

Consumer Electronics Retailers Coalition



March 16, 2010

Sen. John Fonfara
Deputy Majority Leader
Co-Chairman
Energy and Technology Committee
Legislative Office Building, Room 3900
Hartford, CT 06106-1591

Rep. Vickie Nardello
Deputy Majority Whip
Co-Chairman
Energy and Technology Committee
Legislative Office Building, Room 3902
Hartford, CT 06106-1591

RE: Opposition to H.B. 5217 - An Act Concerning Energy Efficient Products.

Dear Co- Chairmen Fonfara and Nardello:

By way of brief background, the Consumer Electronics Retailers Coalition (CERC) is a public policy organization consisting of the major retailers of consumer electronics products including Amazon.com, Best Buy, K-Mart, RadioShack, Sears, Target, Wal-Mart, and the leading industry trade associations – National Retail Federation (NRF) and Retail Industry Leaders Association (RILA). CERC members have combined to focus our unique and expert market perspective on the critical policy issues facing the consumer electronic retail industry and our customers.

The Connecticut Retail Merchants Association (CRMA) is a statewide trade association representing some of the world's largest retailers and the state's main street merchants. CRMA also represents the state's jewelry industry thru our affiliation with the Connecticut Jewelers' Association. CRMA has over 500 members with over 2,000 stores throughout the state.

On behalf of CERC and CRMA, we appreciate having the opportunity to submit comments on H.B. 5217 - An Act Concerning Energy Efficient Products. A proposal we strongly believe, should it be enacted would impose an arbitrary energy use limit on televisions.

CERC and CRMA members operate in Connecticut and all 50 states and territories, employing thousands of people in the state and well over three million people combined nationally. Our members are among America's favorite places to shop for electronic devices which make our lives more productive and enjoyable.

CERC and CRMA members sell and in some cases manufacture through private label brands consumer audio and video equipment, televisions and other high tech products which could be negatively impacted by H.B. 5217 - An Act Concerning Energy Efficient Products. CERC and CRMA respectfully submit these comments jointly in **opposition to H.B. 5217.**

CERC and CRMA are Committed to Energy Efficiency

CERC and CRMA members are all fully committed to improving energy efficiency in Connecticut, the tri-state region and across the nation. Indeed, we see improving energy efficiency as making good sense as well as being a major market opportunity. Our members have worked tirelessly to offer consumers a wide choice of ENERGY STAR qualified electronic products and appliances in the Connecticut marketplace and nationally. We wish to be very clear. It is our professional retail judgment that should H.B. 5217 becomes effective, retail jobs will be lost in the state and economic activity, including sales tax receipts will decline. There are proven alternatives that would produce lasting and meaningful energy savings that better respect the present, fragile, economic environment in the state.

The proposed bill would constrict consumer choice of televisions in Connecticut. The inevitable result will be to push value-oriented, price sensitive consumers to do their shopping in other states, or on-line – an industry and consumer alternative that continues unabated through these difficult economic times and one that cannot be regulated from Connecticut.

Internet and e-commerce sales are estimated to grow from \$3 trillion in 2010 to \$4 trillion nationally in 2012, according to a recent University of Tennessee study.

While there have been some hopeful signs of an economic upturn it is worth noting were we have been. Any economic upturn has not yet fully filtered through to retail sales, which is closely tied to the unemployment rate. Unemployment currently stands at 9.0 % in Connecticut (Jan. 2010), ranked 26th highest in the nation.

The Legislation Ignore Secondary Effects and Unintended Consequences

It is neither wise nor possible for Connecticut to attempt to engineer the progression of consumer choices in a market as dynamic as that of digital electronics. New generations of products, such as digital TV receivers with a variety of interfaces and uses, cannot be simply compared to the small format, single-purpose analog TVs that they are replacing. The consequences of trying to do so may be profound. For example, in serving a valid, pressing, national interest in recovering spectrum for national security and other purposes, a changeover to digital TV transmission was mandated. However, it was necessary for the Federal Government to subsidize the distribution of almost 35 million converter boxes, at a cost exceeding \$1.5 billion.

The TVs that required these converter boxes would have been phased out of homes in due course anyway. The conversion mandate, though necessary, had consequences, the responsibility for which had to be accepted by the Federal government. For Connecticut now to mandate the characteristics of TV receivers will also have consequences, in this case unforeseeable, for which the state has not suggested that it can or will take on the responsibility.

The draft legislation with respect to televisions assumes that consumer decision-making can be channeled as if their product and shopping choices were confined to those available in the cathode ray, analog TV era. The digital era, however, gives Connecticut consumers the ability to make choices that nullify attempts to mandate their behavior. The result will be outcomes that are less efficient, both environmentally and economically, than an incentive regime that takes modern consumer choices into account.

Consumers Will Frustrate Mandated Product Choices. Consumers will find ways to obtain the blend of product features that they desire. If, due to artificially constraining mandates on integrated DTV receivers, consumers cannot find the features they want, they will look for them in additional products that, cumulatively, could make their homes less energy-efficient. For example, if a mandate reduces the power available to drive integrated audio speakers, or to support an on-board DVD or Blu-Ray player, consumers will likely buy additional, power-consuming devices instead of relying on an integrated solution. These choices could have the effect not only of nullifying any energy ‘savings’ from the legislation, but also of creating more consumer “boxes” that consume power and ultimately will have to be recycled.

Conversely, the legislation fails to take into account that the purchase of a high performance television may trigger a replacement cycle in which older, less efficient auxiliary components are integrated into the display, or replaced by more efficient modern products. Given the number of areas in which new products and services will become available, the unintended consequences of a legislative mandate will be wide-ranging. Incentive regimes, targeted to known issues, are likely to be much less dangerous and much more efficient in having the intended consequence.

Consumers Will Frustrate Mandated Shopping Choices. Similarly, mandates based on analog era assumptions about shopping behaviors and alternatives are also likely to be counter-productive. First, they cannot account for consumers’ electronic and

physical mobility. No Connecticut regulation can erect a commercial iron curtain around the state against products purchased on-line, by telephone, or in neighboring states. Unlike automobiles, electronics products do not require regular service or warranty visits to dealers. Indeed, these products seldom require any service at all, and very frequently are bought on-line even when a 'brick and mortar' or 'big box' retailer is only blocks away.

Market research has shown that most people shopping for a new digital television do extensive research on-line before visiting any 'brick and mortar' store. The larger a TV receiver is, the greater the likelihood that, even if purchased in a store, it will be delivered to a customer's home rather than taken away in the customer's car. Consumers are increasingly accustomed to receiving shipped products, from daily shipments from Netflix to larger products from other retailers.

Modern shoppers will also drive miles and miles to find and save on major purchases. It is fair to state that many flat panel televisions are considered by consumers to be 'big ticket' purchases, and they will shop for the best price for the size they desire. Any savings assumed by this legislation need to be weighed against and discounted by on-line, phone and out of state purchases.

While the retail members of CERC or CRMA do not share competitively sensitive information we can state that unintended consequences and costs associated with complying with H.R. 5217 will not be trivial. Industry analysis has shown that retail job losses would likely follow in the wake of these regulations.

Indeed, artificial energy use limits on TVs would have a profoundly negative economic impact, including the removal of a significant number of TVs from retail store shelves, resulting in lost sales, increased costs and lost jobs.

A recent study of a similar proposal concerning televisions in California, for which H.B. 5217 is based on projected that such regulations for TVs would destroy 4,600 jobs that are tied to TV sales, distribution and installation, and would cost California \$50 million a year in lost tax revenues (Source: Resolution Economics, LLC). Based on this study, and based on recent analysis of a similar proposal in Massachusetts and Maryland, it's estimated the potential economic impact on Connecticut would be lost sales tax revenue of several million dollars and hundreds of lost jobs. These jobs are tied directly to television sales, distribution and installation.

Economic disruption, lost sales and lost jobs do not advance the cause of energy efficiency. If anything, it disrupts the prosperity needed to feed the natural replacement cycle of older, less efficient products with newer more energy efficient TVs and other consumer products.

Any new regulations need to pay more respect to rapid changes in products, and in the market, that should already be evident. Some of the most inefficient TVs are being

phased out through normal product life-cycles. The first generation of virtually any new consumer electronics technology is less efficient than future generations.

A National Standard Offers a National Solution to Maximize Energy Efficiency and Minimize Economic Impacts

CERC and CRMA support the development of federal television efficiency standards based on thorough scientific analysis, testing and due process. A federal standard with a sell-through option would lessen the logistical complexities, market dislocations and regional economic variables that would inevitably result from the proposed Connecticut energy standard.

We appreciate the argument that regulatory efforts such as H.B. 5217 can help prompt action at the federal level but they can also frustrate progress. There is a more productive path to energy savings and that would be to adopt national standards as well as state, local and federal consumer incentives. This path would achieve at least as much if not more of the energy savings for the state as what is suggested under H.B. 5217.

Standard national regulations would also work to eliminate the majority of leakage caused by the purchase of non-compliant TVs through internet and neighboring state sales. Connecticut should not ignore well-established business cycles. To do so would be extremely burdensome to large and small retailers in terms of financial resources and manpower.

Incentives and Education are Better, Proven, Alternatives

With respect to energy use disclosures to consumers and product labeling, ENERGY STAR is an example of a national program that respects, rather than frustrates, consumer choice. Combined with appropriate incentives, consumer education offers positive consequences and minimizes unintended ones.

Consumer education works.

The ENERGY STAR program is an American success story. Indeed, as a result of the swift marketplace adoption of the latest ENERGY STAR Version 3.0 specifications, a new and more stringent ENERGY STAR specification is now in the works. The proposed new ENERGY STAR standard is more stringent and energy efficient than either the current ENERGY STAR TV specification or the current Consortium for Energy Efficiency (CEE) Tier 2 standard (which represents a 15 percent more stringent level than the current ENERGY STAR TV specification).

As you know, televisions today are far more energy efficient than televisions of the past, even a few years ago. As consumers convert from analog to digital television, this upgrade cycle will continue to yield energy savings at a state and national level through ENERGY STAR. Voluntary programs like ENERGY STAR produce savings and save jobs precisely because they are voluntary and help the consumer make an informed

buying decision. A separate Connecticut program, even one that attempts to mirror California could degrade the ENERGY STAR brand in the state.

Incentives work. A number of CERC members are participating in TV and appliance incentive programs that reward consumers for choosing energy efficient products. These incentives are a win-win proposition for all involved. An incentive effort focused on new TVs and the installed base of TVs can have a significant impact on energy use. Proper TV calibration can improve picture performance and energy consumption.¹ Energy savings of 10-20% from calibration are not uncommon.² Incentives to assist consumers purchase calibration services or tools would certainly yield energy savings.

Support the Federal Trade Commission’s (FTC) EnergyGuide program. It provides consumers with comparative information on product energy consumption. EnergyGuide has proven to be an excellent educational tool for many appliances, and we support the FTC’s efforts to extend this national program to televisions.

A number of initiatives could drive consumer adoption of green products and green lifestyles, without resorting to inflexible and arbitrary mandates. These would protect or create Connecticut jobs and economic activity. CERC and CRMA respectfully recommends:

- Encourage consumers to use aftermarket products like smart power strips and smart home technologies, which help consumers to manage and optimize power consumption throughout the home.
- Press utilities to adopt smart grid technologies that can give consumers the option to manage their energy usage all the way to the outlet level.
- Look to adopt additional tax and electric rate incentives to encourage consumers to purchase ENERGY STAR qualified products.
- In major procurements, ensure that the state government only purchases energy efficient products, and properly disposes of obsolete equipment.

Connecticut-specific Mandates Disrupt ‘Brick and Mortar’ Retailers and Retailing in the State.

¹ An April 2008 *New York Times* story demonstrated the value of calibration -- see http://www.nytimes.com/2008/04/10/technology/personaltech/10basics.html?_r=2&em&ex=1208059200&en=984bec05851e5cb9&ei=5070&oref=slogin.

² The *New York Times* story reported on an actual service call; noting – “The customer’s TV was well out of whack ... overcompensating with blue and was making green and red work harder to create the picture. The result was an HDTV that wasn’t reproducing an accurate image and was using up almost 50 percent more energy than usual.”

The timetables contemplated by H.B. 5217 fail to fully account for manufacturer and retail product cycles and consumer marketing. The result, if this legislation is enacted, will be uncertainty and confusion, to the detriment of all.

The bill does not account for the fact that retail stocks include product received over varying time periods. An arbitrary effective date that covers sales of products already in inventory imposes needless expense and inefficiency in searching out inventory that was lawfully received and stocked. It also presages unintended violations whose only real world consequences will be wastes of administrative and enforcement resources, and further increasing the cost to any electronics retailer doing business in the state.

The regulations proposed in H.B. 5217 are based on highly flawed regulations adopted by a California Energy Commission (CEC) which also are not yet official.

The proposed regulations for televisions are based on regulations adopted in November 2009 by the CEC which have not yet been reviewed by California's Office of Administrative Law and as such are not yet official.

The CEC based its adopted regulations for televisions on a stacked deck consisting of false assumptions, admittedly stale and outmoded data, basic mathematical errors, and conceptual mistakes, that both exaggerate the "problem" to be solved and overestimate the potential energy savings that will cost consumers far more than they may save. It will interfere with consumer enjoyment of one of today's most dynamic household and family products.

Thank you for the opportunity to submit these comments on behalf of CERC and CRMA we look forward to working constructively with your joint committee and the General Assembly in the coming months. **CERC respectfully urges you to oppose H.B. 5217.**

Respectfully submitted,

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