

Brussels, 18 April 2013

CORE MESSAGES FOR THE TRANSPOSITION OF THE WEEE RECAST DIRECTIVE INTO NATIONAL LAWS

EXECUTIVE SUMMARY

In view of the **transposition of the Recast Waste Electrical and Electronic Equipment Directive by EU Member States**, Orgalime, which represents producers of electrical and electronic equipment across all categories, calls on national legislators to ensure that the recast and its transposition leads to improved environmental protection as well as greater efficiency and more effective enforcement of the Directive. It is vital that the Recast and its transposition do not create additional administrative burden for producers to comply with, without any environmental benefit, given the goals of the Recast and that producers have made investments, both financial and human, for ensuring compliance with the Directive.

Industry therefore calls for:

- A proper transposition of the given scope exclusions at Member States level.
- An adequate transposition of articles 7.2 and 16.4 for Member States to demonstrate achievement of the minimum Collection Rate. For this purpose:
- Building up a proper Member States data base on all WEEE received to pave the way for a Collection Rate based on “WEEE generated” and thereby contribute effectively to the EU’s and Member States’ Resource Efficiency Policy objectives.
- Consistently gathering and making available information on all WEEE exported.
- Implementing the clear, common understanding on the way to target all flows of B2B and B2C waste other than those of official WEEE channels, and to appropriately gauge them at national level, notably through
 - An obligation to properly treat and report WEEE also to these actors to help fill existing data gaps and ensure proper treatment of WEEE collected through other routes than producer compliance schemes.¹
 - Mandatory reporting obligations for all recyclers.
 - Enforcement with periodic audits of such other actors by Member States following their obligations under article 16.4.
- Stopping illegal transboundary shipments, while allowing legitimate shipments by producers or third parties acting on their behalf, for repair, refurbishment, remanufacturing, reuse of professional products
- To maintain that Member States shall allow producers to voluntarily show the collection and recycling costs
- Taking into account that certain provisions of WEEE require a national approach (i.e.: articles 5, 7, 8, 11, 12, 13, 16) while others require a European approach (i.e.: articles 4, 14 and 15)
- Support for establishing collection, treatment and recycling standards

We provide industry’s detailed comments and proposals hereafter:

¹ In France, producers are in favor of inciting users to return WEEE to their compliance schemes except for some B2B products when producers and users have concluded other direct agreements.

Orgalime, the European Engineering Industries Association, speaks for 38 trade federations representing some 130,000 companies in the mechanical, electrical, electronic, metalworking & metal articles industries of 23 European countries. The industry employs some 10.2 million people in the EU and in 2011 accounted for some €1,666 billion of annual output. The industry not only represents some 28% of the output of manufactured products but also a third of the manufactured exports of the European Union.

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1. SCOPE

Clear and unambiguous scope provisions are the essential prerequisite for a workable directive, its enforceability and therefore for realising its environmental objectives. Substantial changes to the scope of WEEE will have far reaching consequences arising from the starting date of financing obligations.

Therefore, any change to the **existing ten product categories**, as foreseen from 15 August 2018 as a reshuffle into fewer categories will risk inhibit innovation in recycling technologies and could prevent environmental improvements, including in product design, while increasing administrative burden.

Also, currently Member States use very different methods to interpret the scope and scope exclusions, based on a variety of different criteria. This in our view risks undermining the functioning of the internal market, as the WEEE Directive not only relates to waste management aspects but also includes product related aspects, such as labelling, that have to be harmonised throughout Member States. Therefore, industry advocates for an **as consistent and harmonised as possible definition of the scope and scope exclusions so that same definitions will be applied across the EU**. A non-harmonised interpretation at Member States' levels increasing the administrative burden of the Directive and disturbances of fair competition must be avoided.

Industry recommendations:

- Member State's transposition should not pre-empt any reshuffle of categories before the Commission's report (following Article 2.5) is available in 2015.
- Specific care must be taken regarding transposition of the **scope exclusions** (Article 2.3 and 2.4) as legal uncertainty must be avoided.
- Industry proposes that common criteria for determining if a product is in- or outside the scope should be elaborated and defined in the future Frequently Asked Questions on WEEE2. Work has been launched by the EWRN in cooperation with industry in this respect.

2. FINANCING

There are different aspects regarding the financing rules, which raise industry's concerns given the practical consequences related to changes in these fields.

There is the need to improve the collection levels of WEEE, particularly for some categories such as small equipment. While industry supports the intentions of increasing the amounts of WEEE collected, treated and reported there are important considerations that should be taken into account to ensure a fair and workable solution to improving household collection results:

- **Higher collection rates can be achieved through full reporting of all WEEE flows.** There are many actors who collect WEEE from households for commercial reasons. Extending the responsibility to properly treat and report WEEE to these actors also has the potential to improve collection rates.
- **Article 5.3 is ambiguous and can lead to insufficient options to control the costs occurring for collection of WEEE from private households. It should therefore be transposed in a way that does not limit the possibility of setting up competitive collection systems.** It must be avoided that charges for proximity to household collection, including awareness campaigns either directly or via establishing a collection levy, could be based on arbitrary estimates rather than on the real costs of collection. In addition, article 5.3 must be transposed in a way to avoid contradictions to article 5.2.d.
- The assumption "*more money- more WEEE collected*" is not necessarily true. Good collection results depend on many more factors than available financial resources, such as the consumer's decision what to do with his old appliance or the physical organisation of take back.

Industry recommendations:

- **Higher collection rates can be achieved by full reporting of all WEEE flows by all actors (cf. Art. 16.4) as they help fill relevant data gaps and foster proper end of life treatment.**
- **Controls should be established to ensure that the financial resources raised for collection do not exceed the actual cost incurred.** This should also involve an assessment of the incremental costs of collection in a Member State.
- **Any financial resources generated should be exclusively used for the purpose of improving WEEE collection.** The financial resources should be available only to operators legally obliged to collect WEEE.



3. TRANSPARENCY OF COLLECTION AND RECYCLING COSTS (article 14.1)

For some products or sectors, specifically for those products that have little material value and high collection and recycling costs, such as lighting, it is beneficial to have the option to make the costs of the collection and recycling transparent to buyers.

The industry supports an approach which leaves a possibility for an individual producer to choose whether to make the cost transparent in Member States or not.

Industry recommendation:

Article 14.1 of the Directive should be transposed by **Member States in such a way as to allow producers to voluntarily show the costs** of WEEE management.

4. COLLECTION RATE/TARGET AND ITS CALCULATION

By lowering the **ambition of the target**, and proposing derogations for certain Member States (Art. 7.3), the Council and the Parliament have indicated that one target, based on “Placed on the Market”, for all Member States has its own drawbacks. A collection target based on the amount of EEE Placed on Market would lead to a de facto collection target that in some Member States would be impossible to achieve, due to the large increases in sales of EEE during recent years and because consumers keep the EEE they have purchased for a longer time and therefore not sufficient WEEE is available. This is not an environmental problem as such. As long as the products have not been disposed of by consumers they are not WEEE and do not create an environmental problem.

A collection target based on the amount of “WEEE Generated” (Art. 7.1, second subparagraph) has distinct advantages compared to a target based on EEE placed on the market:

- **The responsibility for achieving the target stays with the actor that has the enforcement power, that is the Member State.** Member States should be responsible for meeting the collection target because producers cannot control all the other actors who collect WEEE for commercial reasons. In addition, producers do not have enforcement powers. Member States, on the other hand, are the only ones in control of the key instruments to both organise and enforce the collection target, and therefore should retain responsibility for achieving these targets.
- A target based on WEEE generated would require **all WEEE flows to be measured and included in the collection rate.** For B2C, this would mean that any WEEE leaving the private household would be taken into account in the calculation of the target. This includes all WEEE that has been properly treated regardless of whether it was treated by a recycling system managed by producers or whether it was treated by other WEEE actors² or recyclers, any WEEE that was sent to export or discarded in any other way.
- **A WEEE generated target will fit all Member States**, since it is based on the real amounts of WEEE. A target based on the amount of WEEE generated would take into account differences between Member States that influence the real generation of waste, such as history, economic development, differences in technology development; differences in product life cycles; and differences in consumer behaviour.

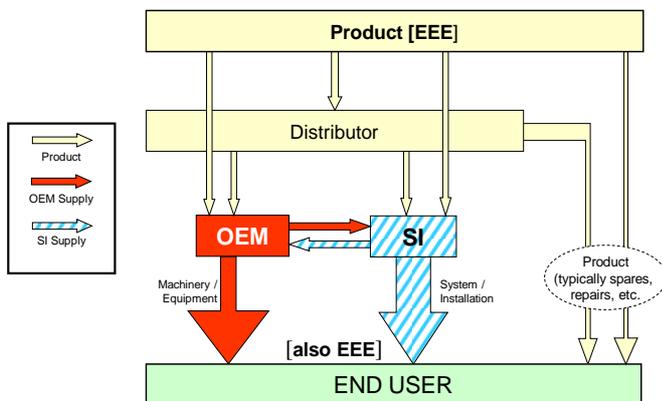
² “WEEE actor” means any natural or legal person that collects, treats, purchases and/or sells WEEE.

The responsibility and execution of calculating WEEE generated on the bases of a common methodology should lie with the Member State.

Specific challenges derive in areas where products are distributed along several steps in a chain. In order to ensure that accurate data is reported, any double (or even triple) counting of EEE needs to be eliminated. This is particularly true in the case of industrial products, where the vast majority of products is supplied to other producers, for example:

- Original Equipment Manufacturers (OEM's) for incorporation into machinery / equipment and/or
- System Integrators (SI's) for incorporation into control systems / installations of various forms.

This is because the equipment itself (unlike household equipment) needs to be combined with other equipment from different manufacturers, professionally installed, interfaced to other equipment, and then configured in order to perform a specific function.



To overcome this problem, it is necessary that only EEE that is supplied to an end user, either directly or via a distributor, shall be reported as being “placed on the market” (see above diagram showing how double counting can occur in the B2B area).

Industry recommendation:

- Member State’s transpositions should leave the door open for a switch to a WEEE-generated collection rate based on a legislative revision according to Art. 7.7.

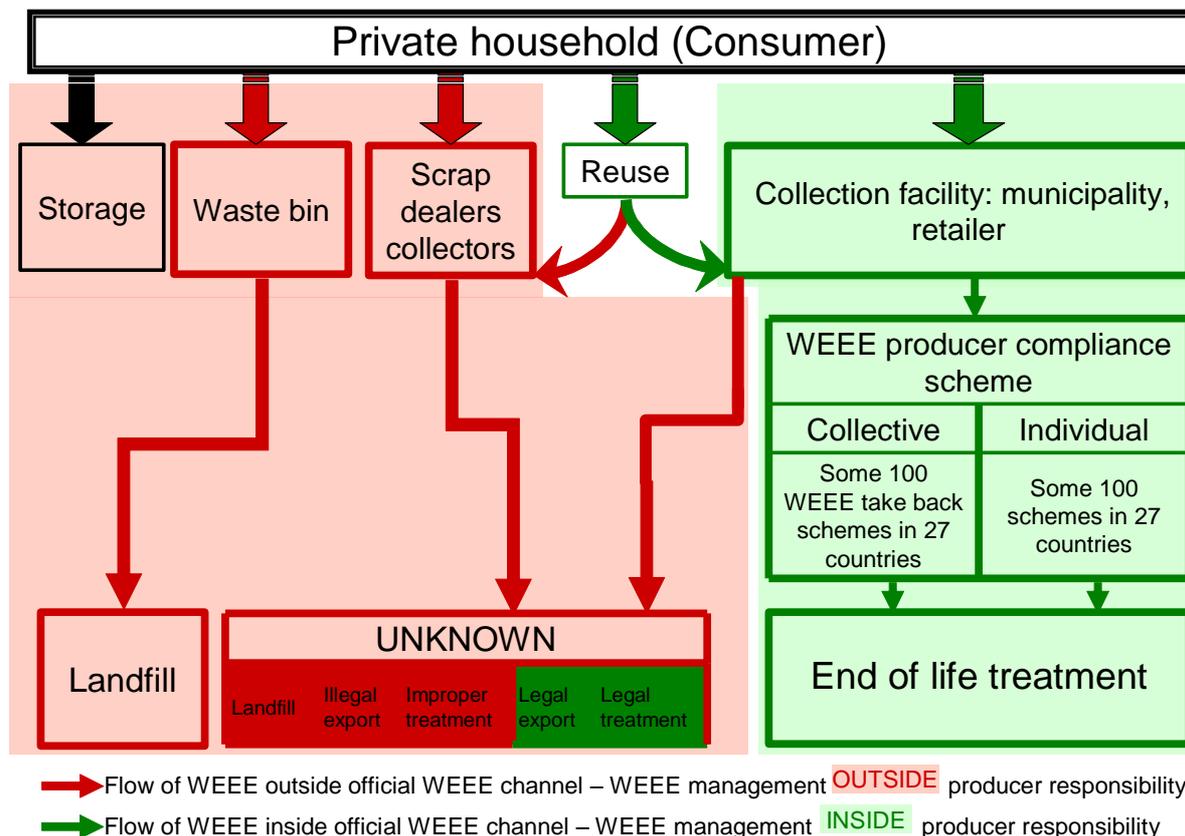
5. ALL WEEE FLOWS TO COUNT TOWARDS THE COLLECTION RATE

The new collection rate can only be achieved by ensuring that all WEEE, which is properly recycled, is also counted towards the collection rate.

There are massive flows of WEEE outside the producer owned WEEE systems, which are not counted today.

In April 2008, the combined Dutch WEEE recycling systems published a research report³ that showed that out of a total of 18.5 kg of WEEE that is generated per inhabitant per year, 14.8 kg

Overview on actors and flows of WEEE from private households (B2C) in practice



(80%) is recycled but only 5.7kg (31%) is recycled by the producer funded WEEE systems, with the majority of WEEE recycled by commercial collectors. A study by UNU⁴ in 2012 found similar results for the Netherlands with 75% - 80% of WEEE being collected but only 36% reaching producers WEEE recycling systems.

In the UK a study by WRAP⁵ found that only half of the WEEE treated was recorded through the WEEE compliance schemes.

A study by Ökopol⁶ of WEEE flows in Germany found that only 32% of WEEE reached producers recycling systems.

³ Witteveen+Bos (2008) Onderzoek naar complementaire afvalstromen voor e-waste in Nederland, 10 April 2008
<http://www.wecycle.nl/futureflows>

⁴ UNU (2012), The Future Flows, 2011 Dutch E-waste Quantification
http://www.wecycle.nl/uploads/futureflows/Press/Report_Dutch_WEEE_Flows.pdf

⁵ WRAP (2012) Market Flows of WEEE Materials (<http://www.wrap.org.uk/content/model-market-flows-electrical-products>)

⁶ Ökopol (2011) WEEE Flows in Germany. (Short Analysis for Hewlett Packard)

There are many 'official' and 'unofficial' commercial collectors, which are handling WEEE from scrap dealers, to retailers, municipalities or other.

Producers cannot control these commercial collectors. Producers do not have enforcement powers to force WEEE or evidence of WEEE collection and recycling to be given to producer schemes. Member States are the only ones in control of the key instruments to require data on all WEEE flows to be reported to Member States.

A mandatory give back of WEEE from collection sites to producers (Art 5.4) is a valuable tool to foster producer responsibility but not a substitute for collecting data on all WEEE flows. If a mandatory giveback is not properly enforced, significant volumes of WEEE will continue to be passed to commercial collectors by collection sites, retailers, business end users or direct from households.

Mandatory give back would be ineffective for WEEE collected from the doorstep by other independent collectors. This makes it impossible for producers to secure sufficient WEEE to meet the collection target. The only practical solution is to measure all WEEE reaching proper recycling.

Measuring the collection rate according to only WEEE collected by producers' compliance schemes risks leading to profiteering and to increasing the costs of WEEE compliance with no environmental benefit. Measuring the collection rate according to only WEEE collected by producers will mean that municipalities and B2B end users could sell their WEEE to third party actors who can then sell this onto producers at a later date when they need to comply with the collection target. This would mean that producers could be forced to pay a much higher price for compliance. Indeed this has already occurred: profiteering in some markets led to costs arising from the WEEE Directive being inflated by up to 50 per cent.⁷

The flows on B2B and B2C waste need to be understood and appropriately gauged, notably through enforcement by Member States such as is recognised in Article 16.4 of the Recast: *"Member States shall collect information, including substantiated estimates, on an annual basis, on the quantities and categories of EEE placed on their markets, collected through all routes, prepared for re-use, recycled and recovered within the Member State, and on separately collected WEEE exported, by weight."*

Industry recommendations:

- **Member States should ensure that reporting requirements are included for all handlers of WEEE and that all flows of WEEE collected and properly treated are reported and counted towards achievement of the collection rate. This is essential, and moreover the most promising and effective way, for realising the objective (and potential) of the recast WEEE Directive to contribute to the EU's Resource Efficiency Policy.** This includes all WEEE that has been properly treated regardless of whether it was treated by a recycling system managed by producers or whether it was treated by other WEEE actors or recyclers.
- The existing WEEE Directive (article 12.1) already requires **Member States to collect information on WEEE collected through all channels** exactly matching with the WEEE generated approach. This provision has been continued as article 16.4 (recast). **Industry requests the careful transposition of this provision and proper enforcement of this obligation.**

⁷ Based on the experiences of the UK, the profiteering as a result of the Commission's proposal could cost producers an extra €4.6 billion increasing the total costs of the WEEE Directive to €10.2 billion.

6. SHIPMENTS OF USED EEE

Industry recognises that the **goal of curtailing, and ultimately stopping illegal trans-boundary shipments of WEEE** under the guise of being used EEE is critically important to all parties concerned. The continuation of this practice can have a serious impact on human health and the environment in the countries of destination. **Industry therefore requests proportionate rules for the shipment of used products that extend beyond the warranty period for B2B equipment.**

These measures are necessary to ensure that the WEEE Recast does not lead to a reduction in the overall level of repair, which includes remanufacturing and refurbishment operations, and reuse.

The wording of Annex VI should be transposed in such a way as to avoid contradicting the spirit of the Directive itself. Ultimately it is Europe's goal to build a recycling economy and maximise our resource efficiency. The shipping of used EEE is a legitimate activity and is crucial to achieving these objectives.

Used complex products, including certain B2B ICT equipment, medical devices and monitoring and control instruments are shipped within and outside the EU for a variety of reasons: for direct reuse, at end of lease, for re-sale or re-use after repair, refurbishment or remanufacturing. Many of these products will therefore be non-functioning or outside of any warranty.

Limiting shipments of used products to those that are fully functional and destined for direct reuse will drastically reduce the Producer's / Repairer's interest in the refurbishing, remanufacturing and re-use of systems, sub-systems, parts or components. Without all necessary derogations, industry anticipates that **this will result in a much lower level of reuse.**

Finally, **charging** the persons responsible for the shipment (Art. 23.3) for the **storage costs** of the used EEE should only be possible **in case the suspicion of an illegal shipment has been proven by a court of law.**

Industry recommendation:

- Industry recommends **transposing the Annex VI exclusions** in such a manner as to allow the already well-established and legitimate activities of re-sale and/or re-use following the repair, refurbishment or remanufacturing of professional equipment and their parts/components that would otherwise unnecessarily become waste. The industry believes that a key factor that can allow enforcement bodies to differentiate between a legitimate shipment for repair, including refurbishment and remanufacturing operations, and an illegal shipment is how the product is packaged for transport in order to be protected from damage.

7. REGISTRATION AND PRODUCER DEFINITION

Industry strongly supports that there should be **no obligation to have a legal seat in each Member State**, since forcing companies to have a legal entity within the territory of the Member State to fulfill the requirements of the Directive is not compatible with the internal market established in the EC Treaty. For the purpose of strict enforcement in Member States, it is, however, necessary that Member States have a contact within their territory.

We therefore support that producers should have the possibility to authorise an **authorized representative** in a Member State to fulfill his obligations.

Cooperation and exchange of information between the different national registers and enforcement authorities should be maximised.

Industry recommendation:

- Industry proposes strengthening cooperation between Member States so as to help to achieve a better harmonised and more consistent approach of national registration and reporting procedures by **introducing an obligatory cooperation mechanism for national Registers** on the basis of the existing European WEEE Registers Network (EWRN).

The **definition of “producer”** in the Directive currently in force leads to ambiguity. We therefore supported clarifying the producer definition during the recast procedure and feel that further changes are needed to ensure an acceptable level of enforceability. The legal responsibility is attached to this.

The WEEE Directive is structured on a producer responsibility approach bearing a number of obligations that can be fulfilled only by a producer identified at European level, and which should be harmonised at EU level. It also includes a number of obligations that can only be fulfilled at national level (such as WEEE take-back obligations).

National law makers should ensure that the provisions maintain an internal coherence by recognising that some obligations may be localised, others cannot be. The two layers should be clearly identified in order to improve legal enforceability:

- **Obligations relating to the product before it becomes waste that can only be fulfilled by a producer identified at European level:**

Such obligations should be fully harmonised at EU level.

The legal provisions involved are:

- Article 4 – provisions for Product Design
- Article 14 - mark with the WEEE symbol shown in Annex IV + provide additional information
- Article 15 – provide reuse and treatment information

- **Obligations that are not characteristics of products but represent obligations which can only be fulfilled at national level in each Member State where EEE is sold and eventually becomes WEEE:**

There are specific obligations arising from the WEEE Directive, namely that registration as well as financing of collection and recovery are not characteristics of products (e.g. composition, ingredients, environmental impact), but represent additional obligations which have to be fulfilled at national level exclusively (that is in the absence of a harmonised European waste internal market and for the purpose of carrying out effective market surveillance and enforcement activities).

The legal provisions involved are:

- Article 5 – to setup take back systems
- Article 7 – provide for the collection
- Article 8 – provide for the treatment of WEEE
- Article 11 –provide for the recovery of collected WEEE
- Article 12 –provide for the financing of treatment, recovery and disposal of WEEE
- Article 13 –financing of WEEE other than from private households
- Article 16 –requires that a register of producers shall be drawn up by Member States

We also seek Member States support in transposing article 3.1.g with the following understanding: a distributor must be able to prove that he has an agreement with the producer for a given product. The proof must be recorded by both, the distributor and authorised representative to facilitate controls. In the absence of a proof of the producer of a given product, such as an agreement or registration number, however, the distributor is deemed to be the producer.

Industry recommendations:

- National transpositions should be clear and unambiguous, thus not leaving room for disagreement on who the legally responsible person actually is, as this legislation is establishing producer responsibility.
- Therefore, national transpositions should include a provision that clearly states that the obligations arising from articles 4, 14 and 15 are obligations arising at EU level and should identify the actor bearing that responsibility accordingly.
- Member States should ensure better harmonisation of national registers, ensure better traceability along the value chain and cross-border tracking of EEE to make sure that obligations are fulfilled. In accordance to this Member States should support cooperation among Member States for distance selling and final enforcement.
- **Article 3.1(g) should be transposed as follows:** *“Any distributor who sells electrical and electronic equipment from a non-registered producer or legal WEEE representative shall be deemed a producer”.*

8. PRODUCT DESIGN

Industry fully supports the promotion of eco design. Whilst the establishment of incentives for eco design is retained in the WEEE Directive, the setting of eco design standards is regulated via the Eco Design Directive.

The WEEE Directive based on article 192 should not conflict with product legislation regulated in the Eco Design Directive, which is based on article 114 and thereby fully harmonised. In particular, the WEEE Directive should not presuppose the findings of the preparatory evaluation process that has to be carried out before setting eco design requirements via implementing measures or conflict with the criteria established by the Eco Design Directive.

Industry recommendation:

- **Member States should properly enforce EU implementation measures finally adopted under the Ecodesign Directive, refraining, however, from introducing their own national requirements regarding eco design of products.**

9. TREATMENT STANDARDS

Developing harmonised collection, treatment and recycling standards can contribute to the realisation of the environmental objectives of the Directive while giving industries a level playing field. We therefore welcome such proposals.

However, such standards will be developed via the three European Standardisation Organisations (CEN, CENELEC and ETSI).

Industry recommendation:

- Member States should support the development of European Standards via the three European Standardisation Organisations (CEN, CENELEC and ETSI) and, where adopted, provide for the possibility of their use for the purpose of demonstrating compliance with the WEEE Directive.

10. PREPARATION FOR REUSE

Reuse⁸ occurs before items become waste.

'Reuse' is carried out by the consumer market through passing on products to family and friends, through classified ads, E-Bay and other such mechanisms. In the business to business area, this is mainly happening through direct reuse, repair, refurbishment, upgrade and remanufacturing activities (asset recovery). All this occurs before the end-user discards the product, thus before waste is generated.

A more sensitive concern relates to the issue of **who guarantees the safety of a reused appliance**. When the product was originally placed on the market it was assessed for safety and CE marked by its producer. This is only valid for the original product, with approved components assembled and connected in a tested and approved manner.

After reuse operations, however, the original CE marking can no longer be guaranteed and the original producer cannot take on the responsibility for the safety of the reused product.

To protect the consumer it will be important that the name of the "entity performing the reuse operations" is placed on the used product and avoid that a loophole is created and misused. If only the original brand name were to remain on the reused product then this could make the original producer of the product liable should an injury to persons or damages to property be caused through a malfunction deriving from a modification to the product. The New Legislative Framework requires that those placing new products on the market are identifiable through marking on the product for reasons of consumer protection and enforcement. It is equally important that the re-user of those products can be identified.

It is important to note that any operation of reuse which changes the use destination of the EEE or alters the conformity of the EEE with the essential requirements of relevant directives would imply the re-user to be regarded as a manufacturer. Therefore, the reused EEE has to be considered a new product and the re-user has the responsibility of running the conformity assessment procedure, affixing the CE marking and preparing the DoC and the technical file.

⁸ According to the Waste Framework Directive, "reuse" is about "*operations by which products or components that are not waste are used again for the same purpose for which they were conceived*"; the European Commission's proposal is addressing "preparation for reuse" in Article 11 (recovery targets).

He is also responsible of labelling the product with his own name removing the brand of the original manufacturer.

Such activities are different from ‘preparation for reuse’ in so far as they latter represent a waste treatment operation, requiring a specific authorization, according to the EU Waste Directive. Re-used EEE are neither in the scope of the WEEE Directive nor can they be measured and contribute to the targets.

Preparing for re-use occurs after items become WEEE

According to the Waste Framework Directive, article 3.16: “preparing for re-use” means “*checking, cleaning or repairing recovery operations, by which products or components of products **that have become waste** are prepared so that they can be re-used without any other pre-processing*”.

Notwithstanding the social and environmental benefits related to the preparation of reuse of waste EEE (WEEE), industry recommends that a number of aspects have to be guaranteed by national transpositions whenever preparation for reuse is done to secure products and consumer safety, promote energy efficiency and restrict the use of certain substances.

- **Discarded EEE at collection facilities are waste**

EEE discarded by users and deposited at collection facilities, whether households or other than households are waste and have to be dealt with as prescribed by the EU Waste Directive and its national transpositions. Re-use centers which would be allowed to access collection facilities have to be authorized to collect, transport, stock and treat waste (preparation for reuse).

- **When waste ceases to be waste**

Once an EEE becomes waste, it cannot be easily prepared for re-use and brought back to be a product. According to article 6.1 of the EU Waste Directive waste can cease to be waste after preparation for reuse only when it meets a set of specific criteria, to be defined by the EU, and, as long as it meets all the applicable legislations and standards at the time the EEE is made available for the first on the market after the preparation for reuse.

Therefore, **the prepared for reuse EEE has to be considered a new product and the re-user has to be regarded as the manufacturer** with the responsibility of running the conformity assessment procedure (e.g. Low voltage, machinery, EMC, RoHS, Ecodesign, Energy Labelling, etc), affixing the CE marking and preparing the DoC and the technical file. He is also responsible of labelling the product with his own name removing the brand of the original manufacturer.

- **Preparing for reuse does not mean cannibalising WEEE**

It is important that authorization to access collection facilities is given by Member States preferably to entities able to ensure the preparation for reuse of whole equipment rather than focusing on activities of cannibalisation of valuable parts and materials of WEEE. In the second case, the management of the leftovers (waste) have to be financed and taken care by the entity and reported as a WEEE flow. The leftovers cannot be returned to the WEEE collection facility as they would qualify as waste generated by an industrial/commercial activity. As such the responsibility of financing and managing is upon the waste producer. Nonetheless the waste flow has to be reported as a WEEE flow and should concur to the collection target calculation together with the flow of prepared-for-reuse part.

The proposal to handover WEEE deposited at collection facilities to designated establishments or undertakings for the purpose of preparing for reuse, misses one important point that should be considered. **There should be an obligation for organisations dealing with preparation-for-reuse to return all the material that was not prepared for reuse to the appropriate collection/treatment facilities, to avoid WEEE flows being diverted and not reported.**

Industry recommendations:

- National transpositions should stick to the Directive’s approach of **including preparation-for-re-use targets of whole appliances in the recycling targets of article 11.**
- There should be **specific obligations and specifications for entities performing preparation for reuse of WEEE.** To increase the credibility and to safeguard consumer safety entities preparing WEEE for reuse need to be **qualified/authorized according to the EU Waste Directive for performing operations on waste** (transport, handling, storage, treatment etc.) and they **need to be regarded as manufacturers concerning all the obligations related to applicable Directives and standards.**
- The development of **harmonised standards via European Standardisation Organisations**, which includes preparation for reuse (see article 8.5) should be supported.
- According to article 6.4, Member States should allow access for authorised organisations to collection facilities to pick waste product for their waste reuse activity. **However, national transpositions should specify that such organisations:**
 - **need to work along the same rules as other actors.**
 - **are required to manage the waste resulting from their activities according to the national waste legislation (no longer WEEE) but the waste flow has to be reported as a WEEE flow.**

11. DUAL USE PRODUCTS

An accurate definition of “dual use” products is needed to ensure true B2B products are not classified as dual use products. The definition in Article 3.1 (h) must be correctly applied for many products within WEEE that are B2B and will never enter the municipal waste stream. Examples include servers, large scale printers, networking systems, video conference suites and large scale public display equipment.

A consistent definition is needed to ensure the same definition is applied across the EU. A non harmonised interpretation at Member State level increasing the administrative burden of the Directive must be avoided.

Currently Member States use very different definitions to differentiate between B2B and B2C products based on a variety of criteria. This means that for every register or compliance scheme producers need to verify what the criteria for B2B and B2C are and this leads to a lot of unnecessary administrative work.

Defining B2B equipment as “dual use” equipment and therefore classified as B2C could lead to the double payment of recycling costs and lead to unfair obligations for producers. Similarly it is vital that a clear definition prevent any B2C or “dual use” equipment being defined as B2B when it is likely to end up in the municipal waste stream, because it would lead to either underpayment or no payment at all.

Classifying dual use equipment as B2C without clear criteria defining what is outside the dual use definition or which products are clearly B2B will require Member States to reconsider how businesses and municipalities interact in the disposal of EEE, since they should now be able to deposit dual use products for free at municipal collection sites. Additionally producers should be

able to count dual use product take back volumes against their overall take back or in the worst case producers may need a mechanism to reclaim fees for products that they take back themselves.

Industry recommendations:

- Industry proposes that criteria for determining if a product which could be considered dual use is in fact a B2B product be defined in Frequently Asked Questions and elaborated by the EWRN.
- **B2C and dual use equipment** should not include electronic equipment for which the producer **can document** that it is constructed in such a way that it can be used solely in establishments other than private households, or that such equipment is **not fit for use in private households and will therefore not end up in any take back scheme for WEEE from private households**.
- To avoid double payments, producers should be able to deduct from their B2C obligation volumes of dual use products collected through their own B2B collection systems.
- To avoid lack of financing (no payment), producers should not be able to declare B2C products as B2B, which are later on returned through the B2C collection systems.



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