

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

Tables of contents

1	Policy background, existing expertise and information.....	2
2	Practical information for stakeholders	6
3	Issues for Consultation	8
3.1	Targets.....	8
3.1.1	Targets on collection.....	8
3.1.2	Targets for recovery, component, material and substance reuse and recycling	9
3.1.3	Targets for reuse of whole appliances	9
3.2	The Scope of the Directive	10
3.2.1	Options for clarification of the scope.....	10
3.2.2	Options on the width of the scope.....	11
3.3	The Operation of the Producer Responsibility Provisions.....	12
3.4	Treatment Requirements	13

1 POLICY BACKGROUND, EXISTING EXPERTISE AND INFORMATION

1.1 POLICY BACKGROUND – WHY REVIEW THE WEEE DIRECTIVE?

Directive 2002/96/EC¹ on waste electrical and electronic equipment (WEEE) is a key element of EU's environmental policy on waste. It addresses a particularly complex waste flow in terms of variety of products, association of different materials and components, hazardous substance contents and its growth pattern. It seeks to prevent waste, to reduce the disposal of waste, and to improve the environmental performance of all operators involved. Among others, it aims to induce design modifications that make WEEE easier to dismantle, recycle and recover. It contributes to reducing the dispersion of hazardous substances throughout the waste management operations in particular in shredder residues which are problematic waste streams if they are contaminated by such substances. The WEEE Directive was adopted on 27 January 2003 and is currently being implemented by all the EU Member States.

The review of the EU legislation on waste electrical and electronic equipment has been driven by the following reasons.

The WEEE Directive

Article 17(5) foresees that in 5 years after the entry into force of the WEEE Directive² the Commission shall submit a report to the European Parliament and the Council based on the experience of the application of the WEEE Directive, in particular as regards separate collection, treatment, recovery and financing systems. Furthermore the report shall be based on the development of the state of technology, experience gained, environmental requirements and the functioning of the internal market. The report shall, as appropriate, be accompanied by proposals for the revision of the relevant provisions of the WEEE Directive.

Article 5(5) provides in relation to the collection target that “The European Parliament and the Council, acting on a proposal from the Commission and taking account of technical and economic experience in the Member States, shall establish a new mandatory target by 31 December 2008. This may take the form of a percentage of the quantities of electrical and electronic equipment sold to private households in the preceding years.”

Article 7(4) provides that “The European Parliament and the Council, acting on a proposal from the European Commission, shall establish new targets for recovery and reuse/recycling, including for the reuse of whole appliances as appropriate, and for the products falling under category 8 of Annex IA, by 31 December 2008. This shall be done with account being taken of the environmental benefits of electrical and electronic equipment in use, such as improved resource efficiency resulting from developments in the areas of materials and technology. Technical progress in reuse,

¹ OJ L 37, 13.2.2003, p.24 as amended by Directive 2003/108/EC of the European Parliament and of the Council of 8 December 2003, OJ L 345, 31.12.2003, p.106

² The Directive enters into force on the day of its publication in the Official Journal of the EU which is 13.2.2003.

recovery and recycling, products and materials, and the experience gained by the Member States and the industry, shall also be taken into account.”

Better Regulation

In Annex 2 to Commission Communication³ of 25 October 2005 to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – implementing the Community Lisbon programme “A strategy for the simplification of the regulatory environment”⁴, the Commission foresees a review of the WEEE Directive in the period 2006-2009. The review is to be based on the experience of the application of the WEEE Directive and on the development of the state of technology, experience gained, environmental requirements and the functioning of the internal market. The review shall, as appropriate, be accompanied by proposals for the revision of the relevant provisions of the WEEE Directive and be in line with the Community environmental policy.

The WEEE Directive is also included in the scope of the Action Programme for Reducing Administrative Burdens in the European Union adopted by the Commission in January 2007⁵. The review shall therefore aim to reduce the administrative costs arising from the Directive, notably with respect to registration and labelling requirements.

Community Environmental Policy

The Thematic Strategy on Waste Prevention and Recycling⁶ aims to help Europe become a recycling society that seeks to avoid waste and uses waste as a resource. It calls amongst others on a renewed emphasis on full implementation, simplification and modernisation of existing legislation, the introduction of life cycle thinking in waste policy, the promotion of more ambitious waste prevention policies, the development of common reference standards for recycling, the further elaboration of the EU's recycling policy and on improving the knowledge base. It will draw on the knowledge that the Thematic Strategy on the Sustainable Use of Natural Resources⁷ will generate. The objective of this strategy is to reduce the environmental impacts associated with resource use and to do so in a growing economy. This can be very relevant as the consumption of electrical and electronic equipment is still growing.

1.2 OBJECTIVES AND TOPICS OF THE REVIEW

On basis of the policy context and of the information available (see 1.3), the objective of the review is set as to increase the efficiency and effectiveness of the Directive in achieving its environmental goals, and to eliminate any unnecessary costs to business,

³ COM(2005) 535 final

http://europa.eu.int/comm/enterprise/regulation/better_regulation/simplification.htm

⁴ The objective of the simplification exercise is to contribute to a European regulatory framework of the highest standards in respect of the principle of subsidiary and proportionality. Simplification intends to make legislation less burdensome, easier to apply and thereby more effective in achieving its goals. Following on these principles, a regulatory action should not be beyond what is necessary to achieve the policy objectives pursued, needs to be cost-efficient, and should take the lightest form of regulation called for.

⁵ See COM(2007) 23

⁶ <http://europa.eu.int/comm/environment/waste/strategy.htm>

⁷ <http://europa.eu.int/comm/environment/natres/index.htm>

consumers, NGOs and public authorities arising from implementation of the Directive. Strengthening the objectives of the Directive entails that at least the same level of environmental protection is kept; further simplifying, developing and improving the Directive will address the ways to achieve these objectives as well as how to tackle the problems encountered.

Whilst the review will consider WEEE requirements as a whole in the view of the objectives of simplification and better regulation the issues can be thought of falling into four areas:

1.2.1 Targets

Revision of targets for the quantities of Electrical and Electronic Equipment (EEE) collected in Member States⁸ and of targets for recovery and reuse and recycling of EEE, including medical devices.⁹

1.2.2 Scope of the Directive

The scope of the Directive has been one of the major elements of discussion during the implementation process. It relates, on the one hand, to interpretation of the scope (does a product fall inside or outside the scope) and, on the other, to the possibility of Member States to go beyond the provisions of the Directive for reasons of environmental protection, as the Directive is based on Article 175 of the EC Treaty. Options for the review shall therefore investigate any needs on options for changes to the scope of the Directive.

1.2.3 The Operation of the Producer Responsibility Provisions

Member States have significant flexibility in their application of the various elements of producer responsibility¹⁰. These various elements include: design responsibility, costs of the management of waste; the efficiency of organisation of the collection schemes; the interactions of different national collection and financing schemes when products move across national borders; correct funding of schemes in relation to future waste generation; the accuracy of allocation of charges between producers; administrative costs from compliance with different requirements of various national registration and financing schemes; differences in labelling requirements between nations; competition issues (including free riding and impacts on Small and Medium Enterprises); competition in the waste management industry, supply chain issues, impacts on innovation.

⁸ Article 5(5) provides that “The European Parliament and the Council, acting on a proposal from the Commission and taking account of technical and economic experience in the Member States, shall establish a new mandatory target by 31 December 2008. This may take the form of a percentage of the quantities of electrical and electronic equipment sold to private households in the preceding years.”

⁹ Article 7(4) provides that “The European Parliament and the Council, acting on a proposal from the Commission, shall establish new targets for recovery and reuse/recycling, including for the reuse of whole appliances as appropriate, and for the products falling under category 8 of Annex IA, by 31 December 2008. This shall be done with account being taken of the environmental benefits of electrical and electronic equipment in use, such as improved resource efficiency resulting from developments in the areas of materials and technology. Technical progress in reuse, recovery and recycling, products and materials, and the experience gained by the Member States and the industry, shall also be taken into account

¹⁰ (i) design responsibility (Article 4), (ii) organisational responsibility for the waste management of EEE (Article 5(3), Article 6(1) and Article 7(1)), (iii) financing responsibility (Article 8 and 9), (iv) information responsibility (Article 7(3), Article 10(1) and (2), Article 11 and Article 12) and (v) labelling responsibility (Article 10(3) and article 11(2)).

1.2.4 Treatment Requirements

Treatment requirements specified by the Directive can further reduce the environmental and health impacts of WEEE in particular by further supporting actual best practices in the EU and by stimulating the development of new technologies for treatment. Specific requirements shall be evaluated in particular for printed circuit boards for mobile phones, for liquid crystal displays and for the recovery of hydrocarbons with a global warming potential below 15.

The review will address Annex II.3 to the Directive and investigate criteria to determine when environmentally sound reuse and recycling of components or whole appliances are hindered by the provisions set out in points 1 and 2 of Annex II.

1.3 AVAILABLE EXPERTISE AND INFORMATION

The development of options on the identified topics for the review, is mainly, but not exclusively, based on the information gathered in the context of a set of studies commissioned by the European Commission. The main studies are carried out by the European Commission between 2005 and 2007 in the context of the WEEE review:

- Study contracted to AEA Technology
- Study contracted to UNU with subcontractors.
- Study contracted to ÖKOPOL with subcontractors.
- Study contracted to ECOLAS with subcontractors.

Terms of references, the executive summaries and the final reports are readily available for consultation on the Europa webpage

http://ec.europa.eu/environment/waste/weee/studies_en.htm.

Beside these studies, the other sources of information can be summarised as

- an information gathering exercise
- compliance check studies on the notified transposition measures
- reporting from Member States on implementation
- an ongoing study on administrative burden

Neither the fact that the review process has been launched, nor the results of this process at any stage should be interpreted as a political or legal signal that the Commission intends to take any given action.

2 PRACTICAL INFORMATION FOR STAKEHOLDERS

2.1 STAKEHOLDER INVOLVEMENT IN THE REVIEW

The success of the review of the WEEE Directive depends largely on the participation of the stakeholders who are involved in the implementation of the Directive and have the information and experience which must be taken into account. This public stakeholder consultation is an important contribution to that process.

Updated information on the progress of the review in general and on the foreseen structured consultation and its results, will be available at:

http://ec.europa.eu/environment/waste/weee/events_weee_en.htm.

An impact assessment will be produced to examine the costs and benefits of different policy options for the revision of the Directive, based on previously gathered information and on the outcome of this consultation, according to the impact assessment guidelines, published in June 2005 as amended¹¹.

2.2 REQUEST FOR COMMENTS AND INFORMATION

On basis of the topics identified for the review (see 1.2) and the information available (see 1.3), the Commission services invites stakeholders to comment on a number of issues (see 3). **They are also invited to propose additional options that the review should consider.**

It is of paramount importance that any opinion is supported by detailed evidence that you currently hold as the Commission services will base their analysis of issues and selection of options for amendment on factual evidence on the economic, social and environmental impacts of the policy options. In particular, we would like to receive any additional **quantitative** data, studies and evaluations which will allow us to analyse the full costs and benefits of potential changes in the operation of the Directive.

Note that we will be using relevant data which has already been provided as part of the review of Directive 2002/95/EC¹², particularly information already received from stakeholders and contained in the summary document contained on this web-page http://circa.europa.eu/Public/irc/env/rohs_2008_review/home.

Please note that the information you provide will be shared with other stakeholders on a public website, unless you indicate that they should be considered confidential. Information provided in confidence (clearly indicated "CONFIDENTIAL") will not be made available to other parties and can not be used in support to one or another option.

¹¹ http://ec.europa.eu/governance/impact/docs/SEC2005_791_IA_guidelines_main.pdf;
http://ec.europa.eu/governance/impact/docs/SEC2005_791_IA_guidelines_anx.pdf

¹² Directive 2002/95/EC of the European Parliament and of the Council of 27 January 2003 on the restriction of the use of certain hazardous substances in electrical and electronic equipment (RoHS), OJ L 37, 13.2.2003, p.19

2.3 PRACTICAL INFORMATION

You are required to provide opinions supported by factual evidence – with the clear indication of its possible confidential character – either electronically or on paper. Submissions are ultimately expected by **5 June 2008** but you are encouraged to send them in rather sooner. After that date, the review will move on to the next stage.

2.3.1 *Electronic submissions*

To submit opinions and information electronically, please use the functional mailbox: ENV-WEEE@ec.europa.eu

2.3.2 *Written or printed submissions*

To submit opinions and information on paper, please use the postal address:

European Commission
DG Environment, Unit G4
BU5 - 5/121
Review of Directive 2002/96/EC (WEEE)
B-1049, Brussels, Belgium.

3 ISSUES FOR CONSULTATION

3.1 TARGETS

3.1.1 Targets on collection

Separate collection is the precondition to ensure specific treatment and recycling of WEEE and is necessary to achieve the chosen level of protection of human health and the environment in the Community (recital 15). In order to ensure that MS strive to set up efficient collection schemes, they should be required to achieve a high level of collection of WEEE from private households (recital 16).

The current WEEE collection target is 4kg/inhabitant per year. However there is a high difference of EEE consumption and of WEEE collection rates. There is evidence that the current target is not reflecting these variations sufficiently, nor is encouraging Member States to strive for the optimum.

Options to improve the current level of separate collection of WEEE include:

- **Fixed mandatory collection target** for all Member States or differentiated per Member State expressed in weight per inhabitant per year to be achieved by a certain date;
- **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**;
- **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);
- 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.

Please identify which of the above option(s) you favour most and explain the reasons for your preference. Please try to specify in particular which environmental, economic and social impacts you expect from your choice, giving as much as possible quantitative information. Optionally, identify your least favoured option and explain the reasons for your choice in terms of environmental, economic and social impacts.

3.1.2 Targets for recovery, component, material and substance reuse and recycling

Where reuse is not preferable, all WEEE collected separately should be sent for recovery, in the course of which a high level of recycling and recovery should be achieved as to reduce the disposal of waste.

Options related to recovering and recycling include:

- **Increase** the current targets, for all or some categories;
- **Introduce a target for category 8 equipment** (medical devices);
- **Material based targets** for all WEEE or per product category;
- **Stimulation of outlet market** for recycled and recovered products, in particular for encouraging high level of material re-application.

Please identify which of the above option(s) you favour most and explain the reasons for your preference. Please try to specify in particular which environmental, economic and social impacts you expect from your choice, giving as much as possible quantitative information. Optionally, identify your least favoured option and explain the reasons for your choice in terms of environmental economic and social impacts.

3.1.3 Targets for reuse of whole appliances

Where the generation of waste can not be avoided, it should be reused or recovered for its material or energy. Where appropriate, priority should be given to reuse of whole appliances, their components, subassemblies and consumables. Whereas reuse before discarding falls outside the scope of the Directive, reuse of WEEE and its components which are returned to collection points, distributors, recyclers or manufacturers can be addressed.

Options to improve the reuse of whole appliances include:

- **Set a target** for reuse of whole appliances to be achieved by a certain date;
- **Include** the reuse of whole appliances **in the current or increased components, material and substance reuse and recycling targets**;
- Give **obligatory access** for the reuse sector / organisations to collected WEEE to select that equipment that could meet the criteria for being reused, refurbished or repaired.

Please identify which of the above option(s) you favour most and explain the reasons for your preference. Please try to specify in particular which environmental, economic and social impacts you expect from your choice, giving as much as possible quantitative information. Optionally, identify your least favoured option and explain the reasons for your choice in terms of environmental, economic and social impacts.

3.2 THE SCOPE OF THE DIRECTIVE

The definition of scope is not only relevant for the development of all other options, it also affects, for instance, producer responsibility, financing, as well as which products should be collected and recycled, and thus the environmental performance of the Directive. Potential changes in the scope of the Directive impact on the whole structure and provisions of the Directive itself. Therefore the definition of scope should be there to clarify the reach of the current (producer) responsibilities and to reflect environmental ambition with respect to what should be collected and treated.

3.2.1 Options for clarification of the scope

Interpretation of the scope of the Directive could be determined on a case-by-case basis by individual EU Member States in a manner that may or not be consistent throughout the EU. This could create confusion and leave it unclear about whether a given product is within or outside the scope.

Beside the question being in or out the scope is also the issue of categorisation; some products can be classified under several categories, as well categories in the sense of the 10 product categories under Annex IA as the categorisation WEEE from private households (known as business to consumers equipment or B2C) or WEEE from other than private households (known as business to business equipment or B2B). This is in particular the case for dual use goods. This categorisation is directly linked to the setting of targets as well as to the regime of financing.

Options related to clarification of the scope include:

- 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);
- 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;
- **Classifying** categories of equipment as being WEEE from private households (**B2C**) or as being WEEE from users other than private households (**B2B**);
- **Define** the scope **under** the **RoHS** Directive¹² and refer to it in the WEEE Directive.

Please identify which of the above option(s) you favour most and explain the reasons for your preference. Please try to specify in particular which environmental, economic and social impacts you expect from your choice, giving as much as possible quantitative information. Optionally, identify your least favoured option and explain the reasons for your choice in terms of environmental economic and social impacts.

3.2.2 Options on the width of the scope

In particular the width of the scope will affect the environmental ambition with respect to the contribution to the prevention of e-waste, to enhanced reuse, recycling and other forms of recovery, to the reduction of disposal of waste and to the improvement of the environmental performance of operators and systems dealing with WEEE.

Options related to the width of the scope include:

- The **inclusion** of (other) types of products/product categories in the scope;
- **Maximise** the scope to all EEE (also above 1000Volt AC or 1500Volt DC) and to spare parts and components;
- The **exclusion** of types of products/product categories from the scope.

Please identify which of the above option(s) you favour most and explain the reasons for your preference. Please try to specify in particular which environmental, economic and social impacts you expect from your choice, giving as much as possible quantitative information. Optionally, identify your least favoured option and explain the reasons for your choice in terms of environmental economic and social impacts.

3.3 THE OPERATION OF THE PRODUCER RESPONSIBILITY PROVISIONS

Member States have significant flexibility in their application of the various elements of producer responsibility. There is evidence that this flexibility leads to a variable (and hence no optimal) contribution to the improvement of the environmental performance of operators and systems as regards organisational responsibilities (collection – take-back and treatment), financial responsibilities, products (labelling and eco-design) and information (to treatment operators, consumers and authorities including reporting and registration).

Options related to the producer responsibility provisions include:

- **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 and 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 low-voltage¹⁵ Directives);
- **Harmonise the implementation of** the allocation of financial responsibility, the frequencies and formats of reporting, the registration and the making information available;
- **Stimulate eco-design** through defining targets for reusability, recyclability and recoverability of electrical and electronic equipment.

Please identify which of the above option(s) you favour most and explain the reasons for your preference. Please try to specify in particular which environmental, economic and social impacts you expect from your choice, giving as much as possible quantitative information. Optionally, identify your least favoured option and explain the reasons for your choice in terms of environmental, economic and social impacts.

¹³ Proposal for a decision of the European Parliament and of the Council on a common framework for the marketing of products COM(2007) 53final of 14 February 2007.

¹⁴ Directive 2004/108/EC on electromagnetic compatibility, OJ L 390, 31.12.2004, p.24

¹⁵ Directive 2006/95/EC on the harmonisation of the laws of Member States relating to electrical equipment designed for use within certain voltage limits, OJ L 374, 27.12.2003, p.10

3.4 TREATMENT REQUIREMENTS

Specific treatment for WEEE is indispensable in order to avoid the dispersion of pollutants into the recycled material or the waste stream. Such treatment is the most effective means of ensuring compliance with the chosen level of protection of the environment of the Community. Any establishment or undertakings carrying out recycling and treatment operations should comply with minimum standards to prevent negative environmental impacts associated with the treatment of WEEE. Best available treatment, recovery and recycling techniques should be used provided that they ensure human health and high environmental protection. Best available treatment, recovery and recycling techniques may be further defined in accordance with the procedures of Directive 96/61/EC (recital 17). "Treatment" means any activity after the WEEE has been handed over to a facility for depollution, disassembly, shredding, recovery or preparation for disposal and any other operation carried out for the recovery and/or the disposal of the WEEE.

Options related to treatment requirements include:

- **Introduce** the development of treatment **standards**;
- Include a **definition of "remove"**;
- **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.

Please identify which of the above option(s) you favour most and explain the reasons for your preference. Please try to specify in particular which environmental, economic and social impacts you expect from your choice, giving as much as possible quantitative information. Optionally, identify your least favoured option and explain the reasons for your choice. in terms of environmental, economic and social impacts.