



**COUNCIL OF EUROPEAN MUNICIPALITIES AND REGIONS
CONSEIL DES COMMUNES ET REGIONS D'EUROPE**

**CEMR response
to the stakeholder consulta-
tion on the review of direc-
tive 2002/96/EC on waste
electrical and electronic
equipment**

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- The Council of European Municipalities and Regions (CEMR) is the umbrella organisation gathering 51 national associations representing local and regional government in 37 countries in Europe. It has an ad hoc working group on waste, which has been working on the issue of waste electrical and electronic equipment (WEEE) for several years and prepared CEMR following response to the consultation on the review of the WEEE directive.
- Local and regional authorities are heavily involved in the planning and daily management of waste. They have know-how and experience on collecting, sorting and storing household waste. Thus, they are among the key players of the WEEE management.
- In many Member States, lack of clarity and substantial failures in the implementation of the WEEE directive 2002/96/EC into national law have led to significant difficulties and uncertainty regarding sharing of responsibilities and financial costs. Indeed, when the collection system and the different obligations and responsibilities are not clearly defined by the national law, costs that, according to the directive, should be borne by producers end up being borne by local authorities. CEMR considers that local and regional authorities should not bear the financial consequences of the WEEE legislation gaps.
- The revised legislation should set clear lines of responsibility for apportioning costs, i.e. clarity that producers must bear costs of collection, storage, treatment, recycling and information campaigns where necessary. The most important issue for local authorities, besides contributing to the achievement of successful rates of WEEE collection and recovery, is an effective implementation of the producer financial responsibility for the collection and storage of WEEE. The success of the directive also relies very much on this aspect: indeed, the better producer responsibility operates, the better local authorities will perform their collection role.
- CEMR welcomes the review of the WEEE directive as an opportunity to resolve shortcomings of the current legislation and to express views of local and regional authorities. With respect to their essential role in the management of WEEE, the latter should be considered as key partners of the European Commission and national governments in the review and implementation process of the WEEE directive.

CEMR comments on issues raised in the consultation paper

1. TARGETS

- ***Targets on collection***

CEMR considers that **variable mandatory targets expressed in a percentage of collection in function of the total quantities of electrical and electronic equipment put on the market the preceding years in a Member State** would be the most relevant option to improve the current level of separate collection of WEEE. However, CEMR wishes to underline how fundamental it is that these collection targets integrate **environmental weight, for all streams to be collected**, not only for the environmentally most relevant ones.

Whilst being at the same time acceptable and realistic, such targets should be adapted to each national situation and take into account local circumstances and infrastructures.

Focusing on all waste streams would be a way to ensure that the most polluting and hazardous WEEE are collected. The revision of the batteries directive indeed demonstrates that collecting all waste makes it possible to better collect and treat hazardous waste. Moreover, the risk of specifying product categories is that any new product category of electrical and electronic equipment coming on the market will not automatically fall into the scope of the directive.

CEMR emphasizes that these collection targets should be considered as minimum targets and that all WEEE collected should be the responsibility of producers.

Considering the diversity of national situations, a fixed mandatory collection target expressed in weight per inhabitant per year to be achieved by a certain date could be considered as an appropriate option in certain Member States. Such a target would facilitate communication and promote clear stakeholder engagement between manufacturers and retailers.

Obligatory give-back by collection points operated by municipalities to the producer responsibility organisations is the least preferred option because these organisations frequently refuse to pay collection costs back to municipalities. Furthermore, it is not anticipated that this would lead to meaningful increases in WEEE reduction, reuse and recycling. It could also strongly conflict with the free competition and be difficult to monitor.

- ***Targets for recovery, component, material and substance reuse and recycling***

CEMR most favours **material based targets for the recycling and recovery of all WEEE**. These targets should be **differentiated according to the environmental impact and to the industrial process**, as some materials can be recovered or recycled in greater proportion than others. Best available techniques (BAT) should apply to the processes involved, and a quality insurance system for the treatment of waste developed.

While taking into account the different national situations, the components of all WEEE should be treated differently in the process of reuse and recycling. This would ensure that all WEEE is treated in the most appropriate manner and that targets are both challenging and realistic. By ensuring a quality treatment of waste, the recycled or recovered product will have better access to the market, which will thus be stimulated. Nevertheless, this should not prevent the directive to greater focus on the stimulation of the outlet market for recycled and recovered products.

As an alternative, increasing the current targets could be a valid option, which could help increasing collection and reprocessing of the most environmentally damaging WEEE, while developing both recycling technology and recycling market.

- ***Targets for reuse of whole appliances***

To improve the reuse of whole appliances, CEMR primarily supports the setting of a **target for reuse of EEE to be achieved by a certain date**, but only if specific minimum requirements to **distinguish electrical and electronic equipment from WEEE** are defined beforehand.

CEMR points out that reuse is not a waste treatment but a management option applied to a product not classified as waste, therefore reuse does not concern waste but only end-of-life electrical and electronic equipment. CEMR considers there is a strong need for

guidance for competent authorities on how to distinguish between electrical and electronic equipment and WEEE. This exercise could also help reduce the risk of illegal exports of WEEE, which is seen as a major problem. Such a clarification could be realised in the revised directive or through an interpretative communication.

Provided that the access would be strictly constructed and maintained to ensure the safety and security of collected WEEE and collection sites, giving obligatory access for the reuse sector to collected WEEE to select that equipment that could meet the criteria for being reused, refurbished or repaired could be an option.

2. SCOPE OF THE DIRECTIVE

▪ *Options for clarification of the scope*

A clear definition of the scope of the directive would ensure that it is really effective and consistently implemented across the EU. That is why CEMR favours a clarification by using **a fixed list of products falling outside the scope (negative list)**, regularly updated through the Comitology process with political scrutiny.

The use of a negative list would be more user-friendly for households and easier to understand for local authorities. Criteria may be more appropriate for WEEE from users other than private households (B2B) and allow more flexibility, however CEMR considers using different categorisation methodologies would imply too much complexity. Moreover, a negative list would prevent new WEEE from being excluded from the scope of the directive. Such a solution would be in line with the polluter pays principle and ensure a better implementation of the directive, while establishing greater certainty for all stakeholders.

▪ *Option on the width of the scope*

CEMR has no comment on this point and does not suggest any modification to the width of the scope. It stresses therefore that local authorities would rather see the emphasis be placed on ensuring complete coverage of WEEE wherever possible.

3. THE OPERATION OF THE PRODUCER RESPONSIBILITY PROVISIONS

CEMR points out that producer responsibility is a key waste management principle and a cornerstone of the WEEE directive. One of the main aims of the review should be to improve its implementation. Experience so far has proved that too much flexibility in the interpretation of this principle has led to a varied and fragmented implementation of the directive, as well as a disproportionate administrative and financial burden on local authorities.

To reinforce the producer responsibility principle, CEMR supports the **harmonisation of the implementation of the allocation of financial responsibility, the frequencies and formats of reporting, the registration and the making information available**. The key aim of such a change should be to increase in-store take-back, provide greater and more consistent financial support to local authorities and their collection sites, and ensure stronger and more consistent labelling and communication to consumers.

This harmonisation of requirement should be done **without changing the legal basis**. CEMR is opposed to a double-legal basis for the WEEE directive, as it is a piece of environmental legislation and it should leave Member States free to do more than it defines, as provided for by article 175 of the treaty.

The polluter pays principle can only be efficiently applied if there is a harmonised legislation setting responsibilities. Such a harmonisation would indeed narrow the interpretation possibilities and implementation divergences of the producer responsibility provisions. In this way, relations and responsibilities between producer responsibility organisations and local and regional authorities would be clarified.

In particular, CEMR would very much welcome the clarification of financial responsibility and recalls that the producer financial responsibility encompasses the whole collection chain of the concerned waste products, i.e. when the product is discarded by the consumer and therefore becomes waste, which generally happens at the household. Furthermore, transparency should be guaranteed, including visibility in the calculation of costs of WEEE management and the constitution of reserves by producers responsibility organisations.

CEMR believes that **Eco-design** of electrical and electronic equipment should also be stimulated on a European scale, and producers financed information campaigns organised. It considers also that the existence of one or several producer's compliance schemes could be an issue addressed in the review of the directive.

4. TREATMENT REQUIREMENTS

Specific treatment requirements for WEEE should include **community-wide minimum standards for the treatment of WEEE**. Such common standards would facilitate the competition between producer responsibility organisations at European level and the setting of objectives for recovery, recycling and reuse. They would also ensure that recovery is undertaken efficiently and with the maximum environmental benefit.

CEMR also believes that treatment requirements should include **a definition of "remove"**, in particular to ensure an efficient removal of hazardous substances from WEEE.