

Regulations and other Acts

Gouvernement du Québec

O.C. 593-2016, 29 June 2016

Environment Quality Act
(chapter Q-2)

Approval of RecycleMédias' 2015 and 2016 schedules of contributions for the “newspapers” class

WHEREAS, under section 53.31.1 of the Environment Quality Act (chapter Q-2), the persons referred to in subparagraph 6 of the first paragraph of section 53.30 of the Act are required, to the extent and on the conditions set out in subdivision 4.1 of Division VII of Chapter I of the Act, to compensate the municipalities for the services provided by the municipalities to ensure that the materials designated by the Government under section 53.31.2 of the Act are recovered and reclaimed;

WHEREAS, under the first paragraph of section 53.31.12.1 of the 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, and prescribe the characteristics newspapers must possess to benefit from that mode of payment;

WHEREAS RecycleMédias is a body certified by RECYC-QUÉBEC for the “newspapers” class to represent the persons subject to an obligation of compensation under subdivision 4.1 of Division VII of Chapter I of the Act;

WHEREAS, under the first paragraph of section 53.31.13 of the Act, a certified body 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 class of materials is 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 the compensation regime;

WHEREAS, under the first paragraph of section 53.31.14 of the Act, the contributions payable must be established on the basis of a schedule of contributions that has been the subject of a special consultation of the persons concerned;

WHEREAS RecycleMédias conducted such a consultation before determining the schedules of contributions applicable for 2015 and 2016 for the “newspapers” class;

WHEREAS, under the third paragraph of section 53.31.14 of the Act, the schedule of contributions 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 fifth paragraph of section 53.31.14 of the Act, the schedule of contributions must be submitted to the Government, which may approve it with or without modification;

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 \$7,600,000 for the year 2015 and \$8,360,000 for the year 2016;

WHEREAS sections 8.12 and 8.12.1 of the Regulation provide that such compensation may be paid 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, without exceeding \$3,800,000 for each of the years 2015 and 2016;

WHEREAS, under the second paragraph of section 53.31.15 of the Act, RECYC-QUÉBEC must give its opinion to the Government on the schedule of contributions proposed by a certified body;

WHEREAS RECYC-QUÉBEC has given a favourable opinion on the 2015 and 2016 schedules of contributions established by RecycleMédias for the “newspapers” class;

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;

IT IS ORDERED, therefore, on the recommendation of the Minister of Sustainable Development, the Environment and the Fight Against Climate Change:

THAT the schedules of contributions established by RecycleMédias for the contributions for 2015 and 2016, entitled 2015 schedule of contributions for the “newspapers” class, and 2016 schedule of contributions for the “newspapers” class, attached to this Order in Council, be approved without amendment.

JUAN ROBERTO IGLESIAS,
Clerk of the Conseil exécutif

2015 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;

- l) “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

2.1. Explanatory notice

- 2.1.1. RecycleMédias 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

- 3.1.1. Only the person who is the owner of the brand, name or distinguishing guise that identifies a material subject to contributions under the Schedule shall be required to pay a contribution with regard to that material.
- 3.1.2. However, if the owner has neither a domicile nor an establishment in Québec, payment of contributions may be required of the first supplier in Québec, whether or not it is the importer of that material.
- 3.1.3. Any person who marketed materials during 2014 remains fully responsible for such materials, and shall pay, according to the terms provided in the Schedule, any contribution and other amounts provided under the Schedule in respect of these materials, notwithstanding the fact that at the time the Schedule came into force or thereafter (i) the person is no longer the owner of the brand, name or distinguishing guise that identifies a material subject to contributions under the Schedule, or (ii) the person no longer markets materials, or (iii) the person no longer is the first supplier of this material in Quebec. Such a person is considered to be a prescribed person for the purposes of the Schedule.

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 own the brand, name or distinguishing guise which identifies a material subject to contributions pursuant to the Schedule and who, in 2014, marketed materials weighing less than a total of fifteen (15) metric tons, are also exempted from the contributions prescribed in Chapters 5 and 6 of the Schedule.

3.3. Voluntary contributor

- 3.3.1. A third party whose domicile or establishment is outside of 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 may publish on its website the name of any person that, in RecycleMédias' view, meets the criteria for a prescribed person in section 3.1 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 \$7,600,000. This amount will be paid through contributions in ad placements in the amount of \$3,800,000 and cash contributions in the amount of \$3,800,000.

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.

4.3. Environmental consequences

4.3.1. In order to make the prescribed persons accountable for the environmental consequences of the marketing of newspapers, and to promote the adoption of responsible behavior, each prescribed person who is the owner of the brand, name or distinguishing guise which identifies the materials that are subject to contributions under this Schedule, and who marketed materials in 2014 with a total weight of more than one hundred and forty (140) metric tons, must show that it has and offers one or more digital products throughout 2015. If a prescribed person fails to do so, an amount equal to 5% of the contribution in ad placements of such prescribed person shall be converted into an additional cash contribution. The payment rules established for the cash contribution in chapter 6 of the Schedule shall apply to such additional cash contribution, subject to the necessary adjustments.

5. Contribution in ad placements

5.1. Determination of contribution in ad placements

5.1.1. For 2015, the contribution in ad placements by a prescribed person corresponds to the quantity of materials marketed by that person in 2014 multiplied by the applicable rate, i.e. \$39.73 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. Ad placements for a maximum value corresponding to the amount of each prescribed person’s contribution in ad placements will be requested from such prescribed person by no later than September 30, 2016 for publication by no later than May 31, 2017 in respect of contributions in ad placements for 2015.

- 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. Furthermore, in order to avoid that part of its contribution in ad placements be converted into an additional cash contribution as provided under section 5.4 of the Schedule, a prescribed person may choose to make a contribution in ad placements for a value higher than the required value. In such case, the prescribed person will not be entitled to any credit for the additional value thus contributed.
- 5.3.3. It is agreed that it is up to Recyc-Québec or its advertising agency to ensure that any advertising campaign delivered complies with the rate cards and the other standard terms and conditions of each prescribed person, including the deadlines. RecycleMédias will then require the contributions in ad placements from the prescribed persons in accordance with the terms, conditions and specifications provided by Recyc-Québec or its advertising agency.
- 5.3.4. For the purpose of making its contribution in ad placements, each prescribed person must collaborate with RecycleMédias, Recyc-Québec and any advertising agency retained by Recyc-Québec. Recyc-Québec and any advertising agency it retains must provide RecycleMédias with the information required for RecycleMédias to ensure that the contributions in ad placements payable pursuant to the Schedule are made according to the terms of the Schedule, including by providing RecycleMédias, by no later than June 30, 2017, with a detailed report indicating, for each prescribed person required to make a contribution in ad placements, the total value of the contribution in ad placements made by such person as of May 31, 2017 and, where applicable, any failure by a prescribed person to provide the full value of its contribution in ad placements required for 2015.
- 5.3.5. In the event that the report submitted to RecycleMédias under section 5.3.4 indicates a default by one or more prescribed persons, such persons must be informed thereof by RecycleMédias within thirty (30) days following its receipt of the report and such prescribed persons shall then have the opportunity to remedy the default by making the necessary ad placements to remedy the default by no later than September 30, 2017.
- 5.3.6. Overall, the contributions in ad placements provided by the prescribed persons under this Schedule shall enable the dissemination of information, awareness and educational messages on environmental matters and favour messages intended to promote the recovery and reclamation of residual materials in all the regions of the province of Quebec, based on a distribution (in quantity of materials and as indicated in section 5.1.1 of this Schedule) which is similar to the distribution of the population over the territory of Quebec.
- 5.3.7. Cities do not have individual access to advertising spaces, since the compensation in goods and services under the program is managed on a province-wide basis.

- 5.3.8. The distribution of the contributions in ad placements is proportional to the quantity of materials marketed by the prescribed persons per territory. No later than the one hundred and twentieth (120th) day after the Schedule comes into force, RecycleMédias shall submit to Recyc-Québec a notice of the amount of the contribution in ad placements for each prescribed person, as well as a list of the newspapers and digital products controlled by each prescribed person.
- 5.3.9. The Implementation Committee consists of representatives from RecycleMédias, Recyc-Québec, the municipal associations, the city of Montréal and the city of Québec, the Ministère du Développement durable, de l'Environnement et de la Lutte contre les Changements Climatiques ("MDELCC") and from Eco-Entreprises Québec. Its mandate is to monitor the application of the compensation regime and monitor the design, production and placements of messages about the municipal recovery programs that will be published in newspapers and digital products at the Québec-wide, regional and local levels.

The members of the Implementation Committee will validate the content of the published messages, their frequency while taking into account the availability of advertising space, the distribution of the advertising commitments at the Québec-wide, regional and local levels by the prescribed persons, the geographical distribution of the prescribed persons, the distribution between newspapers and digital products, and the fee schedules specific to each of the prescribed persons.

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 this Schedule and who, after receiving a proper request therefor, fails to remedy its default by no later than September 30, 2017, as provided in section 5.3.5, will be liable to pay an additional cash contribution in an amount equal to the value of the contribution in ad placements payable, or the balance thereof, as applicable.
- 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 2015, the cash contribution by a prescribed person corresponds to the quantity of materials marketed by that person in 2014 multiplied by the applicable rate, i.e. \$49.04 per metric ton.

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, in a single instalment.

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 2015, 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 by no later than the thirtieth (30th) day after the prescribed person becomes subject to 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 by sending to RecycleMédias the information specified in Appendix B of the Schedule, notably:

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

d) A list of digital products that the prescribed person has and offers throughout 2015.

7.2.2. Prescribed persons must submit their materials report for 2015 by the latest of the following dates, either March 31, 2016 or the fifteenth (15th) day following the date on which the Schedule comes into force.

7.3. Changes and amendments

7.3.1. Any change in the content of documents submitted by a prescribed person, including any change to the information provided pursuant to Appendice A, must be reported in a modification notice sent to RecycleMédias within thirty (30) days after the change occurs.

7.4. Transmission medium and format

7.4.1. Documents and modification notices must be transmitted to RecycleMédias using digital media. They must be submitted using the forms provided on the website of RecycleMédias, using the procedure described on the site.

7.5. Billing

7.5.1. RecycleMédias sends each prescribed person a statement of the contribution owing in ad placements and an invoice for the cash contribution owing (and additional cash contribution if any).

7.5.2. If a person fails to register under section 7.1 of the Schedule, or fails to send to RecycleMédias a materials report required under section 7.2 of the Schedule, the amounts of the contribution in ad placements, the cash contribution and the additional cash contribution, if any, will then be determined and billed based on an estimate by RecycleMédias.

7.6. Verification of reports

7.6.1. Besides the information and documents that must be produced for the purposes of Appendice B 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.

7.6.2. 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.

7.6.3. 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.

- 7.6.4. An adjustment made to the cash contribution must be paid in full, in a single instalment, 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 and all proofs of publication pertaining to its contributions in ad placements for a period of five (5) years after the reports were transmitted or from the date of publication, as the case may be. 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 2015, 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 2015. 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 2015, 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 2015.

Appendix A

Registration of a Prescribed Person

Name of enterprise

Nature of obligation

Address of headquarters and phone number

If the headquarters are not in Québec, address and phone number of the domicile or an establishment in Quebec

Business website

Name and coordinates of the first respondent of the enterprise

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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) “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;
- d) “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;
- e) “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;
- f) “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;
- g) “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;
- h) “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;
- i) “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;
- j) “foreign publication”: a newspaper that markets less than 25% of its total materials in Québec;

- k) “materials”: paper and other cellulosic fibres belonging to the class of newspapers, as well as the containers and packaging used to deliver newspapers directly to the ultimate consumer or recipient. Quantities of marketed materials are measured in metric tons;
- l) “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;
- m) “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 (particularly bags and elastic bands);
- n) “prescribed person”: a person subject to the compensation regime, as designated in Chapter 3 of the Schedule;
- o) “RecycleMédias”: an organization accredited by Recyc-Québec that represents newspapers;
- p) “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;
- q) “the Act”: the Environment Quality Act, R.S.Q., c. Q-2, as amended from time to time;
- r) “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;
- s) “the Schedule”: the present Schedule of Contributions, including appendices.

2. Interpretation

2.1. Explanatory notice

- 2.1.1. RecycleMédias 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

- 3.1.1. Only the person who is the owner of the brand, name or distinguishing guise that identifies a material subject to contributions under the Schedule shall be required to pay a contribution with regard to that material.
- 3.1.2. However, if the owner has neither a domicile nor an establishment in Québec, payment of contributions may be required of the first supplier in Québec, whether or not it is the importer of that material.
- 3.1.3. Any person who marketed materials during 2015 remains fully responsible for such materials, and shall pay, according to the terms provided in the Schedule, any contribution and other amounts provided under the Schedule in respect of these materials, notwithstanding the fact that at the time the Schedule came into force or thereafter (i) the person is no longer the owner of the brand, name or distinguishing guise that identifies a material subject to contributions under the Schedule, or (ii) the person no longer markets materials, or (iii) the person no longer is the first supplier of this material in Quebec. Such a person is considered to be a prescribed person for the purposes of the Schedule.

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. In order to promote freedom of the press and lighten the administrative burden of RecycleMédias, prescribed persons who own the brand, name or distinguishing guise which identifies a material subject to contributions pursuant to the Schedule and who, in 2015, marketed materials weighing less than a total of fifteen (15) metric tons, are also exempted from the contributions prescribed in Chapters 5 and 6 of the Schedule.

3.3. Voluntary contributor

- 3.3.1. A third party whose domicile or establishment is outside of 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 may publish on its website the name of any person that, in RecycleMédias' view, meets the criteria for a prescribed person in section 3.1 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 \$8,360,000. This amount will be paid through contributions in ad placements in the amount of \$3,800,000 and cash contributions in the amount of \$4,560,000.

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.

4.3. Environmental consequences

4.3.1. In order to make the prescribed persons accountable for the environmental consequences of the marketing of newspapers, and to promote the adoption of responsible behavior, each prescribed person who is the owner of the brand, name or distinguishing guise which identifies the materials that are subject to contributions under this Schedule, and who marketed materials in 2015 with a total weight of more than fifteen (15) metric tons, must show that it has and offers one or more digital products throughout 2016. If a prescribed person fails to do so, an amount equal to 5% of the contribution in ad placements of such prescribed person shall be converted into an additional cash contribution. The payment rules established for the cash contribution in chapter 6 of the Schedule shall apply to such additional cash contribution, subject to the necessary adjustments.

5. Contribution in ad placements

5.1. Determination of contribution in ad placements

5.1.1. For 2016, the contribution in ad placements by a prescribed person corresponds to the quantity of materials marketed by that person in 2015 multiplied by the applicable rate, i.e. \$45.28 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. Ad placements for a maximum value corresponding to the amount of each prescribed person’s contribution in ad placements will be requested from such prescribed person by no later than September 30, 2017 for publication by no later than April 30, 2018 in respect of contributions in ad placements for 2016.

- 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. Furthermore, in order to avoid that part of its contribution in ad placements be converted into an additional cash contribution as provided under section 5.4 of the Schedule, a prescribed person may choose to make a contribution in ad placements for a value higher than the required value. In such case, the prescribed person will not be entitled to any credit for the additional value thus contributed.
- 5.3.3. It is agreed that it is up to Recyc-Québec or its advertising agency to ensure that any advertising campaign delivered complies with the rate cards and the other standard terms and conditions of each prescribed person, including the deadlines. RecycleMédias will then require the contributions in ad placements from the prescribed persons in accordance with the terms, conditions and specifications provided by Recyc-Québec or its advertising agency.
- 5.3.4. For the purpose of making its contribution in ad placements, each prescribed person must collaborate with RecycleMédias, Recyc-Québec and any advertising agency retained by Recyc-Québec. Recyc-Québec and any advertising agency it retains must provide RecycleMédias with the information required for RecycleMédias to ensure that the contributions in ad placements payable pursuant to the Schedule are made according to the terms of the Schedule, including by providing RecycleMédias, by no later than May 31, 2018, with a detailed report indicating, for each prescribed person required to make a contribution in ad placements, the total value of the contribution in ad placements made by such person as of April 30, 2018 and, where applicable, any failure by a prescribed person to provide the full value of its contribution in ad placements required for 2016.
- 5.3.5. In the event that the report submitted to RecycleMédias under section 5.3.4 indicates a default by one or more prescribed persons, such persons must be informed thereof by RecycleMédias within thirty (30) days following its receipt of the report and such prescribed persons shall then have the opportunity to remedy the default by making the necessary ad placements to remedy the default by no later than July 31, 2018.
- 5.3.6. Overall, the contributions in ad placements provided by the prescribed persons under this Schedule shall enable the dissemination of information, awareness and educational messages on environmental matters and favour messages intended to promote the recovery and reclamation of residual materials in all the regions of the province of Quebec, based on a distribution (in quantity of materials and as indicated in section 5.1.1 of this Schedule) which is similar to the distribution of the population over the territory of Quebec.
- 5.3.7. Cities do not have individual access to advertising spaces, since the compensation in goods and services under the program is managed on a province-wide basis.

- 5.3.8. The distribution of the contributions in ad placements is proportional to the quantity of materials marketed by the prescribed persons per territory. No later than the one hundred and twentieth (120th) day after the Schedule comes into force, RecycleMédias shall submit to Recyc-Québec a notice of the amount of the contribution in ad placements for each prescribed person, as well as a list of the newspapers and digital products controlled by each prescribed person.
- 5.3.9. The Implementation Committee consists of representatives from RecycleMédias, Recyc-Québec, the municipal associations, the city of Montréal and the city of Québec, the Ministère du Développement durable, de l'Environnement et de la Lutte contre les Changements Climatiques ("**MDDELCC**") and from Eco-Entreprises Québec. Its mandate is to monitor the application of the compensation regime and monitor the design, production and placements of messages about the municipal recovery programs that will be published in newspapers and digital products at the Québec-wide, regional and local levels.

The members of the Implementation Committee will validate the content of the published messages, their frequency while taking into account the availability of advertising space, the distribution of the advertising commitments at the Québec-wide, regional and local levels by the prescribed persons, the geographical distribution of the prescribed persons, the distribution between newspapers and digital products, and the fee schedules specific to each of the prescribed persons.

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 this Schedule and who, after receiving a proper request therefor, fails to remedy its default by no later than July 31, 2018, as provided in section 5.3.5, will be liable to pay an additional cash contribution in an amount equal to the value of the contribution in ad placements payable, or the balance thereof, as applicable.
- 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 2016, the cash contribution by a prescribed person corresponds to the quantity of materials marketed by that person in 2015 multiplied by the applicable rate, i.e. \$61.88 per metric ton.

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, in a single instalment.

- 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 2016, 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 by no later than the thirtieth (30th) day after the prescribed person becomes subject to 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, including the materials referred to in the second paragraph of subsection 2(2) of the Regulation, by sending to RecycleMédias the information specified in Appendix B of the Schedule, notably:
- a) A list of the brands, names and distinguishing guises covered by the materials report;
 - b) A list and description of any excluded materials that were omitted from the materials report;

- c) A statement certifying that the content of the materials report is true and accurate;
- d) A list of digital products that the prescribed person has and offers throughout 2016.

7.2.2. Prescribed persons must submit their materials report for 2016 by the latest of the following dates, either March 31, 2017 or the fifteenth (15th) day following the date on which the Schedule comes into force.

7.3. Changes and amendments

7.3.1. Any change in the content of documents submitted by a prescribed person, including any change to the information provided pursuant to Appendice A, must be reported in a modification notice sent to RecycleMédias within thirty (30) days after the change occurs.

7.4. Transmission medium and format

7.4.1. Documents and modification notices must be transmitted to RecycleMédias using digital media. They must be submitted using the forms provided on the website of RecycleMédias, using the procedure described on the site.

7.5. Billing

7.5.1. RecycleMédias sends each prescribed person a statement of the contribution owing in ad placements and an invoice for the cash contribution owing (and additional cash contribution if any).

7.5.2. If a person fails to register under section 7.1 of the Schedule, or fails to send to RecycleMédias a materials report required under section 7.2 of the Schedule, the amounts of the contribution in ad placements, the cash contribution and the additional cash contribution, if any, will then be determined and billed based on an estimate by RecycleMédias.

7.6. Verification of reports

7.6.1. Besides the information and documents that must be produced for the purposes of Appendice B 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.

7.6.2. 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.

- 7.6.3. 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.

- 7.6.4. An adjustment made to the cash contribution must be paid in full, in a single instalment, 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 and all proofs of publication pertaining to its contributions in ad placements for a period of five (5) years after the reports were transmitted or from the date of publication, as the case may be. 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 2016, 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 2016. 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 2016, 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 2016.

Appendix A

Registration of a Prescribed Person

Name of enterprise

Nature of obligation

Address of headquarters and phone number

If the headquarters are not in Québec, address and phone number of the domicile or an establishment in Quebec

Business website

Name and coordinates of the first respondent of the enterprise

Appendix B

Materials Report

Report year

Reference year

Quantity of newspapers marketed in Quebec, in metric tons (distinguishing between those subject to section 5.2 of the Schedule and those which are not, and also distinguishing between paper and other cellulosic fibers, on the one hand, and containers and packaging, on the other hand);

A list of the brands, names and distinguishing guises covered by the prescribed person's materials report;

A list and description of any excluded materials that were omitted from the prescribed person's materials report;

A statement certifying that the content of the prescribed person's materials report is true and accurate;

A list of the digital products that the prescribed person has and offers throughout 2015;

Notwithstanding the foregoing, as stipulated in section 7.6.1 of the Schedule RecycleMédias reserves the right to ask for any additional information that was used in preparing this report.

102676

Gouvernement du Québec

O.C. 594-2016, 29 June 2016

Environment Quality Act
(chapter Q-2)

Approval of Éco Entreprises Québec's 2015 and 2016 schedule of contributions for the "containers and packaging" and "printed matter" classes

WHEREAS, under section 53.31.1 of the Environment Quality Act (chapter Q-2), the persons referred to in subparagraph 6 of the first paragraph of section 53.30 of the Act are required, to the extent and on the conditions set out in subdivision 4.1 of Division VII of Chapter I, to compensate the municipalities for the services provided by the municipalities to ensure that the materials designated by the Government under section 53.31.2 of the Act are recovered and reclaimed;

WHEREAS Éco Entreprises Québec is a body certified by RECYC-QUÉBEC for the "containers and packaging" and "printed matter" classes to represent the persons subject to an obligation of compensation under subdivision 4.1 of Division VII of Chapter I of the Act;

WHEREAS, under the first paragraph of section 53.31.12.1 of the Act, a certified body is required to pay to RECYC-QUÉBEC, in trust, the amount of the compensation owed to the municipalities;

WHEREAS, under the first paragraph of section 53.31.13 of the Act, a certified body 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 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 the compensation regime;