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v4_Final

WEEE Compliance Promotion Exercise

WEEE Forum response to recommendations for discussion arising
from final workshop of the WEEE Compliance Promotion Exercise on
24 October 2017



The WEEE Forum a.i.s.b.l., an international centre of competence speaking for thirty-four producer responsibility organisations in Europe, Australasia and North America, welcomes most of the recommendations for discussion arising from the final workshop of the WEEE Compliance Promotion Exercise on 24 October 2017, hosted by the European Commission.

This paper is a response to the invitation to provide remarks on the report's recommendations. The **red highlighted sections** signify particular importance and/or urgency.

Main message

- ▶ *Most recommendations in the project report will be conducive to improving the situation of compliance with the Directive. Especially when it comes to ensuring a level playing field for treatment of WEEE we are strongly of the opinion that mandatory conformity, through an Implementing Act, with the EU wide specifications as laid down in EN 50625 standards is of primary importance. The market will remain uneven unless Member States or the EU make conformity with these standards legally binding. CECED, DIGITALEUROPE, EERA and the WEEE Forum, as well as other parties, have repeatedly spoken out in favour of that policy. Click [here](#) for more information.*

Other messages

- ▶ *Require market actors to hand over WEEE to WEEELABEX certified plants.*
- ▶ *Ensure online sellers take on duties of producers.*
- ▶ *Ensure all operators that handle WEEE have equal reporting obligations.*
- ▶ *Ban cash transactions for WEEE.*
- ▶ *Define ownership of WEEE adequately.*
- ▶ *Encourage a dialogue between producers and recyclers around EEE composition.*
- ▶ *Launch campaigns targeting illegal and sub-optimal treatment operations.*

Extended producer responsibility

We are in full agreement with the following recommendations.

1. **Ensure online sellers take on duties of producers. Free riding among distance sellers and online platforms, both online platforms domiciled outside the EU and those that have a warehouse and legal entity within the EU, is an issue of growing concern. Click [here](#) for further information.**
2. Ensure coordination of all actors by a central authority or by a clearing system established by producers and/or PROs (except in a single compliance scheme environment). However, central authorities or clearing systems must be transparent and accountable and not place undue cost on the EPR system including producers.

3. Put in place approval procedures of PROs with specifications, e.g. related to communications or collection network, whilst allowing for sufficient flexibility, enhancing efficiency and productivity.
4. Ensure transparency as regards financing of the system.
5. Require compliance schemes to be not-for-profit.
6. Enable producers to fulfil their obligations by setting the regulatory framework and ensuring that it is enforced. Enforcement of WEEE regulations requires resourcing of the enforcement agencies at national and regional level.
7. Ensure that all levels of government (sub-national, national and supra-national) play a role in formulating and enforcing rules.
8. Inform all actors in the EPR system, especially producers, about the shift to the open scope of the Directive and put in place, at both EU and Member State level, adequate communication channels.
9. Introduce a formal platform for all actors to exchange views on the functioning and development of the EPR system.

Collection

We are in full agreement with the following recommendations.

10. Allow producers to display environmental management cost per EEE to customer.
11. Ban cash transactions for WEEE. France can offer good practices on the effectiveness of such a measure.
12. Define ownership of WEEE adequately and unequivocally.
13. Consider defining requirements on density of collection points, if feasible and appropriate, and the quality of service they are expected to provide, including opening hours and accessibility.
14. Encourage collection services such as collection events as well as individual (voluntary) collection initiatives in retail, for example.
15. Mark collected WEEE per collection point to help prevent thefts.
16. Respect the freedom of PROs to manage their responsibilities provided they meet their licence/approval criteria and are audited on a regular basis.
17. Increase awareness among all involved actors. Awareness is a time-dependent yet key component of improved collection.
18. Train municipalities and authorities as regards legal requirements and enforcement.
19. Implement separate collection targets per WEEE category, i.e. for small equipment, lamps..., at Member States level if feasible and appropriate.

However, we have serious concerns about the following recommendations.

20. “Lay down requirements on consumer awareness campaigns, such as format or frequency.” We disagree that Member States should regulate the periodicity and format of awareness campaigns. Furthermore, Member States can only expect obligated parties to collect WEEE that is within their control. Producers or PROs cannot be made legally responsible for matters beyond their control.
21. “Include (financial) incentives for end-users to bring back WEEE.” The decision to offer (financial) incentives is for the obligated parties to make, not for Member States to impose on obligated parties. Free and easy access is probably more effective and less costly to administer.

Treatment

We are in full agreement with the following recommendations.

22. Adopt an Implementing Act requiring adherence to EU wide specifications as laid down in EN 50625, which ought to be turned into legally binding standards. It is absolutely critical that, as is the case in France, the Netherlands, Ireland and Lithuania, conformity with EN 50625 or the WEEELABEX normative requirements is compulsory (see [here](#)). The playing field will remain uneven, competition among operators will remain unfair, low quality operations will continue to be undertaken, unless the EU makes those standards binding. Furthermore, Member States must require that WEEE is handed over to WEEELABEX certified operators.
23. Encourage a dialogue between producers and treatment operators and recyclers with a view to better information on EEE composition. A similar dialogue is ongoing in the context of Directive 2009/125/EU. It is also a Recommendation arising from the ProSUM (Prospecting Secondary Raw Materials in the Urban Mine and Mining Wastes) project, financed by the Horizon 2020 programme and led by the WEEE Forum. See also www.prosumproject.eu.
24. Launch campaigns targeting illegal and sub-optimal treatment operations. The 2015 Countering WEEE Illegal Trade project, financed by the Horizon 2020 programme and led by an international consortium of partners including the WEEE Forum, gave rise to this recommendation. See also <http://www.weee-forum.org/countering-weee-illegal-trade>.
25. Make sure that all operators that handle WEEE are identified and have equal reporting obligations. Inclusion of a mandatory standard in the Directive and subsequent transposition into Member State legislation support this equitable approach as collection organisations will have to retain evidence of only transferring WEEE to WEEELABEX certified downstream processors.
26. Activate all stakeholders to meet their respective responsibilities and encourage collaboration among all stakeholders in the value chain. EU law must require Member States to conduct periodic controls of the activities of all market actors and enforce legislation adequately. Market actors must be required to hand in WEEE to WEEELABEX certified plants, and actors that export WEEE for preparation for re-use or recycling must report those quantities

27. Require inspection plans and increase the number of authority-led inspections across the whole WEEE management chain in combination with stringent prosecution and sentencing of inadequate treatment.
28. Require the licencing or approval of PROs by Member State authorities to include audits by third party service providers.
29. Require improved data submissions from Member States with quality checks and corrections implemented in a timely fashion. Member State targets based on 'placed on market' metrics should allow for the flow of EEE between Member States, i.e. there should be a better data system that allows realistic target calculations based on actual EEE and WEEE flows. Accuracy and timely release with quality checks of existing Member State data sets should be a priority fix for WEEE 3.0. All parties that engage in exports of EEE for re-use must be required to report to the national register.

Prevention, preparation for re-use and product design

We are in full agreement with the following recommendations.

30. Enable separation of collected WEEE, which is suitable for preparation for reuse, into reusable vs non-reusable and adequate storage at collection points (covers).
31. Promote information exchange, guidance material...
32. Refrain from stimulating product-design through Member State waste legislation, and address it instead at EU level through eco-design regulations as well as in the European Standardisation Organisations, such as CENELEC, that deal with material efficiency standards.
33. Public investment in preparation for re-use infrastructure and municipal collection points to support social economy systems.

However, we have comments about the following recommendations.

34. Upon validation as a result of an in-depth impact assessment, EU law may invite Member States to introduce an "eco-modulation" scheme of producer fees in the EPR, provided that Member States respect a binding framework of requirements in relation to, at least, the scope of products subject to eco-modulation and the bandwidth for eco-modulation. Without such a framework with adequate common harmonised criteria at EU level, EPR systems may end up facing a patchwork quilt of different regimes and eco-modulation schemes. Until such a framework is in place, no new eco-modulation schemes should be allowed to be designed or implemented. In a collective scheme environment it must be noted that modulated fee products will not necessarily be collected and processed separately when they become WEEE.
35. Grant registered preparation for re-use actors access to collected WEEE that is suitable for preparation for reuse, but make sure that measures are taken to avoid that only valuable parts and components are recovered for preparation for re-use and to counter waste diversion to unreported flows. Registration criteria

must include appropriate standards, insurances, product liability assurances and guarantees.

We have serious doubts about the following recommendation.

36. "Implement a separate target for preparation for re-use of WEEE at Member State level, if feasible and appropriate." A preparation for re-use target essentially means that the law establishes what percentage of WEEE must be prepared for re-use, i.e. repaired or refurbished to become EEE again. However, such a percentage ignores market realities. If, in a market and for a specific product, there happens to be no demand for repaired products, why should there be a legal requirement to repair them? Furthermore, compliance is enhanced if more EEE become WEEE so that they can be prepared for re-use, yet if all EEE (products) are re-used (and nothing is discarded as WEEE to be repaired), the preparation for re-use target will not be met, even though in Circular Economy terms, re-use is preferable to preparation for re-use.

About the WEEE Forum a.i.s.b.l.

The WEEE Forum, set up in 2002, is a Brussels-based not-for-profit association speaking for thirty-four not-for-profit electrical and electronic equipment waste (WEEE) producer compliance schemes – alternatively referred to as ‘producer responsibility organisations’ (PRO). The 34 PROs are based in Australia, Austria, Belgium, Canada, Czechia, Cyprus, Denmark, Estonia, Italy, France, Greece, Iceland, Ireland, Lithuania, the Netherlands, New Zealand, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, Switzerland and the United Kingdom. It is the biggest organisation of its kind in the world. In 2016, its member organisations reported collection and proper de-pollution and recycling of 2,100,000 tonnes of WEEE. Members in 2017: Amb3E, ANAKYKΛΩΣΗ ΣΥΣΚΕΥΩΝ, ASEKOL, Australia New Zealand Recycling Platform, Ecodom, Eco-systèmes, Ecotic, ECOTIC, EES-Ringlus, EGIO, Electrocyclusis Cyprus, Electronic Products Recycling Association, ElektroEko, Elektrowin, El-Kretsen, elretur, Environ, ΦΩΤΟΚΥΚΛΩΣΗΣ, Norsirk, Recipo, Recupel, Remedia, RENAS, Repic, Retela, RoRec, SENS eRecycling, SWICO, UFH, Úrvinnslusjóður, Wecycle, WEEE Ireland, WEEE Malta and Zeos. Contact: info@weee-forum.org. Website: www.weee-forum.org. See also [15 Years On](#).