

EICTA Position Statement on the Waste Framework Directive

Introduction

A revised Waste Framework Directive is currently being developed by the European Union. The Waste Framework Directive is the foundation for European waste policy and therefore changes to it will have implications for the WEEE Directive and waste management systems across the EU. This paper provides a position statement from EICTA highlighting the key issues for Producers of electrical and electronic equipment within the Waste Framework Directive. These issues relate to both the European Commission's proposed text, and the Amendments made by the European Parliament during the First Reading on 13th February 2007.

1. Individual Producer Responsibility

- EICTA encourages you to support Amendment 8 proposed by the European Parliament on Individual Producer Responsibility.*
- The European Parliament's Amendment 8 proposes a new Recital 15 to the Directive which makes specific mention of encouraging individual producer responsibility. Amendment 8 reads:
- 'Individual producer responsibility is a tool that can be used to promote waste prevention, re-use and recycling by ensuring producers take into account the life-cycle impacts, including end-of-life impacts, of their products and develop appropriate design.'*
- The EU established an individual producer responsibility requirement through Article 8.2 of the WEEE Directive, whereby each producer is financially responsible for the recycling of his own-brand products, put on the market after 13 August 2005.
- EICTA highlights that most Member States have not implemented the principle of Individual Producer Responsibility in transposing the WEEE Directive into their national legislation.
- Therefore the intended incentives of IPR are not provided within these national laws.
- EICTA believes that it should be made mandatory for Member States to give producers the option to choose between individual or collective solutions based on their product portfolio and business models used.

2. Horizontal Producer Responsibility

- EICTA encourages you to reject the European Parliament's Amendment 35 for a new Article 3b on Producer Responsibility.*
- Whilst establishing the principle of Individual Producer Responsibility is important

as a recital, enabling Member States to establish new producer responsibility measures at the horizontal level of the Waste Framework Directive will cause legal uncertainty and free-riding.

- ❑ The principle of producer responsibility is taken up in waste stream specific legislation, such as the WEEE directive, and therefore already applies on the level of our industrial sector.
- ❑ The introduction of a horizontal principle of producer responsibility would, for our industry, create confusion for the further implementation of the WEEE directive, while at the same time create double and overlapping requirements for our sector.
- ❑ Duplicated legislation would leave it unclear what economic operator would be responsible for doing what and for which product, thereby creating enormous potential for free riding.
- ❑ Furthermore there could be at least 28 different ways of applying the horizontal producer responsibility principle in the EU, since amendment 35 obliges the Commission and member states to make producers/importers responsible in a directive based upon article 175 of the EC Treaty.
- ❑ Amendment 35 also introduces '**requirements**' for eco-design (bullet three). Eco design requirements do not belong in a waste directive, as waste is only one of the many environmental aspects to consider when conducting eco-design from a life cycle perspective. That is also the reason that the Parliament adopted the framework Directive 2005/32/EC, which sets eco-design requirements for energy-using products (EuP).
- ❑ The implementation of specific requirements by Member States can hamper the free movement of goods on the European market.
- ❑ It is more appropriate for waste legislation, and specifically the WEEE Directive, to encourage design improvements through Individual Producer Responsibility (see Key Issue #1 above).

3. Product Eco Design Policy

- ❑ ***EICTA encourages you to support deleting the requirement for an Eco Design Policy in Article 4a Bullet (b) proposed by Amendment 37 of the European Parliament and replace it with a commitment to 'develop a framework for eco-design initiatives'.***
- ❑ Amendment 37 proposed by the European Parliament introduces a new Article 4a on the prevention of waste.
- ❑ Bullet (b) calls for the European Commission to formulate a product eco-design policy. Bullet (b) reads:
 - ❑ ***[1. Following the consultation of all stakeholders, the Commission shall submit to the European Parliament and the Council proposals for measures required in support of the Member States' prevention activities, to cover:] (b) by 2010, the formulation of a product eco-design policy addressing both the generation of waste and the presence of hazardous substances in waste, with a view to promoting technologies focusing on durable, re-usable and recyclable products.***
- ❑ EICTA highlights that this is inconsistent with the EC Thematic Strategy on the Recycling and Prevention of Waste, which states that 'the Commission intends to revisit the issue of developing a framework for eco-design initiatives in the framework of Integrated Product Policy.
- ❑ EICTA also highlights that such an eco-design policy is unnecessary given the existence of the Integrated Product Policy.

4. Waste Hierarchy

- ❑ ***EICTA encourages you to support a flexible waste hierarchy as specified by the***

European Commission's three stage waste hierarchy and reject the rigid five stage hierarchy introduced by the European Parliament.

- ❑ Article 1 of the European Commission proposal 'modernises' the waste hierarchy from five stages to three stages. The Commission recommends a more flexible waste hierarchy with the exact order of reuse recycling and recovery reflecting the best environmental outcome according to the individual circumstances of the waste stream.
- ❑ The European Parliament reinstated the five stage hierarchy. The Parliament specifies that allowance should be made for departures if life cycle analysis and cost benefit analysis justify it, but that these should be made public and reviewed by independent scientific bodies.
- ❑ EICTA is concerned that the requirement for life cycle analyses to be made public and independently reviewed will prevent the flexibility sought by the Commission and will create a high level of administrative burden.
- ❑ Furthermore EICTA believes that the Waste Framework Directive should indicate that the waste hierarchy should be used as a guiding principle in waste prevention and management legislation and not a prescriptive policy tool.

5. Definition of Recycling

- ❑ ***EICTA encourages you to support the European Commission's proposed definition of recycling contained within Article 3g and reject the European Parliament's Amendment 21***

- ❑ The European Commission and the European Parliament's proposed definitions of recycling are as follows:

European Commission Proposal
'recycling' means the recovery of waste into products, materials or substances whether for the original or other purposes. It does not include energy recovery;

EP Environment Committee Proposal
'recycling' means the reprocessing of materials or substances in wastes through a production process whereby they produce or are incorporated in new products, materials or substances whether for the original or other purposes. **It includes reprocessing of organic material, but does not include, inter alia, energy recovery, conversion for use as a fuel, processes involving combustion or use as a source of energy, including chemical energy, or backfilling operations;**

- ❑ EICTA supports the European Commission's proposed definition of recycling.
- ❑ The European Commission's definition is a simpler and clearer definition.
- ❑ Furthermore concern has been expressed among European recyclers that the European Parliament's definition would exclude activities that are currently defined as recycling such as the use of mixed plastics waste in the blast furnace process or in the SVZ gasification process, and could prevent the development of more innovative technologies.
- ❑ Excluding these activities from being included as recycling may either reduce producer's ability to comply with their recycling targets established by the WEEE Directive or significantly increase Producers costs of recycling.

6. Definition of Waste

- EICTA encourages you to support the European Commission's proposed definition of waste and therefore reject Amendment 103 as proposed by the European Parliament.*
- Amendment 103, passed by the European Parliament at its first reading, establishes very specific requirements for the electronic sector within the definition of waste.
- Given that the definition of waste will apply to all categories of waste across the EU, it is inappropriate to add a very specific requirement for a particular sector or product.
- The amendment states: Article 3, point (a) 'waste' means any substance or object which the holder discards or intends or is required to discard; **the Commission shall put forward a legislative proposal for certain consumer products (e.g. electronic equipment) specifying the functional, environmental and quality criteria to be met in order to define when the holder is regarded as having the intention to discard.**
- This also appears to single out electronic waste as the most significant waste stream within the EU, despite the fact that there are other waste streams that are much greater in volume and of greater environmental concern.

7. Movement of Waste

- EICTA encourages you to support the European Commission's proposed Article 26 on Waste Management Plans and reject the European Parliament's proposed Amendment 67, which will establish prohibitions on the movement of waste in conflict with the internal market.*
- Article 26 establishes requirements for Member States to produce Waste Management Plans.
- Amendment 67 of the European Parliament will enable Member States to prevent the movement of waste across the EU. Amendment 67 states:
- Article 26 3a. **Member States may take the action necessary to prevent movements of waste that are not in accordance with their waste management plans.** They shall inform the Commission and the other Member States of such action.
- Requirements on the movement of waste are already governed by the EC Regulation 1013/2006 on the Shipment of Waste. This regulation provides a uniform control of movements of waste which ensures the proper functioning of the internal market
- EICTA is concerned that Amendment 67 could impede the freedom of movement of goods as established by articles 28 and 29 of the EC Treaty and therefore inhibit the internal market, and lead to duplicated and non harmonised legislation.

EICTA MEMBERSHIP

About EICTA:

EICTA, founded in 1999 is the voice of the European digital technology industry, which includes large and small companies in the Information and Communications Technology and Consumer Electronics Industry sectors. It is composed of 55 major multinational companies and 38 national associations from 27 European countries. In all, EICTA represents more than 10,000 companies all over Europe with more than 2 million employees and over EUR 1,000 billion in revenues.

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