

Brief by TC Transcontinental

ACTING TOGETHER

**Right of initiative to public consultation
Public consultation on flyer distribution control**

Standing Committee on Water, Environment, Sustainable
Development and Large Parks

City of Montréal

October 21, 2019



Executive Summary

Contrary to what might be expected in an increasingly digital world, the Publisac continues to be popular. It is read by 89% of Québec households receiving it, and 90% of Quebecers have a positive view of the Publisac¹. The Publisac truly is a Québec institution.

In this same digitized world, the Publisac is still sought after by merchants who spend \$300 million per year in Québec to reach their local customers and drive them to the store in the face of competition from e-commerce giants. Publisac advertisers express a 99% satisfaction rate, while 88% of them believe that the Publisac significantly contributes to their sales². As for weekly newspapers, they depend on the Publisac for their survival and are also very popular as 92% of those who receive a weekly read it³.

TC Transcontinental manages the Publisac responsibly through its sustainable procurement of certified papers, and more recently by laying the foundation for a circular economy for plastic in Québec with its new bag made from 100% recycled plastic. This responsibility extends to reduction at source, which includes respecting the will of those who don't want to receive the Publisac. About 200,000 Québec households have made the choice to opt out, irrefutably proving that the current system works. In this way, we can first adjust the quantity of bags to be produced and flyers to be printed, and prevent waste. We continue to improve it, and will be glad to work in close collaboration with the City of Montréal and the municipalities of Québec to improve further.

This consultation is unique in its kind since the Antipublisac movement, in proposing an opt-in for flyer distribution instead of the current opt-out, is asking the City of Montréal to do something that does not exist anywhere else by adopting a regulation that, according to the documentation provided by the City of Montréal itself in support of the consultation, would “face significant regulatory challenges with respect to freedom of expression. In fact, the City of Halifax, having considered this option, concluded that it did not respect the freedom of expression of distributors. The City of San Francisco arrived at the same conclusion⁴.”

To this day, neither the City nor the Antipublisac movement have explained how such regulation would be constitutional, or how it can be justified that commercial freedom of expression and the right to information are not to be protected in Montréal. The cities of Halifax, San Francisco, Calgary and Ottawa, which have also grappled with this question in the past, decided not to adopt the opt-in as they felt it ran counter to commercial freedom of expression.

¹ Source: CROP survey of Quebecers, October 2019, hereafter “CROP 2019”, see appendix 1

² Source: CROP survey of Publisac customers, October 2019, hereafter “CROP 2019 customers”, see appendix 2

³ Source: CROP 2019

⁴ Source: WSP study commissioned by the City of Montréal in support for this consultation

TC Transcontinental is participating in these consultations in good faith to provide the Committee with useful information on the Publisac and to reiterate that, aside from legal considerations, the opt-in is not economically viable anyhow. It would mean the end of the Publisac and would drag down with it the households that want to manage their budget wisely, generate savings and have access to quality, independent local information, the merchants that depend on it, the weeklies, and thousands of jobs. Faced with this situation, the path for TC Transcontinental is clear: we will not let down consumers, nor our advertising and publishing customers, and we will defend our rights.

Montrealers and Quebecers overwhelmingly support the current opt-out, that is, door-to-door distribution except to those putting up a pictogram indicating they do not want to receive the Publisac. Although the survey commissioned by the City of Montréal⁵ appears to indicate that 81.5% of citizens and merchants favour the opt-in, the question asked in this survey was theoretical, even misleading, as it did not mention the end of the Publisac in the event of the opt-in. However, when the question is asked correctly, meaning a choice between the current opt-out model and the end of the Publisac, 86% of respondents favour maintaining distribution according to the opt-out formula⁶. The message is almost unanimous: they don't want the Publisac to disappear. The same is true of the Publisac's customers, with 89%⁷ of them supporting the opt-out.

Considering the major global environmental issues surrounding us, we understand the questions and concerns being raised at the moment. Symbolic measures, seemingly simple although they are not, can however cause far more harm than the benefits they are supposed to generate, as is the case here. For example, replacing a plastic bag by a paper bag could increase the waste from flyers damaged by bad weather and would increase greenhouse gases linked to the product's complete life cycle.

We are calling on the Committee to show diligence in its work, given the social, economic and democratic issues at stake, and before recommending radical and/or illegal actions, to seriously consider all the elements of the proposals that have been submitted by seeking the advice of technical, economic, environmental and legal experts.

We share the objectives of governments and citizens in terms of the need to reduce at source and improve recycling, but we differ with the Antipublisac movement as to the means. The most productive path in our view is collaboration, and instead we propose acting together with the City of Montréal and all stakeholders, to continue improving a service that is useful,

⁵ Source: SEGMA Recherche survey commissioned by the City of Montréal as part of this consultation, July 2019, hereafter "SEGMA 2019"

⁶ Source: CROP 2019

⁷ Source: CROP 2019 customers

responsible and legitimate and to develop a circular economy for plastic of which we will be proud.

Introduction

Following a petition launched by the Antipublisac movement, the City of Montréal's Standing Committee on Water, Environment, Sustainable Development and Large Parks was mandated to hold a public consultation on flyer distribution control. This consultation aims to review three demands presented by Antipublisac:

1. Amend the regulation so that a flyer can only be delivered onto a property if the resident accepts it by putting up a logo showing a flyer surrounded by a blue circle;
2. Replace all plastic bags for flyers with packaging that does not need to be separated from its content in order to be recycled; and
3. Firmly enforce the associated fine when an infraction is committed.

This consultation is unique in its kind since the Antipublisac movement, in proposing the opt-in for flyer distribution instead of the current opt-out, is asking the City of Montréal to do something that does not exist anywhere else. According to the documentation provided by the City of Montréal itself in support of the consultation, such regulation would “face significant regulatory challenges with respect to freedom of expression. In fact, the City of Halifax, having considered this option, concluded that it did not respect the freedom of expression of distributors. The City of San Francisco arrived at the same conclusion⁸.”

To this day, neither the City nor the Antipublisac movement have explained how such regulation would be constitutional, or how it can be justified that commercial freedom of expression and the right to information are not to be protected in Montréal. The cities of Halifax, San Francisco, Calgary and Ottawa, which have also grappled with this question in the past, decided not to adopt the opt-in as they felt it ran counter to commercial freedom of expression.

TC Transcontinental participates in these consultations in good faith to provide the Committee with useful information on the Publisac and to reiterate that, aside from legal considerations that protect freedom of expression, the opt-in is not economically viable anyhow. It would mean the end of the Publisac and would drag down with it the households that want to manage their budget wisely, generate savings and have access to quality, independent local information, the merchants that depend on it, the weeklies, and thousands of jobs. Faced with this situation, the path for TC Transcontinental is clear: we will not let down our customers, consumers, advertisers and publishers, and we will defend our rights.

⁸ Source: WSP study commissioned by the City of Montréal in support for this consultation

Conclusion: Acting together

We share the objectives of governments, municipalities and citizens aimed at reduction at source and recycling, but we differ with the Antipublisac movement as to the means to use in the case of the Publisac.

Rather than reversing the distribution model and replacing the bag, we propose acting together with the City of Montréal and all stakeholders in order to maintain a service that is useful, responsible and legitimate and to develop a circular economy for plastic of which we will be proud.

We have been working to reduce the Publisac's environmental impact for a long time and our expansion into the packaging industry will enable us to go even further. We are taking actions that contribute to recycling and recovery and we firmly believe that collaboration and continuous improvement, in the context of the opt-out model, are the best ways of promoting reduction at source.

Imposing the reversal of the current distribution model would lead to the end of the Publisac. The consequences for consumers and merchants, and for local newspapers, would be serious and disastrous. The legality of the opt-in model would also be vigorously contested.

The future of the Publisac rests in the hands of consumers. Through their consumption habits and by exercising the opt-out, they will continue to determine the relevance and value of this distribution mode for weeklies and flyers, which in 2019, remains very widely favoured and liked by Québec households. In our opinion, the different levels of government should not replace the choice made by the vast majority of consumers and the free market.

Forward-looking statements

This brief may contain forward-looking statements or objectives which are based on the expectations of management and inherently subject to a certain number of risks and uncertainties, known and unknown. Actual results or events may differ materially from the expectations expressed or implied in these forward-looking statements.

The risks, uncertainties and other factors that could influence actual results are described in the Corporation's *Management's Discussion and Analysis (MD&A) for the year ended October 28, 2018* and in the latest *Annual Information Form*, which are available on its website at www.tc.tc.

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