



WEEE Forum contribution to the stakeholder consultation on the review of Directive 2002/96/EC of the European Parliament and of the Council on Waste Electrical and Electronic Equipment (WEEE)

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1. Introduction

The WEEE Forum is the largest association in Europe of WEEE collection and recovery systems that put the principle of producer responsibility into practice. Its 42 members account for more than half of all e-waste collection in Europe today: more than 1.2 million tonnes of e-waste. The organisation was set up in April 2002¹, i.e. at a time when the provisions of Directive 2002/96/EC were being negotiated by the European Parliament and the Council. Several of its members have been collecting and recovering e-waste for more than five years, and some 10 or more years. The WEEE Forum can therefore truly be counted among the major, and probably the only multi-national, *knowledge centres* in the world when it comes to management of e-waste.

The producer responsibility organisations that make up the WEEE Forum have not only developed sound experience in the area of e-waste management in operational terms. Most of them have also experimented with different ways of financing the operations, they have launched targeted consumer awareness raising campaigns, multiple projects that aim at improving collection or logistics, and so forth.

That is why the WEEE Forum as a community of take-back systems can also be considered, to some extent, a *centre of excellence*. Its mission is to continuously improve, within the existing regulatory and legislative framework, the environmental performance while keeping an eye on the competitiveness of the producer community that mandates the systems. Experience gained in one system is shared with all other systems, and ways are sought to build further on it collectively. Still today, the organisation's main goals concern better collection and better treatment, not only across Europe but also globally, in particular in parts of the world where millions of tonnes of e-waste are imported annually², both legally and illegally.

In its contribution to the stakeholder consultation, the WEEE Forum seeks to bring this experience and knowledge to life, and wishes to explain why certain provisions in the current Directive or suggested options for revision are likely to cause problems or major concerns.

¹ The WEEE Forum was founded in April 2002 by EI-Kretsen (SE), Hvitvareretur (NO), Elektronikretur (NO), Recupel (BE), NVMP (NL) and UFH (AT). Today, it counts 42 collection and recovery systems from Switzerland and Norway and all member states of the European Union except Bulgaria, Lithuania, Cyprus and Malta. All systems are collective, non-profit oriented and run on behalf of the producers' community. See <http://www.weee-forum.org>.

² Jianxin Yang, professor at the China Academy of Sciences, estimates that, every year, 10 million tonnes are imported legally and 20 million tonnes are imported illegally into China. See <http://www.weee-forum.org/index.php?section=general&page=literature>.

2. Executive summary

The WEEE Forum's contribution to the issues raised in the Commission's stakeholder consultation can be summed up as follows:

- Any collection target, be it a fixed kg target or a percentage of sales in the past, must differentiate between saturated and non-saturated markets. An obligation for collection points to return e-waste to approved compliance schemes would minimise inappropriate parallel streams. Financial penalties for failing to reach unrealistic collection targets are unacceptable; no party should be held financially responsible for things beyond its control.
- It is far more important to obtain a more comprehensive and detailed understanding of real recycling and recovery based on verified and comparable data, than to increase targets.
- There may be value in programmes which would incite consumers to return their appliances for reuse. Yet the enforceability of reuse targets of whole appliances remains to be demonstrated. The Commission's "frequently asked questions" should be integrated into the body of the legal text.
- The "essential criteria" in respect of requirements concerning the placement on the market of products should fall under EC Treaty article 95, while provisions related to targets, definitions, stakeholder responsibilities and waste treatment should fall under article 175.
- The legal text of the Directive should restrict itself to laying down the essential requirements as regards health, safety and environmental protection. The operational implementation of the regulatory requirements should be left to the market forces, including standardisation.

The objective of European WEEE legislation is better collection and better treatment. The more e-scrap is collected and subject to controlled de-pollution, the better for the environment. Proper treatment requires standards, control and reporting. The WEEE Forum has created standards for efficient reporting (WF_RepTool/WF_RepLists) and, in alliance with specialist recyclers and appliance makers, for treatment of refrigerators. Specific projects related to standards for more WEEE categories of concern and for auditing are being launched.

The market share based financing model is the most effective incentive to improve collection of WEEE, especially considering that the high percentage of "orphan WEEE", i.e. e-waste for which no producer or brand name is identifiable at the moment the appliance is returned, will remain an issue of great concern.

The return-share based financing model is unlikely to provide incentives to increase collection. The smaller the quantities returned, the lower the costs for collection for those parties that pay on the basis of their share of returned products. Plus, the return-share based financing model as such is unlikely to provide, in itself, meaningful incentives for eco-design of products. Who is in a position to know how the appliances put on the market today will be treated when they will be returned in 10-20 years' time?

3. Targets on collection

Experience has learned that an indiscriminate, one-size-fits-all fixed mandatory collection target is inadequate for some member states but exceedingly ambitious for others, especially the new member states. In some states, authorities have made matters worse by penalising producers for failing to reach collection targets while it can be scientifically demonstrated that the suggested quantities to be collected are in no way correlated to what can possibly, in practice, be collected. Slovakia, for example, has introduced an obligation for producers to pay into a non-state recycling fund a financial penalty per non-collected kilogram³.

Furthermore, in contrast with five or more years ago, a huge proportion of e-waste “escapes” the established routes of collection due to the increasing overall positive value of raw materials. Significant amounts are being collected (and traded) by parties other than the established compliance schemes and remain therefore unaccounted for – even though that does not necessarily mean that all of it is disposed of illicitly⁴. Today, producers and producer responsibility organisations increasingly end up collecting WEEE with overall negative value. Producers are additionally in the unfair situation of having to cope with a range of obligations and responsibilities, while parties involved in the grey market do not.⁵

And finally, in some member states, amongst which Britain, compliance schemes are taken hostage by speculators who are in a position to demand illegitimate and excessively high prices on the grounds that all collected e-waste must be taken back by producers. The largest producer responsibility organisation in Estonia⁶ finds itself in the impossible situation of having no access to some municipal collection points with the biggest WEEE flows.

The objective of any amendment should therefore be to provide a fair solution in respect of the evolution of the markets while being sufficiently ambitious as the respective markets expand. In addition, fairness must be introduced with respect to

³ Slovak Decree 208/2005 stipulates in paragraph 9, amongst other things, that if the producer fails to achieve a given percentage of sales the year before, he is obliged to pay a contribution into the non-state fund of €0.87 per kg for refrigerators/freezers, €0.62 per kg for small household appliances, €1.56 per kg for TV sets and €1.56 per kg for gas discharge lamps [examples].

⁴ In a recent survey, Witteveen+Bos, a consultancy, estimated that of the total WEEE arising in the Netherlands of 18.5kg, only 5.7kg is processed by the Dutch collective recovery systems; 11.8kg is recycled, out of which 6.1kg is considered “complementary flow”. The survey therefore concludes that “two thirds of the total amount of e-waste generated per Dutch inhabitant is recycled in a more or less environmentally sound manner”. See http://www.weee-forum.org/att/literature/2008_Electronic%20waste%20parallel%20streams_Witteveen_Bos.pdf. See also the the United Nations University consortium’s final report “2008 review of Directive 2002/96/EC on WEEE” [page iv]: http://www.weee-forum.org/att/literature/2007_Review%20of%20Directive%202002.96.ec%20on%20weee_unu.pdf.

⁵ VROM, the Dutch environment ministry, estimated that 15 per cent of the WEEE stream is not collected as a result of free-riders, i.e. producers or importers who sell electrical and electronic equipment but do not live up to their take back obligations. See “Transboundary shipments of waste in the EU – Developments 1995-2005 and possible drivers”, Draft interim report, Copenhagen, in “2008 review of Directive 2002/96/EC on Waste Electrical and Electronic Equipment”, Final report, United Nations University consortium, 5 August 2007, page 250: http://www.weee-forum.org/att/literature/2007_Review%20of%20Directive%202002.96.ec%20on%20weee_unu.pdf.

⁶ EES-Ringlus.

obligations; all parties collecting waste should face the same type of obligations. And the solution must remain simple to administer and enforce.

The WEEE Forum is in favour of a scheme which distinguishes between saturated or mature markets, many of them in Western Europe, and non-saturated markets, most in Central and Eastern Europe. A mandatory collection target of, for example, 5 kg per person per year could be fixed for all member states, but provide for a 3-year exemption for the non-mature markets. Care must be taken that one single definition of “sales” or “put on the market” is provided for, i.e. including distance selling, and that the reference parameters such as weight or units are harmonised.

Alternatively, mandatory collection targets of, for example, 60-75 per cent of total sales of electronics in the preceding year (or two/three preceding years) could be fixed for the mature markets, and 20-50 per cent for the other, non-mature markets, and depending on type of equipment and the environmental issue of concern⁷. Specific targets will be subject to discussion. The specific percentages should be the same for all categories.

In order to effectively fight illicit trading and to minimise inappropriate parallel streams, the WEEE Forum is not opposed to the introduction in the Directive of an obligation for collection points, be they shops, municipal authorities, distributors or traders, to return e-waste to approved compliance schemes, amongst which authorised producer responsibility organisations, and to require them to provide proof of this. While acknowledging that the environmentally most relevant streams are of particular concern to be closely monitored, the WEEE Forum believes that environmental weight based collection targets as such would prove excessively complex to administer.

The WEEE Forum is strongly opposed to any type of hidden taxation, for example through imposing a financial penalty upon producers or producer responsibility organisations for failing to reach collection targets which can be proven to be unrealistic. No party should be held (financially) responsible for something which is beyond its control.

4. Targets for recovery, component, material and substance reuse and recycling

The market of e-waste recycling is, as any market, dynamic and non-stationary. The higher the value of raw materials is, the more powerful the incentive is for the e-waste processing industry to improve recycling techniques. In other words, the price of raw materials affects recycling performance. The snag is that certain types of e-waste, such as television sets containing cathode-ray tubes (CRT) or refrigerators containing CFC, require controlled depollution. No market will, left on its own, auto-

⁷ Even in non-saturated markets, a target of 60-65 per cent by 2012 for refrigerators, which potentially cause serious issues of concern, would be deemed acceptable. See also the United Nations University consortium's final report “2008 review of Directive 2002/96/EC on WEEE”: http://www.weee-forum.org/att/literature/2007_Review%20of%20Directive%202002.96.ec%20on%20weee_unu.pdf.

regulate the costly removal of hazardous substances, and therefore close control is absolutely necessary.

It is obvious that authorities must be in a position to measure recycling and recovery rates accurately. Sound policies require sound data. First of all, certain types of equipment and components must undergo specific (pre-) treatment in accordance with the Annex of the Directive. Secondly, article 7 of the Directive acknowledged this truism: “Member States shall ensure that, for the purpose of calculating these [recovery/recycling] targets, producers or third parties acting on their behalf keep records on the mass of WEEE, their components, materials or substances when entering (input) and leaving (output) the treatment facility and/or when entering (input) the recovery or recycling facility.”

However, today we are far from a single European interpretation of what constitutes recycling, recovery and disposal, whether recycling and recovery targets must be reached for each WEEE category, or for each treatment category, and how the targets ought to be determined. Against this background, it is clear that increasing the targets is of less importance.

In order to address this patchwork quilt, i.e. to find a methodology and structure that allow for comparison of treatment results, the WEEE Forum designed and developed WF_RepTool⁸ and WF_RepLists: a software programme and data structures that provide for the possibility to develop harmonised e-waste treatment and recovery/recycling results. The tool allows treatment and recovery and recycling facilities, such as dismantlers, shredders and smelters, to report the level of recycling and recovery of materials in a uniform, comparable and transparent manner. The WEEE Forum has not only harmonised the classification of the use of final fractions and components as input to final technologies, but also the technologies, and the output and input fractions, altogether allowing for the calculation of harmonised recycling and recovery quotas – a major advance compared to 2002 when data were, by definition, incomparable.⁹ Finally, and needless to say, the tool allows for systems’ data to be easily compared¹⁰.

And finally, we should move away from the 10 “theoretical” product categories and require reporting of the main WEEE treatment categories. Turning treatment results based on streams into treatment results broken down into product categories adds unnecessary costs to producer responsibility organisations’ workload. The simpler the reporting, the better.

The objective of any amendment must be to allow authorities to obtain an accurate understanding of recycling and recovery based on harmonised, and therefore

⁸ A demo version is available on http://www.weee-forum.org/index.php?section=services&page=services_reporting.

⁹ In its paper “Towards sustainable WEEE recycling”, EERA, the European Electronics Recyclers Association, recommends WF_RepTool as a possible option to apply recycling and recovery applications uniformly across Europe [page 19]. The fact that the recyclers’ community makes explicit reference to the tool, corroborates the WEEE Forum’s intuition that the tool does not involve a major cost burden for them. See <http://www.eera-recyclers.com/member/files/EERA%20Report%20TOWARDS%20SUSTAINABLE%20WEEE%20RECYCLING%2020071224.pdf>.

¹⁰ The WEEE Forum is at this very moment however not in a position to provide meaningful, comparable treatment results across Europe. The first report of consolidated 2007 treatment results should be available in September 2008.

comparable, measurement tools and data. Ideally, ways must be sought to harmonise reporting, preferably at an acceptable minimum level which is compatible with existing reporting standards such as WF_RepTool/WF_RepLists.

The WEEE Forum takes the view that it is far more important to obtain a more comprehensive and detailed understanding of real recycling and recovery based on verified and comparable data, than to increase (some of the) targets. Rather than across-the-board material-based targets, special focus should be put on substances of specific concern, such as asbestos, mercury or CFC. The WEEE Forum remains to be convinced of the usefulness or cost-effectiveness of any scheme that seeks to stimulate outlet markets for recycled and recovered products.

5. Targets for reuse of whole appliances

The WEEE Forum is not opposed in principle to whole appliances being reused. The consumer is free to give his/her appliance a second life or to sell it on to another consumer, if he/she so wishes (and if there is a market for it). Protagonists of reuse targets presumably have waste products in mind that have been returned to collection points, but which could be taken back by reuse centres for further sale as products. The trouble with reuse targets in that respect is that failing to reach the target would not necessarily mean that consumers readily discard their appliances. Furthermore, “reuse” is often confused with “repair for reuse”, i.e. appliances that in reality are to be considered waste because they have been returned to a collection point, are repaired for reuse and therefore re-enter the market as new appliances.

These three distinct categories of reuse, i.e. reuse of functioning appliances, reuse of waste appliances that had been deposited at collection points as functioning appliances, and reuse following repair, would compound the problem of calculation of a target.

In other words, a target for “reuse” is fraught with difficulties, while a target for “repair for reuse” is not necessarily desirable. First of all, a “repair for reuse” target is ethically unacceptable for appliances whose energy consumption is excessive compared to state of the art appliances¹¹. Secondly, repaired appliances must be subject to the same quality and safety standards as new appliances; the reuse centre that puts repaired appliances onto the market must become the new legally responsible party.

And even in those few cases where repair for reuse may theoretically be desirable, there is little evidence that consumers would be interested in buying those appliances. A study by the Vienna University of Technology found out that

¹¹ Studies in 2005 by Freiburg-based Öko-Institut, commissioned by CECED, came to the conclusion that it makes sense, from an environmental and energy cost point of view, to replace more than 10 year old refrigerators by state of the art models. Based on the research, CECED concludes that “today’s state of the art fridge for example needs 70 per cent less energy than an average one ten years ago” and that, “from an environmental point of view, even taking production and recycling into account, it makes sense to replace the old gear by new appliances.” See <http://www.ceced.eu/> for a presentation of the conclusions of the Öko-Institut research and an in-depth analysis.

consumers were not particularly fond of buying repaired ICT products¹²: “only 2.86 per cent of ICT products arising through the WEEE collection system are potentially reusable after visual inspection”. According to the report, the reuse potential of ICT within the WEEE stream is between 0 and 6 per cent.

A different matter is reuse of components. It may in practice be desirable on environmental grounds to promote reuse of components.

Even though there may be value in programmes which would incite consumers to return their appliances for reuse rather than storing them in their attic for long periods of time, the WEEE Forum believes that reuse as such falls outside the scope of the Directive, the policy target of which is waste management. In particular, the effectiveness, desirability and enforceability of targets for reuse of whole appliances remain to be demonstrated.

6. Clarification of the scope

Given the importance for producers and producer responsibility organisations to understand whether a product falls within or outside the scope of the Directive, the WEEE Forum several years ago set itself the goal of defining a fixed product list and of affixing one and only one product category to each single type of product. The project failed because it was impossible in practice to connect the products listed in Annex IA and IB to those mentioned in the official Prodcum list¹³.

The sheer unfeasibility of producing one single list does not mean that there is no alternative to each member state defining its own scope.

A distinction between professional and non-professional goods makes little sense on waste management grounds. All types of equipment ought to fall under the same WEEE management regime, otherwise all sorts of distortions will arise, such as certain type of goods that are listed as “professional”, but which end up in the non-professional stream. Article 3(k) of the Directive¹⁴ could be interpreted to mean that those types of equipment fall within the same regime. The genuine industrial installations or goods used exclusively for professional purposes tend not to be part of the stream which is managed by the compliance schemes.

¹² “Desk study of the impact of age on the resale value of used ICT equipment and practical analysis of the reuse potential of used ICT equipment collected in Germany as a result of national implementation of the Waste Electrical and Electronic Equipment (WEEE) Directive”, by Vienna University of Technology (2007). See http://www.weee-forum.org/att/literature/2007_Reuse_Vienna%20Uni%20of%20Technology.pdf.

¹³ Prodcum is a system for the collection and dissemination of statistics on the production of manufactured goods. It is based on a product classification called the Prodcum List which consists of about 4,500 headings relating to manufactured products. See http://epp.eurostat.ec.europa.eu/portal/page?_pageid=2594,58778937&_dad=portal&_schema=PORTAL.

¹⁴ Article 3(k) says: “WEEE from private households’ means WEEE which comes from private households and from commercial, industrial, institutional and other sources which, because of its nature and quantity, is similar to that from private households.”

The European Commission suggests that one option could be to extend the scope with components. In some member states, 80 per cent of personal computers, for example, are formally distributed and sold as components even though they are complete appliances in reality. It is said that the exclusion of components from the scope of the Directive creates waste PC management problems.

The policy objectives of Directive 2002/95/EC on the Restriction of the Use of certain Hazardous Substances in electrical and electronic equipment (RoHS) and of Directive 2002/96/EC on WEEE are entirely different. The former provides for requirements concerning the use of certain types of substances in new products put on the market, while the latter aims at the management of appliances upon turning into waste. Therefore, connecting the scope of both Directives makes little sense.

The objective of any amendment should be to provide for a readily understandable process to identify whether a product falls in the scope (or, alternatively, out of the scope) of any legislation in Europe.

The WEEE Forum is of the opinion that provisions related to the scope of the Directive should be based on EC Treaty article 95, thereby securing a harmonised approach. The best option is to integrate the currently non-legally binding “frequently asked questions” into the body of the legal text.

7. The operation of the producer responsibility provisions

Recital 8 of the Directive says: “The objective of improving the management of WEEE cannot be achieved effectively by Member States acting individually. In particular, different national applications of the producer responsibility principle may lead to substantial disparities in the financial burden on economic operators. Having different national policies on the management of WEEE hampers the effectiveness of recycling policies. For that reason the essential criteria should be laid down at Community level.”

Yet, despite this laudable ambition, complaints about lack of harmonised definitions, product requirements and scope are rife and long-standing. Also frequencies and formats of reporting and responsibilities related to provision of information and registration differ from member state to member state.

Article 4 of the Directive imposes an obligation on member states to encourage the design and production of electrical and electronic equipment which take into account and facilitate dismantling and recovery, in particular the reuse and recycling of WEEE, their components and materials. This provision has been superseded in the meantime by provisions in Directive 2005/32/EC on the eco-design of energy-using products, in particular by its provisions concerning design for recycling. Plus, it is fundamentally wrong-footed to require member states to implement measures related to eco-design of products, because disparate national measures are likely to disrupt the internal market.

The objective of any amendment should be to create a more unequivocal, uniform WEEE regulatory environment.

The WEEE Forum is of the opinion that the “essential criteria” in respect of requirements concerning the placement on the market of products and definitions should fall under EC Treaty article 95, while provisions related to targets, stakeholder responsibilities and waste treatment should fall under article 175.

8. Treatment requirements

E-waste processing companies must be discouraged from gaining a competitive advantage due to the application of less environmentally sustainable activities. It is therefore absolutely necessary to harmonise treatment and recycling specifications.

Law is not the most appropriate instrument to promote state-of-the-art treatment and recycling technologies, or, worse, to lay down specific operational requirements, e.g. “manual dismantling”. First of all, by the time law enters into force, new and better techniques have made it to the market. And secondly, markets are typically more efficient and effective in working out the optimum operations.

Standards¹⁵, as opposed to legislation, generally tend to be more flexible instruments when it comes to the definition of specific treatment requirements. Standardisation is also generally seen as a cost-effective approach. For example, in its “WEEELABEX” project, the WEEE Forum estimates that the total costs of the design, development, roll-out and auditing of a comprehensive set of standards, covering basically all 10 categories electrical and electronic equipment of concern and including management standards, over the period 2009-2013 at approximately €1 million¹⁶.

Furthermore, standards play an important role in opening up markets, in facilitating technology transfer and in deregulating technical legislation. They lead to transparency in the market, and therefore create a level playing field. And finally, they create potential for innovation¹⁷. Legislation should exclusively formulate the

¹⁵ In 2007 and 2008, the WEEE Forum published, in coalition with CECED, the household appliance manufacturers, and EERA, the electronics recyclers association, a standard with respect to collection, transport, storage, handling and treatment of household refrigeration appliances containing hydrocarbons (HC) and CFC, HCFC and HFC respectively. See http://www.weee-forum.org/doc/CFC_standard.pdf and http://www.weee-forum.org/doc/HC_treatment_specs.pdf.

¹⁶ The estimated cost of €1,031,500 includes project management, development of communication tools, set up of certification guidelines, recruitment and training of a pilot audit team, certification of cooling and freezing treatment companies, framework and design for the development of standards, development of general and specific technical standards, development of management and reporting standards, development of standards for gas discharge lamps, development of standards for collection, costing and transport, internal communication, external communication and information campaigns, recruitment and training of audit team, and launch of the “WEEE label of excellence” Certification Office. A CD-ROM containing the project outline is available upon simple request: secretariat@weee-forum.org.

¹⁷ In the press release accompanying its Communication “Towards an increased contribution from standardisation to innovation in Europe”, the Commission says: “Standardisation is one of the key elements for the success of the lead market initiative which aims to accelerate the emergence of innovative market areas such as [...] recycling [...]. A European lead in developing globally accepted standards would facilitate the growth of these markets both in Europe and abroad”. See IP/08/422.

“essential requirements” or principles that waste treatment operations should comply with.

In the coming four years, 2009-2013¹⁸, the WEEE Forum and its member systems will seek to establish and roll out environmental standards of a superior level throughout the whole e-waste treatment and recycling process¹⁹. Member states and the European Commission will find the use and acceptance of these high environmental recycling standards an absolute necessity in the reporting and evaluation of WEEE developments.

However, standards are not enough. They must be enforced through control of operations at e-waste processing companies. The WEEE Forum is committed to developing, in the coming years, a “WEEE label of excellence”, a symbol to be used in marketing and communication activities by all compliant parties. The label will be based on validated, audited and certified manuals and detailed reporting specifications. The core element of the label of excellence is a regular reporting and auditing process of the certified companies²⁰.

The WEEE Forum strongly believes that the legal text of the Directive should restrict itself to laying down the essential requirements as regards health, safety and environmental protection. The operational implementation of the regulatory requirements should be left to the market forces, including standardisation.

9. Concluding remarks

In the past couple of years, the Directive, and in particular its article 8 on financing, has been subject to intensive debate. The clause in paragraph 2 with respect to financing of non-historical WEEE, i.e. waste of products put on the market after 13 August 2005, has caused huge discussions: “For products put on the market later than 13 August 2005, each producer shall be responsible for financing the operations referred to in paragraph 1 relating to the waste from his own products.

¹⁸ In 2007, the WEEE Forum applied for funding of its project, “WEEELABEX” or “WEEE label of excellence”, under the Community Life+ financial instrument. The names of the selected projects had not been communicated at the time of writing. A CD-ROM containing the project outline is available upon simple request: secretariat@weee-forum.org.

¹⁹ The WEEE Forum wishes to develop a common and harmonized set of standards of processing e-waste in an environmentally safe manner and in compliance with EU health, safety and environment legislation. This set of standards should cover all types of different processing steps such as collection, storage, transportation and mechanical treatment including special treatment of output mixtures. The standards should include technical specifications, document and reporting obligations, organisational and management requirements. Technical requirements and management standards are to be developed to allow e-waste processing companies to provide evidence of meeting the standards’ requirements to a trained external auditor at any time and that performances can be measured and compared. In time, the WEEE Forum standards will be implemented by all member systems and become part of contracts between the systems and the e-waste processing companies.

²⁰ Maximum credibility is essential for a successful market launch and acceptance of the label from the very beginning. To secure this credibility, an efficient, transparent and harmonised auditing and reporting concept must be developed. The actual auditing, as well as the regular reporting is to be conducted by a pool of trained auditors in e-waste processing technologies and in the certification process for the label of excellence. An exchange of experiences among the auditors and the WEEE Forum systems has to be organized regularly, in order to harmonise the procedures with the practice and to solve problems and improve efficiency in the auditing process.

The producer can choose to fulfill this obligation either individually or by joining a collective scheme.”

While the WEEE Forum community is not opposed to the principle of individual producer responsibility, the recovery systems which are member of the WEEE Forum have, over the years, implemented the article 8 obligation through a market-share based model: producers pay for the costs related to management of WEEE according to their share of the market when the WEEE is returned. Models whereby producers pay according to return-share, i.e. according to (a proportion of) the waste of own products that is returned, have been implemented in the past²¹, but were subsequently abandoned.

The WEEE Forum community believes that the market-share approach ought to be preserved as an application of the producer responsibility principles laid down in the Directive. The market-share approach has proven to be the simplest, cheapest and most transparent approach²². Also in terms of environmental performance, most WEEE Forum systems have managed to obtain excellent results in terms of a gradual increase of collection rates and treatment results. Market-share based models have a built-in incentive to collect more, while it remains to be seen how return-share based systems can be induced to collect better and more²³.

It also remains an open question how and by whom the considerable (though unavoidable) mountain of orphan, i.e. unidentifiable, products will be paid for. Research performed in France in 2007 shows that 141 tons of WEEE consisted of approximately 3,750 different brands, of which more than 12 per cent in weight was unidentifiable brand-wise. Research in the Netherlands in 2006 concluded that 6 per cent of sampled ICT appliances were nameless.

In addition, it is not entirely clear, to put it mildly, how market-share based systems could coexist, in the real world, with return-share based systems. It is in no-one's interest to create an overall situation which is excessively complex and where no party sees the wood for the trees. The market share based financing model is the simplest and most effective incentive to improve collection of e-waste and to secure that the environmental goals of the Directive are met.

The intellectual challenge of the coming years is to devise, first of all, a scheme whereby take-back systems that obtain the best collection results are rewarded. Secondly, responsibilities of all parties involved in the WEEE scene have to be crystal-clear. It is a truism that, if everybody is responsible for everything, no-one in the end will be responsible for anything. And thirdly, it is essential that a level playing field be in place. One of the reasons why some producers have turned

²¹ ICT Milieu, a collective system in the Netherlands that looks after the environmental interests of businesses within the IT, Telecom, Office and Internet sectors, is a notable case of a system whose members used to pay according to return shares.

²² Every year, the WEEE Forum produces a set of “key figures” on quantities of e-waste collected and on costs related to collection, containers, transport and treatment (so-called “operational costs”) and those related to research and development and system-specific costs. The 2007 key figures will be uploaded on the website in June 2008: http://www.weee-forum.org/index.php?section=services&page=services_bench&subpage=services_bench_quantitative.

²³ It has been suggested that return-share based systems might be stimulated to collect more through obligations to raise awareness to increase take-back of all products in their product segment, and through the establishment of a clearing house to ensure that they finance all their products that come back, not just the products in the system that they might be a member of.

discouraged over the years is that they feel the pain of producer responsibility but see little gain.

The WEEE Forum is keen on taking part in a continuous discussion about both e-waste management in practice and conceptual ideas for the future.

For more information on the WEEE Forum and a profile of each system and contact information, see <http://www.weee-forum.org>. Drop a line with the Brussels office: secretariat@weee-forum.org. Call us on (32-2) 706 87 01. Or pay us a visit: Diamant conference and business centre, Boulevard Auguste Reyerslaan 80, 1030 Brussels (Belgium).