailers are not to sell unlabeled and unregistered CRT devices. Retailers will also certify annually that they checked the state CRT device registration website to determine if the branded CRT devices they sell are registered.*

**E. Limits government involvement to enforcement and other necessary functions, avoiding the creation of new taxes and new agencies.**

*Requires government to perform limited administrative and enforcement functions. These limited functions will be sufficient to establish the level playing field that makes it possible for manufacturers to provide market based recycling solutions. Among the functions performed by government are determining annual manufacturer equivalent share obligations, enforcing the requirements of the law, and collecting and compiling recycling data.*

*Avoids establishing new taxes and new agencies. By placing fundamental recycling responsibilities on manufacturers, there is no need for consumers to pay new taxes on their purchases of CRT devices or for new agencies to be created to collect or administer a tax. The limited government responsibilities required by the approach are designed, like the other parts of the approach, to achieve overall recycling goals efficiently.*

**F. Reduces burdens on local governments by providing manufacturers with incentives to keep CRT devices out of the municipal waste stream and by providing a funding source for CRT device collection, consolidation, and recycling.**

*Provides manufacturers with incentives to keep their CRT devices out of the municipal waste stream. Manufacturers' equivalent share obligations are based on the percentage of CRT devices for each manufacturer that are collected in local government recycling programs. Thus, manufacturers have incentive to keep their CRT devices out of the municipal waste stream.*

*Provides local governments with a funding source for CRT device collection, consolidation, and recycling. Manufacturers that elect to pay the government for their recycling obligation, or that are required to pay for failing to meet their equivalent share obligation, provide local governments with a funding source for collecting, consolidating, and recycling CRT devices.*

**G. Provides the opportunity for design improvements.**

*Allows manufacturers to benefit from improved environmental design and innovation.* Those manufacturers that collect their own brand products can benefit from design improvements they have made. Moreover, the system provides an incentive to improve product design by removing materials of concern, enhancing recyclability, and incorporating recycled content into their new products.

**IV. CONGRESS SHOULD REJECT NEW TAXES AS A MEANS OF FINANCING RECYCLING PROGRAMS**

California has adopted a new tax, or “advance recycling fee” (“ARF”), to finance a government recycling program, and other states are considering this approach.<sup>2</sup> Congress should reject this approach. HP believes that a new tax on technology products to raise revenue for government to use for recycling is a poor way of achieving recycling goals.

This new tax on consumers will raise the price of technology products and, assuming it is used for its intended purpose, establish a new government program that will likely result in efficient recycling solutions. There is no incentive for improvements over time -- all products are subject to the same fee regardless of the cost of recycling that product. Manufacturers and others have little incentive to reduce these costs. This new tax is a one-size-fits-all approach that removes incentives for innovation and market-based solutions, thereby likely resulting in higher overall costs. Moreover, there is the risk that the funds collected by the government would be used for purposes other than recycling, thereby failing to address the issue.

A tax-based approach suffers from other deficiencies, including the following:

*A Tax Finances A Large New Government Program.* A tax-based system requires receipt and administration of new sales taxes on consumers transmitted by likely thousands of retailers and distribution of the tax proceeds to hundreds of collectors and recyclers. The result is a large new government program with substantial administrative expenses.

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<sup>2</sup> Supporters of this approach refer to it as a “fee” and not a tax. The law generally distinguishes between “taxes” and “fees” based on whether the payment provides a public benefit (a tax) or a specific service (a fee). *National Cable Television Assn. v. United States*, 415 U.S. 336 (1973). Because the revenue raised provides a general public benefit and not a specific service for the consumer paying the tax, an ARF is properly characterized as a tax.

*The Tax Revenues Can Be Diverted For Other Governmental Purposes.* The tax revenues may be diverted to finance other governmental programs. Given tight government budgets and numerous competing priorities, governments often shift spending from one area to another. Indeed, there is no way to prevent a future legislature from taking such action. Numerous recycling and other environmental programs based on special taxes or fees that are presumably dedicated to a specific purpose have witnessed the funds being shifted to other uses.

*A Tax System Does Not Guarantee That Any Amount of Electronic Devices Will Be Recycled.* Although proponents of tax-based recycling systems typically call for achieving numeric collection goals, the proposed systems provide no mechanism for enforcing these goals or ensuring that any amount of electronic devices are actually recycled. The California ARF statute does not require that any amount of discarded electronic devices must be recycled. The only guaranteed outcome of these tax-based systems is the generation of new tax revenue for government, not the recycling of products.

*A Tax on Products Is Burdensome To Retailers.* The Consumer Electronics Retailers Association ("CERC"), supported by retailers such as Best Buy Co., Circuit City Stores, Inc., Radio Shack Corp., Sears Holdings, Target, and Wal-Mart, opposes an ARF because an ARF is "administratively burdensome for all parties;" and "too complicated for all parties."<sup>3</sup>

*Collection And Administration Of Taxes By A TPO Raises Concerns of Efficiency, Expertise, Legality, and Accountability.* Some proponents of new taxes advocate the formation of a "Third Party Organization" (TPO) to receive and administer the government-imposed taxes collected by retailers. This proposal raises concerns of efficiency, expertise, legality, and accountability:

- The TPO duplicates functions currently performed by government agencies.
- The TPO lacks the expertise of existing tax collecting agencies and is unlikely ever to acquire equivalent expertise.
- The lack of accountability of the TPO to the government for TPO expenditures of public revenues raises significant legal issues. A TPO would control public tax revenues without congressional oversight

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<sup>3</sup> See [http://www.ceretailers.org/cerc/CERC\\_Position\\_on\\_eWaste.pdf](http://www.ceretailers.org/cerc/CERC_Position_on_eWaste.pdf).

over appropriations.

- TPO proposals provide no accountability if the TPO fails to achieve recycling goals or fails to meet other obligations. There is no ability by the government to enforce against a TPO.

*An ARF Constrains Competition And Limits The Efficiencies To Be Gained From Competition.* A new tax to fund a monopolistic recycling program fails to establish a competitive environment that will provide incentives for improved performance. Under the California ARF system, all collectors and recyclers receive a uniform rate of compensation set by the state. In ARF systems that depend on a TPO, the only possibility of competitive bidding is with a monopoly organization that sets the bid requirements. This is not the same as a fully functioning private market with multiple manufacturers seeking recycling services.

## **V. CONCLUSION**

HP supports a Product Stewardship Solution that requires manufacturers to take responsibility for their equivalent share of CRT devices returned for recycling by households, that places minimal responsibilities on retailers and state government, and that provides local governments with funds for CRT collection, consolidation, and recycling. Overall, this approach offers a more efficient and flexible way to achieve our recycling goals.

HP looks forward to working with the Subcommittee and other Members of Congress on the development of a national recycling system that leverages the capabilities and expertise of manufacturers, retailers, recyclers, and others to achieve efficient and low cost opportunities for all consumers.

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