

July 20th 2009

Position Paper on the revision of the WEEE Directive

Introduction

AmCham EU's key concerns with the proposal are the collection target, financial responsibility for household collection, the visible fee and the need for clarification on the classification of B2C and B2B.

AmCham EU member companies have significant practical experience with the "Waste Electrical and Electronic Equipment" (WEEE) Directive across Europe. We recognise that manufacturers of electrical and electronic equipment must have responsibility for their products even as they turn into waste. We take this responsibility seriously and are committed to working towards the development of better environmental standards for these products.

If the proposal for a directive of the European Parliament and of the Council on WEEE (recast) were to be adopted in its current form however, this would imply a huge additional cost for industry without resolving the key problems with the existing WEEE Directive.

Even though the proposal contains a positive push towards more harmonisation, it is not expected to lead to better product design or higher volumes of WEEE being properly treated.

Revision improvements

AmCham EU welcomes the fact that the scope of the WEEE Directive is brought under the RoHS (Restriction of Hazardous Substances) Directive which is based on article 95 of the Treaty establishing the European Community. This promises a more harmonised application of the scope across the EU and facilitates the compliance of operators.

AmCham EU also welcomes the aim of introducing harmonised registration and reporting rules for producers which decreases the administrative burdens on our member companies.

However, despite this improvements, the following identifies key issues that require workable solutions.

Key areas that need to be addressed:

1. Collection target

The European Commission proposes to make producers responsible for attaining a collection target, which is based on the amount of electrical and electronic equipment placed on the market in previous years (Article 7.1).

Producers cannot be made responsible for reaching a collection target because they cannot control waste streams.

- There are large flows of WEEE outside the producer owned WEEE systems. This is because some electrical waste has still value. In the Netherlands for example research has shown that in 2008 a total of 14.8 kg of WEEE per inhabitant per year is recycled. Only 5.7 kg are recycled by producer funded systems, however, the rest is recycled by other economic operators.
- There is no obligation on operators such as municipalities or B2B end users to pass their WEEE on to producers.
- Making producers responsible for reaching the collection target would lead to speculation by other actors who could sell WEEE to producers at unreasonable prices, because they need to meet the collection target.

Basing collection targets on sales made in previous years is not workable, because it does not take into consideration market dynamics.

- Sales of electrical and electronic equipment can fluctuate enormously between one year and the next. This is why there is no correlation between the amounts of electrical and electronic equipment placed on the market in one year and the volumes of WEEE occurring in the subsequent year.
- Some industries produce very specialised and long-term products which are continuously subject to change and innovation. This is true for most laboratory equipment or, for example, very specialised products such as splice equipment used to put two cables together, which are estimated to last for decades. In these cases it is impossible for producers to meet targets based on the amount placed on the market in the previous years.

2. Financial responsibility for household collection

The European Commission encourages Member States to make producers financially responsible for the collection of WEEE from households (Article 12 (1)).

Household collection of WEEE is beyond the control of producers.

One cannot make an actor financially responsible for a process which they cannot control.

- Municipalities and other actors carry out the collection of WEEE. This makes sense legally and from an efficiency point of view, as they have infrastructures for waste collection in place.

- Waste collectors would have no incentive to keep the collection costs as low as possible if producers were made financially responsible.

The European Commission recognised in 2000 that collection of waste has no relation to the recyclability of products: ‘there is no evidence that attributing the collection of WEEE from private households to producers would have an impact on the design of the equipment’ (WEEE Directive Explanatory Memorandum pg 20)¹. This is why the Commission chose not to make producers responsible for household collection in the initial WEEE Directive.

3. Visible Fee

Visible Fee must remain truly optional for producers.

- For some product groups, such as computers and their peripherals, the administrative costs associated with the implementation of a visible fee system exceed the actual costs of collection, treatment and disposal, making the visible fee very impractical and costly to implement. Therefore, Visible Fees may be inappropriate for those products.
- For some other product groups where the actual costs of collection, treatment and disposal is substantial (e.g. refrigerators), the implementation of a visible fee system may be appropriate.
- Mandatory visible fees would not take into account the differentiation between product groups.

4. Classification of Business to Business and Business to Consumer WEEE

The WEEE Directive currently establishes different mechanisms for WEEE from private households (commonly referred to as “B2C”) and WEEE from users other than private households (commonly referred to as “B2B”).

Some electrical and electronic equipment, which in the current proposal falls under Category 3 (ICT) is never used in private households and will never enter the municipal waste stream (examples include servers, large scale printers, networking

¹ **European Commission** (2000) *Proposal for a directive of the European Parliament and of the Council on waste electrical and electronic equipment; proposal for a directive of the European Parliament and of the Council on the restriction of the use of certain hazardous substances in electrical and electronic equipment* (European Commission, Brussels) - *It has been demonstrated that attributing the economic responsibility for the treatment, recovery and disposal of WEEE to producers constitutes an important incentive to improve the design of electrical and electronic equipment which takes waste management aspects into account. Contrary to that, there is no evidence that attributing the collection of WEEE from private households to producers would have an impact on the design of the equipment. Therefore, the responsibility of producers is limited to the actual treatment, recovery and disposal of this waste. For practical reasons producers will have to pick up the waste from designated collection points.*

systems). Therefore, it would not be fair to establish a single one size fits all classification of the Category 3 into B2C and B2B.

Currently registers and compliance schemes use very different definitions 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, resulting in a lot of unnecessary administrative work.

AmCham EU would like to see harmonised definitions for B2C and B2B across all Member States. We believe that the best way to harmonise these definitions and establish consistency across the EU is to enable producers to determine whether a product is declared as B2B WEEE based upon the intended end user of the product.

AmCham EU urges the European decision-makers to take these points into consideration, otherwise they risk discovering that the new WEEE Directive does nothing more than to create a burden on industry without solving the key problems.

* * *

AmCham EU speaks for American business committed to Europe on trade, investment and competitiveness issues. It aims to ensure a growth-orientated business and investment climate in Europe. AmCham EU facilitates the resolution of transatlantic issues that impact business and plays a role in creating better understanding of EU & US positions on business matters. Total US investment in Europe amounts to \$700 billion, and currently supports over 4 million jobs.

* * *