



STAKEHOLDER CONSULTATION ON THE REVIEW OF THE DIRECTIVE 2002/96/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON WASTE ELECTRICAL AND ELECTRONICAL EQUIPMENT (WEEE)

OPINION

Summary

Producer responsibility should be based on the polluter pays principle: **all costs for collection and recycling** from the moment the consumer discards WEEE, including costs for municipal collection, should be integrated in the producer's responsibility. If this condition is not met, it is **unacceptable** for local and regional authorities to have an obligatory give-back of WEEE to the producer responsibility organisations.

A target for collection, **combined with material-based recycling targets**, can ensure more recycling. At the same time, Member States can be allowed to organise a policy based on local conditions through targets, **linked with quantities put on the market**. Current differences in nature between Member States cannot be ignored. Therefore, an approach in which the directive is based on Article 95 of the Treaty would be a breach of the principle of subsidiarity.

Reuse is important and deserves a specific approach creating real incentives for high-quality reuse of appliances within Europe.

We favour the conservation of a different approach for WEEE from users other than private households (B2B) as compared to WEEE from private households (B2C), with integration of the grey-zone-products in the B2C schemes.

The directive should create guarantees for sufficient **transparency** in the functioning of producer responsibility organisations, specifically in the use of finances and the allocation of recycling and treatment markets.

The success factors for sound WEEE management **do not lie** in the existence of one or several schemes but rather in good side conditions set up in the legislative framework.

We favour the integration of appropriate **treatment standards** and specifications in the directive.



We welcome the revision process, but we suggest that rules are not revised before they have been implemented correctly. Therefore, for the revision of the WEEE Directive we **recommend**:

1. clear financial responsibilities of producers, starting from the moment the consumer discards WEEE, as based on the ‘polluter pays principle’;
2. the determination of appliance-based recycling targets completed with material-based recycling targets;
3. the introduction of reuse targets together with developing standard quality criteria for reused WEEE;
4. persisting with treatment standards;
5. measures to guarantee transparency and accessibility on the operations of producers’ compliance schemes – treatment channels, details on fund raising;
6. the integration of a definition of ‘producer responsibility’ into the Waste Framework Directive, enforcing all the elements mentioned in the European Parliament suggestion at the same time as cumulative obligations;
7. the confirmation of the important role of local and regional authorities in determining and organising collection systems for WEEE from households;
8. the inclusion of products which are generally used in households in the B2C collection schemes;
9. the introduction of collection targets based on quantities put on the market;
10. the creation of a centralised database for European Producers, regularly audited by an independent organisation.

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1. Targets for collection, reuse, recycling and recovery in the European WEEE regulation

1.1. Quantified targets: pros and cons

Quantified targets reflect the priorities of a policy and can allow:

- to make stakeholders feel responsible;
- to check whether or not a system is effective and
- sanction if the target is not met.

In the field of waste management at EU level, **SMART** (Specific, Measurable, Acceptable, Realistic and Time-lined) targets enable strategic, environmentally and economically sustainable investments to be made. For instance, the various targets of a regulation on WEEE help to create certainty regarding waste inputs, processing standards etc., so that recycling and treatment markets for WEEE can emerge. But in some cases, targets have proven to be counterproductive (for instance when take-back systems are happy to achieve the target, but without doing anything about the additional amounts of waste). This is the case today for instance in France, where competition between recovery organisations has led to the fact that all existing take back schemes focus on densely populated areas, and are reluctant to collect in rural areas where the collection cost is higher, as long as they reach the target of 4 kg/inh/year over all. Therefore, any target should be **followed-up tightly and revised** to remain challenging.

In order to reach collection targets in Slovakia some PRO's are focussing only on heavy appliances like washing machines and such, rather than focussing on environmental harmful products like gas discharge lamps or CRT-screens.

Bad monitoring of results can create situations where figures are manipulated, distorted and over-interpreted – consequently generating confusion and inequalities. Uniform and independent monitoring is a necessity.

1.2. Collection targets

We strongly favour the following option:

- **Variable mandatory collection target** expressed in a % of collection in function of the **total** quantities of EEE put on the market in preceding years in a Member State or **per product category**.

We do not favour the following options:

- **Environmental weight based collection target** focussing **only** on the **environmentally most relevant streams** to be collected (or **combining** with the fixed or mandatory target described above).

Totally unacceptable is:

- An **obligatory give-back** by collection points (local municipalities, retailers, distributors, brokers, traders, recycling shops,...) to the producer responsibility organisations (PRO's) or to individual schemes.

The **rate of 4 kg collection per capita per year** would only cover, according to various evaluations, 25% of the WEEE effectively generated every year¹. This target seems obviously defined as a rough

¹ Explanatory Memorandum WEEE and ROHS Directives, COM (2000) 347 Final, Brussels, 13 June 2000, p.23.



guide until precise data on WEEE generated by households are gathered.² This low threshold also has the purpose to create an easily accessible public service.

Today, countries like Norway have already achieved a collection rate of more than 15 kg WEEE per inhabitant, while the latest Member States have hardly any collection of WEEE at all. Therefore, we suggest that a collection target is expressed as a percentage of the quantities put on the market. A fixed mandatory collection target does not necessarily reflect the amount of the WEEE effectively generated every year and it creates unnecessary burden and unequal situation for Member States to meet a fixed mandatory target. The reason is that the weight of certain products shows a great variation: a good example is an average fridge, which weights about 60 kg in Norway, but only 29 kg in Slovakia³. This fact certainly has impact on the collected WEEE amount and thus fulfilling the target requirements expressed in weight. In addition, it is difficult to find a common denominator for 27 countries due to the huge variety in living standards and consumers' behaviour and the already achieved results such as the very high collected quantities in Scandinavian countries compared to the recently established collection systems in other Member States. Therefore, the introduction of collection targets **based on the quantities put on the market** provides a better expression of the actual situation in a certain country. Furthermore, it allows flexibility in the implementation taking into consideration the economic status of the Member State and the consumers' habits and foster to create realistic and achievable target.

Furthermore, it should be made clear that such a collection target is a **minimum collection rate** within a principle of producer responsibility entailing full **responsibility for all quantities of WEEE collected** within a Member State.

The option of obligatory give-back by collection points operated by local municipalities to the producer responsibility organisations (PRO's) is completely **unacceptable** for local and regional public authorities. A recently carried out survey⁴ revealed the fact that in most countries WEEE collection points are operated by municipalities, but the full costs to run such service and/or facilities are not covered by the producers. Furthermore, these municipal collection points play a very important role in terms of quantity of collected WEEE. Municipalities are willing to cooperate with PRO's on the basis of total cost reimbursement.

To ensure the producers' take-back duty, distributors' reverse logistics have not proven to be successful. On the contrary, it was the existing municipal collection facilities that have demonstrated their efficiency. That is why most producers' compliance schemes base their systems on municipal collection facilities. But even if producers are obliged to cooperate with municipalities, they are continuously refusing to pay the collection costs born by municipalities, ignoring the principles of Article 8 and 9 of the WEEE Directive. Moreover, producers try to control the markets by limiting the choices of organising collection in practice. This has led to great discontent not only about financing, but also about the quality of the service to citizens and collection's performance criteria. On the other hand, we understand that producers want predictability and certainty about collection costs. There is a risk that local authorities would work in an inefficient way, because of the certainty that take-back-schemes would have to cover their expenses anyway.

In order to avoid this, guarantees should be integrated in the system, generating a correct balance between producer's financial responsibility and local operational responsibility. This can for instance be done by setting up a system of forfeit compensations (lump sums) based on an objective and

² It corresponds to an average collection rate achieved by several countries of the European Union in the setting up of collection pilot programs, and to the results achieved when implementing the Dutch legislation. Collection targets for waste from electrical and electronic products, Germany 1998, European Commission DG XI, p. 13.

³ Source: RAL

⁴ Source: survey carried out by ACR+ (Association of Cities and Regions for Recycling and sustainable Resource management)



realistic cost calculation. In any case, Local and Regional Authorities should not have any obligation to hand over collected WEEE if their costs are not fully covered by the producers.

1.3. Component, material and substance reuse, recycling and recovery targets

We strongly favour the following option:

- **Material based targets** for all WEEE or per product category.

We do not favour the following options:

- **Increase** the current targets, for all or some categories.
- **Introduce a target for category 8 equipment** (medical devices).

The setting up of recovery and recycling rates by categories of appliances and not by material basis limits the aim of ensuring high recycling and recovery results for each material. Furthermore, it is problematic as the environmental impact of each material is not equal as it is also demonstrated in the Final Report⁵ carried out by UNU. This has to be taken into account in a way that the current targets should be complemented with **material based recycling and recovery targets**.

Determining recycling and recovery targets per product category seemed to be a plausible solution to encourage producers to design products in a way that later the product can be recycled and/or recovered. However, the weight-based recycling and recovery targets for certain categories provide opportunity for shifting within products meaning that focusing on recycling and recovering those heavy parts which are easily treated and leave the light fractions such as plastics, which are usually more difficult and costly to be handled, out of the treatment process. Furthermore, introducing material based targets trigger a higher level of disassembly and separation of materials even fostering opportunities for better reuse.

In addition, if the material based targets are applied, one of the major benefits is that all types of WEEE are covered at the same time and not only the interesting fractions.

We are of the opinion that any recycling and recovery rate is as good or as bad as the **monitoring and control mechanisms** in place are to ensure compliance with these targets. In our view strict and above all uniform, EU-wide monitoring specifications are required if market distortion and manipulation in presenting recovery and recycling rate data are to be avoided.

With that view, we strongly recommend the creation of:

- a centralised database for European Producers
- regularly audited by an independent service.

The directive should impose Member States to provide **sanctions** for the non achievement of targets by producer's compliance schemes.

2. Targets for reuse of WEEE

We strongly favour the following option:

- **Set a target** for reuse of whole appliances to be achieved by a certain date.

⁵ 2008 Review of Directive 2002/96 on Waste Electrical and Electronic Equipment (WEEE) – Final Report; Study No. 07010401/2006/442493/ETU/G4



We do not favour the following options:

- **Include** the reuse of whole appliances **in the** current or increased **components, material and substance reuse and recycling targets**.

The fact that in the current Directive the reuse of whole appliances is not taken into account to achieve certain recovery targets at least up to 31st December 2008 does not create any driver for producers to favour the reuse of their products or better design for reuse. We favour the creation of specific targets for EEE to be reused on the EU market. This could incite take-back-schemes to organise the collection in such a way that reusable WEEE does not get damaged.

2.1. Why is reuse of WEEE important?

Reuse of waste is the second most preferred waste management stage after prevention at source. The reuse and repair of end-of-life products help to reduce the increasingly growing waste amounts. By extending the product life span, reuse enhances resource efficiency and saves energy, and thus reduces water and air pollution. This also applies for waste elect(ron)ical appliances. Even if energy-efficiency of EEE is important, in most cases the overall ecological impact of an EEE can be reduced by using or reusing the appliance as long as possible. Some recent studies have concluded that repairing even 20-year old washing machines⁶ is more favourable to the environment than producing new ones.

Repair and reuse of WEEE is already well developed in the EU and economically viable as the demand from consumers for second-hand EEE is bigger than the supply. Members of the RREUSE network⁷ collect about 150.000 tons WEEE every year in 10 Member States. If collection of reusable items would be performed at the earliest stage possible this amount would still increase.

The mainly non-profit organizations dealing with reuse not only contribute to the waste management for ecological reasons but have an important (local) social role by offering job opportunities to disadvantaged people on the first labour market and by offering vital items for people with low incomes. The social aspects of reuse should not be lost in an environmental legislation.

We are aware of the fact that in some cases, reuse is used as an excuse for illegal export of WEEE outside Europe and outside OECD-countries. Consequently, we favour a regulation in the WEEE Directive and/or in the Basel Convention to ensure that reuse of appliances, discarded in Europe, is restricted to EU-Member States and OECD-countries.

2.2. Is reuse sufficiently recognized by the actual WEEE Directive?

The answer is yes, because Article 4 encourages the concept of manufacturing EEE in such a way to facilitate reuse either of the whole appliance, the components or materials. Article 5 (4) emphasizes the importance of collection and transportation methods in order to be capable of reusing and recycling whole or parts of WEEE. In addition, Article 7 (1) creates priority to the reuse of whole appliances on other treatment options.

However, **these good principles are too often lost** due to the fact that take-back systems concentrate on low-cost recycling in centralized plants, thus endangering the existing local or regional reuse systems. The dependency on the availability of information on components, materials and ways to repair reduces the viability of repair and reuse centres because in some cases they must pay for such information. Furthermore, producers have an economic interest not to reuse or repair discarded appliances, since they would rather sell new appliances.

⁶ Roland Steiner et al. (2006) «Timely replacement of white goods. Investigation of modern appliances in LCA»; Nina Trutmann and Helmut Rochberger (2006) “Contribution to resource conservation by reuse of Electric and Electronic Household appliances”

⁷ RREUSE is a European network of social economy enterprises. For more information, see www.rreuse.org.



Therefore, the revision should address the following issues in relation with reuse:

- Clarify the existing framework by creating clear targets and incentives for reuse, including specific targets of the reuse of whole appliances or components on the EU market;
- Compel to the selection of reusable WEEE in all collection sites at the earliest stage. This could be done by revision experts if covered by the financial responsibility of producers;
- Make reuse activities visible in monitoring and reporting systems covering the entire collected, treated, recovered and exported WEEE stream and this would allow to introduce specific targets in a later phase;
- Recognize the social aspects of repair and reuse and support the development of projects investigating and promoting these aspects;
- Establish quality criteria for reuse and ad-hoc authorisation for reuse centres;
- Oblige producers to provide for free all necessary information on all available products on the market to authorized repair and reuse centres with the view to facilitate the maintenance, reuse, upgrade and refurbishment of WEEE;
- Describe treatment standards to clarify when and how substances or components should be removed to make sure that the most environmentally friendly dismantling, removal of hazardous substances and highest component reuse is made possible;
- Enhance the provisions of the Basel Convention to include explicitly second-hand goods;
- With the view to tackle illegal waste exports for reuse: establish easy and clear criteria and ensure their enforcement.

Including the reuse of whole appliances in the current or increased components, material and substance reuse and recycling target is not acceptable because it creates competition between recycling and reuse, which is not desirable at all.

3. Scope of the WEEE Directive

3.1. Clarification of the scope

We favour the following option:

- Clarifying the scope, by **formalising criteria** used in the document http://ec.europa.eu/environment/waste/weee/pdf/faq_weee.pdf on Frequently Asked Questions (FAQ).

We do not favour the following options:

- Clarifying the scope by **using a fixed list** of products falling under the scope or falling outside the scope (negative list), updated through the Comitology process.

Clarifying the scope **by formalising criteria** as used in the document on http://ec.europa.eu/environment/waste/weee/pdf/faq_weee.pdf is a good approach, because it broadens, and at the same time specifies the equipment considered to be covered by the WEEE Directive providing flexibility for future new products as well.

On the contrary, using a fixed list is unacceptable due to the rapid evolution of products put on the market. Determining a fixed list of products as the scope of the WEEE Directive would only generate problems.

3.2. Classification within the scope: B2B & B2C equipment

We favour the following option:

- **Classifying** categories of equipment as being WEEE from private households (**B2C**) or as being WEEE from users other than private households (**B2B**).

We do not favour the following options:

- **Define** the scope **under** the **RoHS** Directive¹² and refer to it in the WEEE Directive.

We favour the conservation of a different approach for WEEE from users other than private households (B2B – business to business) as compared to WEEE from private households (B2C – business to consumer), with integration of the grey-zone-products in the B2C schemes. The classification between both should in any case not be left to the producers but done by an independent authority in each Member State. There is a need to keep a separate approach for B2B and B2C within the new regulation because of the very different characteristics of the two groups.

Take-back-schemes and related markets for WEEE differ greatly according to B2B or B2C equipment. Each of them requires thus an appropriate approach.

B2C markets are characterised by:

- big quantities of standardized products;
- in most cases the absence of any contractual relation between the final user (citizen-consumer) and a waste-collector;
- existence of a grey zone: B2C products are often used also by enterprises;
- setting-up of take-back-schemes by producers, financed by a (internalized) fee paid by a consumer at the moment of purchase of the product.

B2B markets are characterized by:

- limited quantities of specific products;
- in many cases take-back of old material at the moment of delivery of new appliances;
- organisation of second-hand markets by the sellers of EEE.

Waste collection channels for B2C equipment is characterized by:

- The need for citizens to be able to discard their WEEE in a simple and efficient collection system, for instance:
 - municipal collection points
 - authorised social economy enterprises
 - distributors (1:1 at the purchase of a new similar product)
- A Service accessible to everybody, wherever they live in a certain country, based on the local needs.
- Uniform communication messages for all citizens.

Waste collection & management channels for B2B is characterized by:

- the existence of different types of fees according to the market sectors:
 - a minimum fee for administrative aspects – costs being invoiced at the end on the basis of true management costs;
 - a fee including all the management costs.
- the existence of a contractual relationship between the producer of WEEE and the collector, which requires to leave to the market the possibility to organise themselves in a spirit of free competition or to leave to each producer the choice of his operator;

- the market being completely heterogeneous, possibilities for WEEE management and the reimbursement of potential expenses must be done case by case. It seems thus more appropriate to leave to each producer the choice of his operator (collection + treatment);
- the traceability of appliances needs a specific producer compliance scheme;
Such a system should involve the following characteristics:
 - it should not require any minimum threshold for collecting WEEE;
 - it should keep the logic of paying for getting rid of ones waste (which makes the system more healthy than switching for gratuity);
 - avoiding abuses and non-conform WEEE;
 - limiting the amount of taxes.

This quite clear and simple scheme has to be nuanced for the grey-zone-products, like PC, neon light, etc.: **WEEE coming from businesses indeed, but from products which are generally also used by households, should be integrated in the B2C take-back-schemes** as chances are that it will turn up most of the time in the public collection points.

4. Producer Responsibility

We favour the following option:

- **Harmonise the implementation of** the allocation of financial responsibility, the frequencies and formats of reporting, the registration and the making information available.
- **Bring the provisions under a different legal basis** like provisions related to targets, stakeholder responsibilities and waste treatment under Art. 175 of the Treaty, **aligning** at the same time **definitions** (e.g. with the recently proposed package on the "marketing of products"¹³ or other Community legislation such as the electromagnetic compatibility¹⁴ or lowvoltage¹⁵ Directives).

We do not favour the following options:

- **Bring the provisions under a different legal basis** like provisions related to the scope, definitions, and product requirements in the legislative text under Art. 95 of the Treaty.

Regulating certain provisions related to targets, stakeholder responsibilities and waste treatment under Article 175 of the Treaty allows Member States to go further and establish ambitious policy. The status of the waste management is very different through out Europe. Many old Member States (MS) have already reached very high recycling results, while many of the new MS still have to set up a good system for waste collection. Setting a Directive based on Article 95 would in any case create a legislation which is not ambitious enough for the MS with good results, or set up targets that seem to be unachievable for the new MS. The use of Article 95 of the Treaty would therefore be a breach of the principle of subsidiarity.

An illustrative example of the need for ambitious policy can be demonstrated through the case of the current category 1 – large household appliances except CFC-containing appliances. For this category the introduction of producer responsibility is sooner counterproductive rather than beneficial, both economically and environmentally in cases where there is already a functioning recycling market. Because of the positive market value many of these devices never reach the PRO's, but instead they are being traded directly to recyclers. PRO's want to get their hands on these appliances as well, because of their positive market value. Collection and recycling schemes that were previously considered to be well functioning are now being regarded as leakage. What effectively is happening is



that a lot of effort is being put in the prevention of this “leakage”, where there is no environmental benefit to be gained. Therefore, regulating provisions related to scope and product requirements would not allow Member States to correct and revise their national situation according to the needs.

Producer responsibility generally aims at 4 important goals:

1. **internalize collection and recycling/treatment costs:** this allows to **finance** the management of an easy accessible network of convenient facilities for the return of certain waste streams, where the waste can be delivered free of charge. This emphasizes the **public service** nature of producer responsibility, as it fits in a philosophy of high quality collection services for the population, making it a part of integrated waste management at local level.
2. **develop recycling and recovery channels** for a given waste stream – the WEEE Directive has so contributed to create one of the strongest recycling industries in the EU;
3. as this cost is internalized in the product price, the consumer, and not the tax payer, bears all costs related to the waste he has produced, which is **socially** fairer;
4. the application of individual producer responsibility allows to internalize environmental costs, encouraging **eco-design** and the manufacture of products which are **easier to dismantle, reuse and recycle.**

This concept clearly follows the general polluter pays principle, meaning that each producer (person or company which puts a product on the market) or consumer through internalization must bear **all the costs** related to the environmentally sound management of that product at the end of its life, from the moment the consumer discards it.

Although these principles are clear, and were also the foundation of the WEEE Directive, transposition has been very different throughout Europe. The fundamental problem is that the physical and financial responsibility for collection are separated and allocated in several combinations as it can be seen in the various legal transposition texts of the Member States. According to a study by Rossem et al. municipalities in at least nine countries still have the obligation to finance the collection of WEEE from households (Denmark, Germany, Ireland, Luxembourg, the Netherlands, Poland and Slovenia). They also discovered that in practice, municipalities were paying for most of the costs concerning WEEE-collection even in those cases where the producer is legally obliged to do that. This illustrates that a considerable part of the costs of managing WEEE are left to general taxpayers.⁸ In our opinion, these practices are not compliant to the Directive. This disables the possibilities of internalization of environmental costs, as they are shifted from consumers and producers to taxpayers and local authorities.

Differences in implementation and incomplete application of the producer responsibility principles could have been avoided. Taking into account the real waste management costs of each product from the moment the consumer discards the product would have created more effective individual producer responsibility. Enforcement of Article 8 of the WEEE Directive could ensure that national transpositions do not move away from the principles, as it is the case today for instance in Germany.

We strongly favour a better harmonisation of financial responsibilities based on the following principles:

- producer responsibility should be applied according to the ‘polluter pays principle’, thus containing all the costs from the moment the consumer discards a product, creating clear financial responsibilities;

⁸ Rossem, van Chris, Naoko Tojo and Thomas Lindhqvist (2006) Lost in Transposition? A study of implementing Individual Producer Responsibility in the WEEE Directive. *IIIIEE Other publications*, Lund University, Sweden, p. 19-20.



- as important flows of money are generated by these systems, transparency should be guaranteed,
- administrative procedures can be simplified through the use of a centralised database for the producers.

We support the clarification of the meaning of producer responsibility in the Waste Framework Directive (WFD) by the proposal of an Article 3a) can be found in the box below. The European Parliament has a good approach to introduce the reinforcement of producer responsibility, but the all the mentioned obligations have to be cumulating and agreed at European level. Therefore, we suggest a specific new Article 3a according to our recommendation.

New Article 3a (modified) Waste Framework Directive Producer responsibility

1. Member States and the Community shall, in order to reinforce producer responsibility, take measures to hold producers or importers responsible for the waste which is generated as a result of their product being placed on the market. This should be done, in any case,

- *by introducing take-back obligations for producers/importers with the transfer of the real and complete cost,*
- *by introducing the obligation to provide publicly available information as to the extent to which the product is reusable or recyclable,*
- *by requiring producers to use materials and product design which help to avoid or reduce the generation of waste and to render the waste generated less damaging,*
- *by ensuring the creation of facilities to make repair and re-use possible,*
- ***and*** *by ensuring the creation of facilities for separate collection, take-back, recycling ,recovery or controlled safe final disposing of products at the end of their life.*

2. Member States shall report to the Commission on the implementation of paragraph 1. The Commission shall assess the appropriateness of introducing extended producer responsibility schemes for specific waste streams at EU level, based on the experiences of Member States.

Summarising our viewpoints on the **financial** aspects mentioned under chapter 1.2. and in the first part of this section, we are in favour of a concept based on the polluter pays principle, that is to say, that each producer must take on all the costs related to the optimum management of its product at the end of its life. This optimum management would, of course, be defined in a way that favours waste reduction at source. In this way, we get closer to integrating environmental costs into the price of products and it becomes possible to create an incentive for eco-design.

Generally, public authorities point out a clear lack of **transparency** in the functioning of the various producers' compliance schemes for WEEE in Europe, mainly regarding:

- visibility of treatment channels (non-communication of treatment facilities);
- assessment of the reuse, recycling and recovery rates (consequence of this lack of visibility);
- the calculation of the fees on appliances, of the producer's individual contributions, and of the constitution of reserves.

Furthermore, it appears that although the reserves that have been built up by several producer compliance schemes are funded by public money, there is no public control over these reserves, which allows these funds to grow endlessly.



We believe that the following requirements should be met as a minimum:

- a visibility on the way reserves are constituted (calculation method, management of funds, assessment of the correct amount of funds considering the needs and objectives of the system, the end of funds if the producer compliance scheme disappears, etc. ...);
- a visibility of the calculation methods for fees (true collection and treatment costs, true incomes from the recovery of materials, etc.);
- transparency of take-back rates calculation methods;
- visibility of the entire management channels including outside the EU;
- easy and accessible information for consumers, users, reuse and treatment centres.

The notion of public service could be emphasized by including representatives from local and regional authorities and from consumer organizations on the boards of the producers' compliance schemes, as observers. Furthermore, the WEEE-Directive should have provisions on the maximum size of reserves that are being created by producer compliance schemes, and on which activities the (visible) fees as well as these reserves can be spent. A form of public control is needed in order to ensure that the money yielded by the consumer is used in a proper way.

5. Treatment requirements

We favour the following option:

- Include a **definition of "remove"**.

We do not favour the following options:

- **Modify** the entries of the current list in Annex II.1 to the Directive in function of technical progress including a reference to the exemptions granted under the RoHS Directive¹² to ensure that for those applications, the hazardous components, parts and substances are removed.

The WEEE Directive and its transposition into the national legal framework of the Member States are regarded primarily as being part of the environmental legislation. With respect to the treatment and recycling of WEEE, environmental targets can only be met if appropriate **treatment standards and specifications** are **incorporated into the directive** and the statutory instruments put in place by the Member States.

Article 6 (1) of the WEEE Directive stipulates the minimum requirement to remove all fluids and to perform selective treatment in accordance with Annex II. While the expression *'have to be removed'* in Annex II certainly needs to be defined, according to our opinion there must be no fundamental changes in the provisions of the Annex. The requirement in Annex II (1) to remove substances, preparations and components contained in waste equipment is clear, environmentally sound and practically relevant and, as such, should definitely be retained. Especially the requirement of manual dismantling, even involving extra-costs, must be maintained not only for keeping reuse competitive in comparison of recycling, but also for optimising the environmental impacts of the management of hazardous waste, which might be much more difficult to manage and control in the case of large-scale mechanical shredding. Furthermore, setting treatment requirements is a method to internalise the environmental costs in the product's price. The implications of having to meet treatment and recycling requirements will send a signal to producers to develop product designs that would in turn address these issues not only from a cost perspective on the production side, but in a total life cycle



perspective including end-of-life.⁹ Eco-design remains one of the main goals why producer responsibility was introduced in the WEEE Directive.

Should technical specifications need adaptation to market evolutions, we believe that Comitology might be used as an additional instrument. Some examples:

- Liquid crystal displays
Due to its increasing share of the market and the substantial rise in volumes produced, LCD waste will become increasingly significant in future and should be subject to greater scrutiny.
- Gas discharge lamps
The significant trend towards using energy saving lamps means that the relevant waste treatment technologies must be revised and adapted. Only rod-shaped lamps are being treated at the present time.
- Refrigeration equipment
The publication of the life-cycle assessment study by the experts of the Öko-Institut e.V. should have put to the proposal made in some quarters to simply eradicate the existing requirement to remove and then dispose of or recover not only CFCs, HCFCs and HFCs but also hydrocarbons from waste refrigeration appliances. Processing waste fridges and freezers in an autoshredder must be prohibited. The phrase '*equipment containing gases*' in Annex II (2) should, however, be removed, as the fundamental requirement regarding CFCs, HCFCs and HFCs is already included in Annex II (1).

We suggest that the final section of Article 6 (1) should be altered to read:

'For the purposes of environmental protection, high quality standards for the treatment of collected WEEE should be set up at EU level, based on the principles of the current Annex II.'

Justification: The current discretionary provision ('may set up minimum quality standards') was implemented in hardly any of the EU Member States. (One excellent example of best-practice is Austria and its Waste Treatment Obligation Ordinance (*Abfallbehandlungspflichten-Verordnung*).

Well-accepted standards involving all market stakeholders in their elaboration and regulating the treatment of the various types of WEEE are urgently required at EU level for the treatment of WEEE from categories 1, 3, 4 and 5.

As the possibility is indicated in the "Stakeholder Consultation Document" to propose additional options that the review should consider, we think that the following two sections are also important to take into consideration.

6. One or several producers' compliance schemes within one country?

Member States have chosen very different approaches to implement the producer responsibility provision: from one collective system, over clearing houses to competition between large numbers of take-back-schemes. The success factors for sound WEEE management **do not seem to lie** in the existence of one or several schemes but rather in the legislative framework ensuring clear rules for the financing and the transparency of the systems.

⁹ Rossem, van Chris, Naoko Tojo and Thomas Lindhqvist (2006) Lost in Transposition? A study of implementing Individual Producer Responsibility in the WEEE-Directive. *IIIEE Other Publications*, Lund University, Sweden, p. 25-26



We have identified some of these success-factors:

- Obligatory **not-for-profit** character for producers' compliance schemes;
- producer responsibility on an **individual** basis, internalizing effective costs based on the composition and recyclability of each product, even in collective collection schemes;
- the **same quality and accessibility of collection service nationwide**, with a homogeneous, coherent system in terms of image and communication, organised at local and/or regional level;
- clear rules on the **allocation** of collected quantities according to market shares and notably the maintaining of certain coherence between the incomes from the members of the system and the quantities of WEEE collected and treated;
- a **strict control upstream** (transparency, amount and use of fees, clear rules allowing to compensate all local authorities the same cost-covering way...) and **downstream the system** (benchmarking quality and costs of collection, transport and treatment, traceability of waste management channels, public audit and control of the figures and costs declared by the schemes);
- preservation of a **free competition organised within the systems** when markets or sites for collection and treatment are allocated (if sufficient critical mass, of course). The size of these sites can be based on geographical conditions;
- **ambitious take-back targets adapted to each flow**. This helps to avoid that some schemes focus on "easy" products (white goods for instance) to the detriment of more complicated ones (PC, mobile phones etc.);
- **full responsibility for all collected WEEE**, regardless whether or not collection targets have already been met. This will avoid intentionally under-achievement of collection schemes.

Therefore, we believe that good side conditions are a lot more important than the discussion whether or not one or more compliance schemes are necessary, although dealing with one not for profit take-back-scheme probably makes things easier for all actors (producers, local and regional authorities, ...). The WEEE-Directive should ensure that these side conditions are created.

7. Market requirements

All European waste management companies should have access to collection and recycling markets, set up by the take-back-schemes. At the same time, integrating WEEE collection within the larger local waste management systems appears a necessity for ensuring a convenient and coherent service to the population.

We are convinced that both goals can be met. The collection of WEEE from households should be left to the choice of the local authority in charge of municipal waste collection, financed as mentioned above by the producer responsibility schemes. Further management of the WEEE should preferably be organised through open and transparent procedures, comparable to tendering by local or regional authorities using public procurement procedures, thus giving all authorised companies similar chances to obtain a share of the waste management market. Open and fair competition allows that the choice of operator is not only based on economic criteria but also on environmental and social conditions which could be included in calls for tenders. Take-back-schemes should never be allowed to own a collection or recycling company as this would be a distortion of the market (in Austria, a take-back-scheme is planning the construction of an important treatment facility, closing the Austrian market for years to come).



Such an organisation, in combination with the good use of targets and strict control on export of WEEE can help to create certainty regarding waste inputs, processing standards, etc. ... so that recycling and treatment markets for WEEE can emerge.