



**COUNCIL OF EUROPEAN MUNICIPALITIES AND REGIONS
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CEMR position paper

**on the recast of the proposal for a
directive on waste electrical and
electronic equipment (WEEE)**

COM(2008)810/4

Brussels, November 2009

CEMR draft position paper on the recast of the directive on waste electrical and electronic equipment (WEEE) – COM(2008)810/4

Policy statement

The objective of the WEEE directive is to protect the environment and human health through the prevention of generation of WEEE, its diversion from disposal or incineration, and the promotion of its recycling, re-use and recovery. The current directive adopted in 2002 only partially achieves these objectives, so the European Commission published in 2008 a proposal for a recast of the directive, aiming at overcoming its shortcomings and improving its effectiveness.

CEMR promotes an EU environmental policy which is based on the principle that the polluter should pay. In the case of WEEE, this principle means that the costs of WEEE management should be borne by consumers, through the electrical and electronic equipments' producers, and not by the tax-payers, mainly through local authorities.

The producer responsibility, which is a direct consequence of the polluter-pays principle, is a key waste management principle and a cornerstone of the WEEE directive.

In its position paper, CEMR identifies the full implementation of the producer responsibility principle as the main factor of success of the directive and the necessary basis for cooperation between the producers of electrical and electronic equipment and local and regional authorities.

The principle of producer responsibility implies that producers are responsible for the costs of collection, management and treatment of WEEE, as well as for the information costs and an adapted product design.

Convinced that the proposals of the European Commission are not strong enough to guarantee a consistent implementation of the financial producer responsibility, CEMR outlines the key dimensions of this principle and proposes to reinforce the provisions of the directive accordingly.

CEMR key points on the recast of the WEEE directive

- Local and regional authorities are heavily involved in the planning and daily management of waste. In particular, they contribute, directly or through contractors, to the collection of WEEE. Therefore, they have a key role to play in the implementation of the WEEE directive.
- The current directive on WEEE offers too much room for interpretation regarding the share of obligations and responsibilities, leading to disproportionate administrative and financial burden on local authorities.
- CEMR welcomes the recast of the WEEE directive and its objectives. We endorse most of the changes proposed by the European Commission and believe they would provide more consistency and efficiency in the implementation.
- The success of the directive relies very much on the full implementation of the principle of producer responsibility: the better it operates, the better local authorities will be able to perform their collection role.
- By ensuring full producer responsibility, collection services can be provided free at point of use for householders.
- The producer of electrical and electronic equipment should be responsible for the costs from all parts of the collection chain of the waste product, from the moment that the product is discarded by the user and independently from how the separate collection is organised.
- The choice of the mode of separate collection, at doorstep or at collection facilities, depends on local circumstances and should follow two objectives: achieving the collection targets set up in the directive and ensuring that householders separate their WEEE. It should not be imposed on local authorities and does not affect the implementation of the principle of producer responsibility.
- The principle of producer responsibility should apply on the whole national territory, in densely as well as in sparsely populated areas. If the producer scheme is not able to provide the service, equivalent compensation needs to be awarded to the relevant implementing body, such as local authorities.

General Comments

1. The Council of European Municipalities and Regions (CEMR) is the umbrella organisation gathering 52 national associations representing local and regional government in 38 countries in Europe. CEMR's ad hoc working group on waste has been working in the recent past on the directive 2008/98/EC on waste and the Green paper on the management of bio-waste in the EU. We also took part in the public consultation on the review of the 2002/96/C directive on waste electrical and electronic equipment (WEEE)¹.
2. The objective of the WEEE directive is to protect the environment and human health, through the prevention of generation of waste electrical and electronic equipment and its diversion from disposal or incineration by increasing its recycling, re-use and recovery. The directive is based on the producer responsibility and the "polluter pays" principles, as defined respectively in articles 8 and 14 of the directive 2002/98/EC on waste.
3. Local and regional authorities are heavily involved in the planning and daily management of waste. They have know-how and experience on collecting, sorting, storing and treating household waste. In particular, they contribute, directly or through contractors, to the collection of WEEE at doorstep or in collection facilities. Municipalities are also organising awareness raising campaigns targeted at citizens to prevent waste production and promote recycling, and already put a lot of efforts and resources in the WEEE management. Thus, local and regional authorities are key players in the implementation of the WEEE directive.
4. The transposition of the 2002 directive has led to divergent interpretations across and within EU Member States, significant practical difficulties and uncertainty regarding the share of obligations and responsibilities. The present recast aims at clarifying several provisions, lightening the administrative burden, reducing the negative impacts of WEEE on the environment and improving the effectiveness and the implementation of the directive.
5. CEMR welcomes the review of the WEEE legislation and endorses most of the changes proposed by the European Commission. In particular, we support the clarification of the scope and definitions, the harmonised registration and reporting for producers, the enforcement measures and the ambitious recycling and collection targets. Regarding the latter however, we believe that the 2-year basis for calculating the average weight of electrical and electronic equipment placed on the market may not be adapted considering the various equipments' lifetime. The setting of separate targets for different product categories could be explored to take into account the different life spans of the products, as well as their impact on the environment.
6. It is essential that the revised directive does not provide excessive room for interpretation in order to guarantee compliance across the EU and provide legal certainty for the different actors concerned (producers, local authorities, waste collectors, retailers, recyclers, etc.). In this sense, CEMR believes that the implementation of the principle of producer responsibility, which is one of the main shortcomings of the current directive, is not sufficiently clarified in the proposed recast and we call for stronger provisions on the sharing of responsibilities and financial costs for separate collection of WEEE from households.

¹ The CEMR response to the stakeholders' consultation (June 2008) is available at : http://www.ccre.org/docs/CEMR_response_consultation_WEEE_040608.pdf

7. CEMR fully supports the views expressed in the Vision paper of the WEEE-PIN² on the recast of the WEEE directive and we endorse the position of this Network of local and regional authorities specialized in WEEE issues.

Ensuring an effective and full implementation of the principle of producer financial responsibility

8. As stated in recital 2 of the directive, the Community's environmental policy is based on the principle that the polluter should pay. This means that the costs of WEEE management should be borne by consumers, through the electrical and electronic equipments' producers, and not by the tax-payers, mainly through local authorities.
9. The principle of producer responsibility, which is a direct consequence of this principle, is a key waste management principle and a cornerstone of the WEEE directive. It implies that producers of electrical and electronic equipment are responsible for the costs of collection, management and treatment of WEEE, as well as for the information costs and an adapted product design. The producer responsibility principle provides the basis for good and clear cooperation between the producers and local and regional authorities to achieve the objectives of the directive.
10. The flexibility offered by some provisions and the unclear definition of the obligations and responsibilities in the current directive have led on many occasions to a disproportionate administrative and financial burden on local authorities. Costs that, according to the directive, should be borne by producers end up being borne by local authorities. Indeed, they usually have the statutory obligation for waste collection and have to intervene when the systems set up by producers to take waste back are not properly working. CEMR considers that local and regional authorities should not bear the financial consequences of the WEEE legislation gaps.
11. The current review should ensure a proper implementation of the principle of producer responsibility, and in particular clearly state that the producers are fully responsible for the costs of separate collection of WEEE from households. The success of the directive relies very much on this aspect: the better producer responsibility principle operates, the better local authorities will be able to perform their collection role.
12. By ensuring full producer financial responsibility, collection services can be provided free at point of use for householders which will lead to higher awareness among consumers and higher levels of collection, particularly for small items of WEEE which are easily disposed of in traditional waste bins. This will help producers to meet ambitious targets, and will achieve associated environmental benefits.
13. Nevertheless, we believe that the proposed provisions do not succeed in achieving greater harmonisation of financial responsibility across the Member States. In particular, article 12 opens the door for variation among Member States, since it leaves to their discretion to "encourage producers to finance all the cost occurring for collection facilities for WEEE from private households". It is however doubtful that producers will voluntarily bear these costs.
14. CEMR firmly insists on the fact that the principle of producer financial responsibility encompasses the whole collection chain of the concerned waste products, i.e. when the

² The WEEE Public Interest Network was created within the Association of Cities and Regions for Recycling and Sustainable Resource management (ACR+) and represents local and regional authorities on WEEE issues at European level. The WEEE-PIN vision paper is available at <http://www.acrplus.org/> and the key points are available in the annex 2.

product is discarded by the consumer and therefore becomes waste, which generally happens at the household.

15. The principle of producer responsibility should be ensured independently of the mode of separate collection. The choice of collecting WEEE in collection facilities or at doorstep depends on local circumstances and local authorities are the best placed to identify the most appropriate solution in their area. This choice should be driven by two concerns: to achieve the collection targets and ensure that the householders separate their WEEE.
16. Furthermore, the compliance scheme should cover the collection of WEEE across the whole national territory, including rural or remote areas. If the scheme is not able to provide the service, equivalent compensation needs to be awarded to the relevant implementing body, such as local authorities.
17. CEMR proposes to amend recital 19 and article 12 of the draft directive of the European Commission, in order to set clear lines of responsibility and guarantee the consistency of the implementation of the producer responsibility principle and its reinforcement. Please find in annex 1 our proposals for amendments.

Annex 1: proposals for amendments to recital 19 and article 12 (principle of producer responsibility)

Commission proposal

Amendments

Amendment 1

Recital 19

Users of electrical and electronic equipment from private households should have the possibility of returning WEEE at least free of charge. Producers should ~~therefore~~ finance ~~at least the~~ collection from collection facilities, and the treatment, recovery and disposal of WEEE. ~~Member States should encourage producers to take full ownership of the WEEE collection in particular by financing the collection of WEEE throughout the whole waste chain, including from private households, in order to avoid leakage of separately collected WEEE to sub-optimal treatment and illegal exports, to create a level playing field by harmonising producer financing across the EU, to shift payment for the collection of this waste from general tax payers to the consumers of EEEs in line with the polluter pays principle.~~ ~~In order to give maximum effect to the concept of producer responsibility, each producer should be responsible for financing the management of the waste from his own products. The producer should be able to choose to fulfil this obligation either individually or by joining a collective scheme. Each producer should, when placing a product on the market, provide a financial guarantee to prevent costs for the management of WEEE from orphan products from falling on society or the remaining producers. The responsibility for the financing of the management of historical waste should be shared by all existing producers in collective financing schemes to which all producers, existing on the market when the costs occur, contribute proportionately. Collective financing schemes should not have the effect of excluding niche and low-volume producers, importers and new entrants.~~ ~~For a transitional period producers should be allowed to show~~

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~~purchasers, on a voluntary basis at the time of sale of new products, the costs of collecting, treating and disposing in an environmentally sound way of historical waste. Producers making use of this provision should ensure that the costs mentioned do not exceed the actual costs incurred.~~

schemes to which all producers, existing on the market when the costs occur, contribute proportionately. Collective financing schemes should not have the effect of excluding niche and low-volume producers, importers and new entrants. ~~For a transitional period producers should be allowed to show purchasers, on a voluntary basis at the time of sale of new products, the costs of collecting, treating and disposing in an environmentally sound way of historical waste. Producers making use of this provision should ensure that the costs mentioned do not exceed the actual costs incurred.~~

Justification

The producers' financial responsibility should start from the moment the consumer discards the electronic product, which generally happens at the household. The directive should avoid allowing variation in the implementation of the producer responsibility, for the reasons presented in this recital and the optimum management of WEEE.

Commission proposal

Amendment

Amendment 2

Article 12, paragraph 1

Financing in respect of WEEE from private households

1. Member States shall ensure that, ~~by 13 August 2005,~~ producers provide for the financing of the collection, treatment, recovery and environmentally sound disposal of WEEE from private households deposited at collection facilities set up under Article 5(2). Member States, where appropriate, shall encourage producers to finance all the cost occurring for collection facilities for WEEE from private households.

Financing in respect of WEEE from private households

1. Member States shall ensure that, ~~by 13 August 2005,~~ producers provide at least for the financing of the collection, treatment, recovery and environmentally sound disposal of WEEE from private households ~~deposited at collection facilities set up under Article 5(2). Member States, where appropriate, shall encourage producers to finance all the cost occurring for collection facilities for WEEE from private households.~~

Justification

The amendment makes clear that the responsibility of producers starts from the collection of the electrical waste generated at the end of the use of the products. The extension of producer responsibility to costs of separate collection from households should be mandatory to ensure greater harmonisation of financial responsibility and create a level playing field in the EU.

Annex 2: Summary of the WEEE-PIN's views on the recast of the WEEE directive

The WEEE Public Interest Network was created within the Association of Cities and Regions for Recycling and Sustainable Resource management (ACR+) and represents local and regional authorities on WEEE issues at European level. The WEEE-PIN Vision paper is available at <http://www.acrplus.org/>.

The WEEE Directive has in 2003 endorsed producer responsibility for WEEE. The goals of producer responsibility are to:

- stimulate eco-design.
- enhance reuse and recycling.
- include environmental costs in the product price.

WEEE-PIN believes that achieving these goals are a necessity in setting further steps on the road to a recycling society. The current WEEE Directive did however only partially deliver on these goals. The recast of the WEEE Directive is an opportunity to set things straight and to make sure the Directive delivers on all goals.

Local and regional authorities therefore strongly urge upon the following:

- Incorporate rules in the Directive on (visible) fees and financing in order to:
 - **relate fees to** product **reusability** or **recyclability** which contributes to eco-design.
 - make the **financing** schemes of producer organizations completely **transparent** and accountable in order to improve acceptance by the public and to prevent misuse.
 - make producers responsible for **all WEEE management costs** from the moment EEE becomes WEEE, so that the tax payer is no longer co-financing the producers responsibility.
- Set a **separate target** in the Directive for **reuse**, in order to prevent reuse to be neglected by compliance schemes.
- Make sure the improved **collection rates** apply to at least each product category individually, to prevent a focus on the collection of only heavy equipment.
- To tackle illegal trade:
 - **Improve monitoring and reporting** of WEEE to increase traceability.
 - **Enforce** existing rules on trade of second hand EEE.