



Fédération Européenne des Activités de la Dépollution et de l'Environnement
European Federation of Waste Management and Environmental Services
Europäische Föderation der Entsorgungswirtschaft

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FEAD position regarding the second reading on the revision of the Directive on waste electrical and electronic equipment (WEEE)

FEAD welcomes the work accomplished so far by the different European institutions on the revision of the Directive on waste electrical and electronic equipment (WEEE). In view of the upcoming second reading we would like to point out a number of unresolved issues that we consider as necessary to be addressed by the European Parliament and the Council:

- Open scope of the Directive with no exemptions on the grounds of voluntary agreements (article 2)
- Calculation methodology leading to an ambitious collection rate (article 7)
- More transparent and regulated collection of WEEE (articles 5.3 and 5.4) / Maintaining producer responsibility for reaching the collection rate (article 7.1.)
- Separate collection target (articles 7.6 and 14.1)
- National definitions of producers (article 3 (f))
- Calculating recovery/recycling efficiency on the basis of output material (article 11.2)
- Combating illegal shipments of WEEE (Annex VI)
- Information for users on costs resulting from collection, treatment and disposal (article 14.1)
- Treatment standards for WEEE through European Standardisation Organisations (article 8.5)
- Distinction between household and non-household WEEE (article 3 (h))

Open scope of the Directive with no exemptions on the grounds of voluntary agreements (article 2)

In order to improve the effectiveness and the implementation of the WEEE Directive, further legal clarity concerning the electrical and electronic equipment that falls in the scope of this piece of legislation is of high importance. We can understand the need to set boundaries to an open scope accompanied by a short list of well-defined exclusions. Clear definitions of WEEE that is excluded from the scope of the Directive, for instance, "large-scale fixed installations" is needed as, otherwise, the definitions could be used to exclude equipment that should be covered (e.g. industrial kitchens). This is all the more important in view of the opening of the scope.

Furthermore, we consider that the Directive must stop short of granting exemptions on the grounds of voluntary agreements between producers. FEAD therefore welcomes the inclusion of PV panels into the scope of the Directive as foreseen by the Council Common Position (Annex I, pt 4 and Annex IV.4).

Inclusion of EEE in the scope of the Directive provides a number of advantages: legal certainty, guarantees for continuity in time and, in particular, the assurance that historical, and not only newly arising, waste will be treated properly. Photovoltaic panels (PV panels) is one example where the inclusion offers clear benefits in terms of adequate collection and treatment and guaranteed financing by producers in line with the objectives of the Directive. It is questionable if a voluntary agreement of producers would offer the same benefits. This was also underlined by a recent study conducted by BioIntelligence Service on behalf of DG Environment¹.

Re-introduce amendment 12 of the EP's first reading resolution

¹ Study on Photovoltaic Panels supplementing the Impact Assessment for a Re-cast of the WEEE Directive, final report, 14th April 2011.

Calculation methodology leading to an ambitious collection rate (article 7)

FEAD members call upon the European Parliament and the Council to come up with an ambitious collection rate which should not go below the collection rate foreseen in the EC proposal. Only a high collection rate will guarantee that WEEE is treated in accordance with the Directive. The methodology to determine the collection rate must be clear and reliable in order to ensure a harmonised implementation across the Member States and in order to provide certainty for our sector.

As European Federation of Waste Management and Environmental Services we consider that this is clearly the case for the “placed on the market” methodology proposed by the European Commission. This methodology has the advantage of relying on data that is already reported in line with article 12 (“Information and reporting”) of the current WEEE Directive and data reported by customs authorities.

The WEEE-generated methodology as stipulated in the EP’s first reading agreement (amendment 28) is extremely complex. It would have to take into account several parameters (e.g. structure of the market, turnover, innovation patterns, consumption habits, future economic growth, life-time per product) and would have to be based on extrapolations due to the fact that information on WEEE arisings would only be available at the end of the reporting period. Such extrapolations could, naturally, only be estimates and result in controversies and contestations, aiming at a potential lowering of the collection rate.

Maintain the calculation methodology as stipulated in the Council Common Position

More transparent and regulated collection of WEEE (articles 5.3 and 5.4) / Maintaining producer responsibility for reaching the collection rate (article 7.1.)

As underlined in the EC’s impact assessment, significant amounts of WEEE are not accounted for. One of the reasons is the high material value of certain components of WEEE (e.g. parts of washing machines, cell phones, CPUs etc.) which attract unauthorised and unidentified actors. It is questionable that all of these actors treat the WEEE in line with the objectives of the WEEE Directive, with not only potential negative consequences on the environment and health but also leading to a loss of valuable raw materials.

In order to remedy this situation, the Council Common Position (articles 5.3 and 5.4) foresees that Member States may designate the operators that are allowed to collect WEEE from private households and may require that WEEE deposited at collection facilities is handed over to producers or third parties acting on their behalf. This possibility to better control the collection of WEEE this way will ultimately allow for an improved traceability of the WEEE stream and is supported by FEAD.

While better controlling the different actors collecting WEEE, the Directive should, however, stop short of diluting the responsibility of the producers for reaching the collection rate as, otherwise, it could result in situations where it is not clear which producer is responsible for the collection of a specific piece of WEEE. As long as the collection of WEEE is controlled and regulated by Member States, there is no reason not to make producers responsible for reaching the collection rate as part of the Extended Producer Responsibility principle as stipulated in the Waste Framework Directive (Article 8, 2008/98/EC). The Council Common Position should therefore be maintained in this point (article 7.1 of the Council text).

Separate collection target (articles 7.6 and 14.1)

FEAD supports the provision to propose a separate collection target, not only for cooling and freezing equipment but also for lamps, including filament bulbs and small appliances, based on a future assessment of the European Commission. This way, the collection of small-volume WEEE will not be disregarded as a result of the weight-based collection rate of the future WEEE Directive. A specific collection rate for small WEEE would guarantee that small appliances are also collected once they reach the end-of-life stage. The take-back of

small appliances by retailers constitutes a further measure that could improve the collection of small-volume WEEE.

Re-introduce amendments 32 and 92/100 of the EP's first reading resolution.

National definition of producers (article 3 (f))

Concerning the question whether producers of EEE should be defined at the EU level or at the national level, FEAD members consider it necessary to maintain the national definition of producers. This will guarantee that producers assume legal obligations (e.g. provide for the collection and the treatment of WEEE, recovery of collected WEEE, the financing of treatment, recovery and disposal of WEEE etc.) that are arising from the Extended Producer Responsibility principle.

Maintain the definition of producers as stipulated in the Council Common Position.

Calculating recovery/recycling efficiency on the basis of output material (article 11.2)

FEAD supports the EP's first reading resolution which prescribes the use of the output of the recovery or recycling facilities as the basis to calculate the recovery and recycling targets. Environmental benefits from recycling can only be achieved when a "final" recovery operation has taken place.

Re-introduce amendment 45 of the EP's first reading resolution.

Combating illegal shipments of WEEE (Annex VI)

We consider that the work on the revision of the WEEE Directive is a step in the right direction towards combating illegal shipments of WEEE under a re-use label (e.g. full functionality tests as foreseen by the EP's first reading resolution). However, the issue of illegal shipments is not limited to WEEE only and, hence, cannot be solely addressed by the WEEE Directive. Curtailing and stopping illegal shipments requires commitment and financial resources from the Member States. We trust that the current work of the European Commission on better waste implementation and the future initiative on inspections will address the issue of illegal shipments satisfactorily. This work should either result in an extension of the waste-related profile of the European Environmental Agency (EEA) or in the creation of an EU waste agency.

Re-introduce amendment 83 of the EP's first reading resolution

Information for users on costs resulting from collection, treatment and disposal (article 14.1)

FEAD is in favour of allowing visible fees to be maintained in those countries where they have already been put in place to allow consumers to be informed on the actual costs for collection, treatment and disposal in an environmentally sound way.

Maintain article 14.1. of the Council Common Position.

Treatment standards for WEEE through European Standardisation Organisations (article 8.5)

FEAD members are convinced that the treatment of WEEE must take place in accordance with high environmental standards preventing environmental damage and health risks and, therefore, welcome the development of European standards. The raising of treatment standards should take place while preserving business confidentiality. Regarding the question of the best approach to the development of such standards, we consider the three European Standardisation Organisations (i.e. CEN, CENELEC and ETSI) as the appropriate bodies to carry out this work. This approach would ensure that all relevant stakeholders are given the chance

to be involved. We fear that, in comparison, the comitology procedure as suggested in the Council Common Position would not sufficiently allow stakeholder involvement.

Re-introduce amendment 99 of the EP's first reading resolution.

Distinction between household and non-household WEEE (article 3 (h))

The distinction between WEEE from private households and non-household WEEE is of high importance for the management of the treatment of WEEE. Deleting the proposal of the European Commission to develop a distinction between B2B and B2C WEEE at the European level through comitology would mean that a huge fraction of what is now considered commercial or industrial WEEE would become WEEE from private households. If all dual-use equipment is to be classified as B2C WEEE, this will mean that it will be the duty of producer responsibility schemes to collect, treat and recover any potential dual-used EEE, even if it is still in the possession of a company when it reaches the end-of-life stage and even though this company may hold large amounts of it. Consequently, companies generating electrical and electronic waste will lose their ability to enter into a direct contract with waste management enterprises as far as this kind of WEEE is concerned. Generally, companies rely on global contracts with waste management companies that encompasses all waste generated by the company, including WEEE. Furthermore, companies could be making use of producer responsibility schemes without contributing to their financing.

FEAD members would suggest either:

- (1) the re-introduction of the provision from the EC proposal (article 2.4, setting of criteria through comitology) or
- (2) the development of a classification methodology by which Member States classify WEEE according to two criteria (nature and distribution network) which should be considered stepwise or
- (3) the introduction of a definition of dual-use equipment

FEAD is the European Federation representing the European waste management industry. FEAD's members are national waste management associations covering 20 Member States and Norway. They have an approximate 60% share in the household waste market and handle more than 75% of industrial and commercial waste in Europe. Their combined annual turnover is approximately € 75 billion.

FEAD represents about 3000 companies with activities in all forms of waste management. These companies employ over 320000 people who operate around 2400 recycling and sorting centres, 1100 composting sites, 260 waste-to-energy plants and 900 controlled landfills. They play an important role in the determination of the best environmental option for waste management problems.