

WEEE STAKEHOLDER EVENT 9 JULY 2008

Summary of UK WEEE System Workshop WAB Facilitators: - Jonathan Gorman & Julie-ann Adams

Ranked according to Red/Yellow/Green dots applied by workshop attendees (red=critical issue, yellow=causing uncertainty, green=can progress with, not critical but an issue)

Issue 1: Data and enforcement (Red: 52, Yellow:13, Green: 16)

Concerns

- Access to WEEE - over/under allocation of WEEE, causing disruption/distortion of the WEEE market, loss of confidence in workability of current system going forward and financial difficulties for the WEEE supply chain (e.g. AATF's/hauliers etc)- potential for system collapse
- Leakage of WEEE from the system leading to under reporting of actual WEEE collected
 - Theft/damage from DCF's/Retailers
 - DCF Code of Practice not being followed/understood
 - Returned end-of-life electrical products not being defined as waste/WEEE
 - WEEE brought to DCF not entering WEEE system.
 - Unauthorised/illegal/inadequately regulated export of WEEE leading to dumping in other countries
 - Hazardous WEEE is a priority if it is leaking from the system
 - Who is responsible for enforcing the DCF/PCS Code of practice?
- Accuracy and consistency of data reporting between AATF's/ATF's/AE's/PCS's and EA
 - Potential for fraud
- Competency of Settlement Centre – much improved but need:
 - Greater understanding of WEEE system/terminology
 - Separation of 'non-household' from 'household'
- Quarterly reporting requirements for PCS's unnecessary and of little value as data can fluctuate widely (however, does provide some value for larger producers to be able to track compliance costs)
- B2B has largely been ignored to date
 - B2B/'end-user', lack of data capture, lack of duty of care likely to be taking place, no transparency at AATF's (not identifiable in data on 'non-relative WEEE')
- Ineffective enforcement of all the areas above

Recommendations

- Address leakage issues:
 - Regulation of export including by AE's

- Enforce/strengthen DCF/PCS code of practice – understand/allocate enforcement accountability/share best practice amongst DCF's
- Enforce over/under allocation of WEEE urgently, ensure rules are clear. Should the WEEE system be changed e.g.
 - To provide fairer access to WEEE (review allocation system)
 - Move to fully tradable 'WEEE Recovery Note' system (similar to packaging PRN) where the evidence of recycling is not owned by the PCS?
- Reporting by PCS's should be moved to an annual basis rather than quarterly

Issue 2: Evidence & quality of treatment/recycling of WEEE

(Red: 19, Yellow: 7, Green: 5)

Concern

- Stage 1/Stage 2 evidence production system
 - Overly complex
 - Mis-match between the time taken to complete WEEE recycling and the requirement for evidence to be issued. Leading to delays in ability of AATF's to issue evidence and delays in payment by PCS's to AATF's
- Inconsistent quality standards being applied to WEEE recycling, not a 'level playing field'
 - Some AATF's issuing evidence for recycling which is below the EU targets but are currently legally able to trade these
 - Concerns that AE's are not ensuring broadly equivalent standards of recycling for WEEE sent out side UK
- B2B activities not captured – capture at AATF level in 'non-relative' WEEE?

Recommendations

- Stage 1/2 evidence system needs simplifying - need a less complex evidence system which delivers what is needed not what the law currently requires (not the same thing)
- AATF's to achieve EU targets for recycling at all times – apply and enforce protocols on recycling quality.

Issue 3: Communication

(Red: 6, Yellow: 2, Green: 5)

Concerns

- Poor levels of WEEE awareness amongst members of the public – particularly for 'small WEEE'
- Poor levels of WEEE awareness for business still particularly small and medium sized enterprises

- Awareness raising campaign (due July) has been delayed

Recommendations

- Consistent national communication programme led by Government supported by schemes, retailers and producers, including a WEEE awareness week but on-going
 - Tell the story of what happens to WEEE
 - Sufficient lead in time required for retailers to prepare
 - Need to be clear what it is we're telling members of the public to do and co-ordinate with other recycling messages to ensure a 'joined up approach'
- Separate targets for 'small WEEE'?

Issue 4: Scope

(Red: 2, Yellow: 14, Green: 6)

Concerns:

- Which products/equipment fall within scope of WEEE – B2B & B2C
 - Lighting and 'primary function' raised as particular concerns
 - Lack of co-ordination/sharing and consistency of advice given
- Which WEEE products fall within each WEEE category
 - Definition of what falls into Category 5 a particular issue

Recommendations:

- More helpful guidance on scope
- Greater education and publicity
- Central point at which advice on scope can be accessed
- 5 streams not 13

Other issues:

- i. LA involvement
 - a. Inconsistency in approach and success of implementation, need to share best practice where high recycling rates being achieved
 - b. Will need to increase participation of LA's if we are to achieve the Minister's suggested 10kg target.

- ii. No synergy of UK system and that operating in other Member States

(Red: 0, Yellow: 2, Green: 2)

- a. UK is at odds with other Member States
- b. Should adopt system closer to EU to be able to share best practice and for the sake of pan-European producers
- c. Advantages in harmonisation of registration/enforcement and treatment standards

- iii. Producer Identification Marks

- a. Inconsistency in how this requirement is being implemented across producers – barrier to trade as some producers are spending time/money on this and others are not.
- b. This legal requirement not allocated to any enforcement authority
- c. Why is this required? – for B2B returns?/potentially for IPR in the future?

iv. Reaching a 10kg collection rate:

(Red: 0, Yellow: 2, Green: 8)

- a. Arguable that UK has not achieved a great deal in Year One in terms of collection beyond what already existed, e.g. as a result of either pre-existing legislative requirements (CRT's/lighting - hazardous waste) or market incentives (i.e. large household items - value of scrap metal)
- b. No incentives within the WEEE system for producers to collect more WEEE
- c. Should targets be linked to the % of WEEE placed on the market?

v. Re-use

- a. Lack of incentives to re-use currently in the system
- b. No incentives/awareness of design for re-use by manufacturer
- c. Need greater understanding of the relative environmental benefits of re-use vs. recycling

Summary from of IPR Workshops **WAB Facilitators: - Leigh Holloway & Mark Dempsey (HP)**

During the WEEE Stakeholder event at the BERR Conference Centre on the 9th July 2008, three breakout sessions were held to discuss the issues of Individual Producer Responsibility.

The following is a summary of the points raised at these sessions:

All delegates agreed with the concept of IPR. Most of the issues raised were related to its implementation.

The implementation of IPR relies on the ability to identify producers and their products. This could be difficult to do in practice. The costs of manual sorting would be prohibitive.

- Identifying individual products within the waste stream (especially smaller items) could be very difficult unless some form of electronic tagging system is used.
- Imported products or grey import products could be impossible to differentiate from official imports as they may not carry an importers mark
- Who would take responsibility for 'orphaned' products?

Due to some of the product identification issues IPR may be easier to implement for some product categories rather than others.

- Larger goods (such as TVs and white goods) may be easier to identify and therefore it could be easier to Implement IPR for these product types.
- Identification of smaller goods may have to work on a sampling protocol to determine the amount of each producer's products within the WEEE stream.

Due to the difference in product categories and the opportunity to implement IPR more easily in some rather than others a staged approach to IPR might be appropriate. This would allow the concept of IPR to be 'trialled' in the larger goods categories and the experience gained could be used to help implement IPR in other categories at a later date.

Whichever way IPR develops the possible administrative burden could be issue. It was felt that if IPR could be worked into the current reporting and allocation system that this would be better than developing something from scratch.

The current WEEE system varies across different European states and there is a chance that it will be the same when IPR is implemented. This was a concern to some.

The idea of offering incentives to encourage IPR was also raised. If the principle behind IPR is to encourage better designed products that are

easier to disassemble and recycle then there may be scope for systems such as:

- Product standards
- Product labelling

Labelling may also become a differentiator for consumers when purchasing products

This labelling and assessment may possibly be used to help implement IPR by charging recovery and recycling costs based on the rating of the product.

Summary from of Reuse Workshops

WAB Facilitators: - Terry Maguire & Gary Griffiths

The issues noted below were raised in a series of stakeholder workshops organised by the WEEE Advisory Body on 9th July 2008 held at the BERR Conference centre at 1 Victoria Street, London. Several issues were repeated by different workshops – these have been composited into the summarised issues below. Each attendee voted for their 3 most significant issues for the attention of the WEEE Advisory Board.

PRIORITY ISSUES AS VOTED BY STAKEHOLDER CONSENSUS

1. **Standard** needed for processors of items for reuse to include test for safety, functionality & data eradication with certificated Reuse processors independently verified by UKAS accredited certification bodies (e.g. BSI, Lloyds, SGS etc.) and able to issue badge on products successfully refurbished for reuse. Items not subjected to this test if exported should not be exported for reuse but rather classified as waste, so ending ‘sham’ reuse export & dumping of WEEE overseas.
2. **Code of Practice for DCFs** to be reviewed to encourage handling, storing and transfer of returned EEE / WEEE in such a way as not to cause damage that would prevent reuse (e.g. dragging TVs along the ground by a power cable, throwing items into containers, containers open to the elements) - include “best practice” DCFs as examples to others (e.g. some have “items for reuse” set aside containers linked to local third sector reuse organisations).
3. **End leakage** where items “leak” out of the system by theft or misappropriation by unlicensed operators for unsafe reuse resale or illegal export to developing countries under a ‘sham’ reuse classification. Plus this would mean equipment being diverted to bona fide permitted UK recyclers who have invested in recycling plant but are seeing less than expected material for recycling.

Other Stakeholder Issues

4. Early intervention for items returned to a DCF - ‘triage’ approach to assess for reuse or recycling / disposal.
5. EU Waste Hierarchy sees reuse as being of greater importance than recycling and disposal
6. Manufacturers may fear reuse product conflicting with sales of new product, plus concerns on branding investment and product safety being undermined by poor reuse plus impact upon warranty provision
7. Manufacturers attempts to deny EU consumers access to reusable EEE to protect prices could be anti-competitive
8. B2B WEEE/EEE sees much reuse by commercial organisations whereas B2C sees third sector seeking to supply reused equipment to low income families as social benefit
9. Reuse both in B2B & B2C focused on office equipment IT, telecom & large white goods.
10. Reuse has to apply to materials and components and not just whole appliances.
11. Reuse needs to be tracked to avoid ‘double counting’ in system between

DCFs & ATFs

12. Reuse of lighting in buildings - is it fixed installations and exempt?
13. WEEE PCS need to enact the Operational Plans with DCFs to divert reusable WEEE / EEE to third sector reuse.
14. Local Authorities need to input to WEEE Advisory Board.
15. Reuse of non-waste must be linked to WEEE reuse to avoid double counting / leakage.
16. What about end-of-life recycling of items exported for reuse to developing countries?
17. Reuse of items is more resource efficient than using new - lower carbon footprint
18. Reuse is cheaper for WEEE PCS than recycling
19. Reuse offers affordable access to technology for low income families & developing countries
20. Why not have a 'bonus' evidence note for items reused compared to recycling?
21. Distributors should consider a 'trade-in' bonus for return of reusable items.
22. Include B2B reuse data in UK WEEE systems.
23. Double counting concern of items reused being returned to WEEE system.
24. Establish relative values of recycling products versus reuse of products.
25. Component removal needs concern (e.g. to avoid component damage such as ESD)
26. DCFs often direct PCS to use a favoured reuse partner with no visible selection criteria.

Summary from of B2B Workshops

WAB Facilitators: - John Morrell & Peter Calliafas

There were 3 key areas identified from common themes. In no particular order:-

Communication

- Scope and definition. More about scope.
- Raise knowledge, awareness and responsibilities.

Data and Evidence

- Total for B2B arisings?
- Data for B2B collection and treatment. Non-obligated at the moment so there is no requirement to report.
- Value of EEE data currently reported? Continued requirement for quarterly sales returns as there are no collection targets? Consider annual returns?
- What evidence system for B2B if targets introduced?

Enforcement

- Non-registered producers.
- Non PCS aligned producers.
- High profile prosecution leading to a 'name and shame'.
- If equipment leased, end user is not the owner. Clarification required.
- Illegal exports arising from B2B end users.
- B2B driven by commercial considerations given value received.

Other

- Duty of care consultation. Segregate WEEE and direct to ATF. Need for PIMS registration on headed notepaper. Link into awareness and enforcement. No compulsion on end user to deal with WEEE properly. Ends up in 'mixed waste'? Duty of care considered most important.
- Need for a B2B 'recycling and recovery' target for measurement of performance.
- EU Directive does not allow for a de minimus. Possible free registration and review annually.
- Ability to register by PIM and identify obligated producer by their PIMS number. Clarification on how to deregister a PIMS number.
- Data security.

Summary from of EC Review Workshop
WAB Facilitators: - John Holbrow & Debra Huntington (BERR)

The topics set out below were identified at the EU Review Workshop for further consideration by the WAB. The groups agreed these topics and each group raised several similar items. It was noted that the WAB submitted a response to the EU consultation but it was made clear that this was not the UK government official position. An opportunity will occur later for the WAB to input the discussions leading to the UK official position.

HARMONISATION

- Reporting Requirements
- Scope including exemptions
- Definitions
- Markings

CHANGE IN LEGAL BASIS

- Split as battery directive or article 95
- Consider changing number and make up of categories

TARGET FOR B2B or RE USE

- Not considered practical to set a target

De Minimis

- Agreed in principle but detailed system to be proposed

Summary from of Local authorities, PCS & Recyclers Workshop **WAB Facilitators: - Phil Morton & Mark Shelton**

The points numbered 1 - 5 below are all the issues captured during the 4 sessions held throughout the day. They are in order of priority. It was agreed that all points would be captured rather than just the top 3.

Workshop PCS's / LA's

1. Imbalance in collection needs addressing and solving urgently
 - Non-stat. guidance to LA's to check if PCS's bidding to collect from DCF's have met their obligation or not.
 - PCS's that have met their obligation not allowed to bid further
 - Needs to be a method of bringing parties together to agree costs
 - Operational plans of PCS's to be enforced by EA/SEPA/BERR
 - Enforcement under Schedule 7 must happen with immediate effect
 - AMDEA not willing to pay "high prices" for "speculators" working the system
 - What measures will be put in place to stop people over collecting
 - Access to WEEE is prevented by incumbent waste management companies

2. Code of Practice / "Leakage"
 - Code of Practice not always adhered to. Who should be enforcing?
 - Can the code be made into a legal requirement? It needs to have teeth and needs to be clear
 - LA's and DCF's need to agree which re-use organisation gains access to WEEE from DCF's
 - Due to price of scrap dismantling of WEEE to recover Cu and Al at DCF (not allowed under the Code)
 - Security (price of scrap); WEEE stolen from DCF's and even outside peoples houses when white goods left for Council bulky collections
 - Data security; public don't trust DCF's to remove data from pc's (drop in collection?)
 - WEEE going to non-PCS's. What are these organisations offering that PCS's are not?
 - Reuse rates are down since WEEE regulations came in. May be more due to price of scrap - Cu wire removed from WEEE so it cannot be reused.
 - More white goods put on the market than are collected for reuse and recycling through PCS's - assuming most homes don't keep a 2nd washing machine etc - where is the rest of the scrap white goods going?
 - Audit of DCF's

- White goods evidence should be at "nil" value regardless of who processes it.

3. Awareness

- Needs to be an awareness campaign for public, businesses and retailers
- Needs to have a "WEEE Week" to kick start awareness campaign and then a constant "drip - drip" release of information
- Above needs to be co-ordinated nationally by BERR and needs to include all stakeholders
- LA's and PCS's need to work together to ensure DCF's have good signage, are "welcoming" to recyclers
- Level of awareness amongst public seems low; seems very low amongst small retailers
- Retailers appear to be abiding by the letter of the law; need to be in the spirit of the law and their awareness needs to be broader.

4. Simplification and Standardisation of Reporting

- Above needed throughout WEEE chain
- Reporting 5 categories instead of 13 would be a great help in B2B and B2C reporting
- Reporting 5 categories would cut costs - some companies take legal opinion on what category a new product goes in.
- Could be some problems with B2B collections where single streams are collected
- There is some extra value in collecting certain single streams
- Sales are reported in 13 categories
- Data reported by and to AATF's, PCS's, EA, BERR needs to be standardised. Reporting appears slightly different which adds confusion
- Quarterly reporting onerous; 6 monthly or annual report preferred, would reduce costs and administrative burden.

5. Others

- Introduce a de minimus for small businesses or a one off small charge for compliance for retailers and producers
- Can FSB or other small business organisation have one "block" registration and collate all member data?
- Possible arbitration for agreeing evidence costs.

Summary from of compliance/enforcement Workshop
WAB Facilitators: - Bob Meade (EA) & Brian Perrett (VCA)

Key messages: The three key messages from the four workshops were;

1. Vigorous enforcement of Schedule 7 is essential
2. We need to drive higher standards of recovery at Approved Authorised Treatment Facilities
3. Ensuring compliance with the Code of Practice for collection of WEEE from Designated Collection Facilities is important

Issues not directly relevant to enforcement

Participants raised awareness as an “issue” in most of the sessions but we did not feel that it was one which we should devote time to. They felt that householders, business end-users and (small) retailers were all less aware than they should be and believe that the delayed awareness campaign is essential to improve this situation (they believe that it will have an effect in all quarters, even if aimed primarily at householders (businesses are householders too)).

Some also felt that importers and B2B producers were unaware of their obligations.

Another issue was performance of the B2B system, which is not felt to work properly.

Detailed feedback

Compliance/Enforcement was felt to fall into six categories:

- Producer Compliance Schemes
- Producers
- Distributors
- Approved Authorised Treatment Facilities
- Designated Collection Facilities
- Agencies (ie how BERR regulate what the Agencies do)

Subsequent discussions covered all the above except the Agencies (no group had time to deal with this).

Producer Compliance Schemes

The key issue identified by all groups was robust enforcement of the Schedule 7 requirements, particularly where the imbalance between obligation and collection arrangements is large (some expressed a need for tolerance where the imbalances are small and vary between categories)

Some pointed out that lessons had been learnt in developing the Batteries Regulations (particularly the two-stage approval process for schemes) and that these should also be reflected in any review of the WEEE Regulations.

Some felt that there should be an explicit requirement for schemes to cooperate with each other (there are some oblique references to it in the current regulations), while others felt that holding too much evidence should be as much of a breach of the regulations as holding too little. Some also felt that there would be merit in requiring schemes to demonstrate compliance quarterly (or even monthly) rather than only at the end of the year (although it was accepted that data issues would have to be fixed first).

Finally, some felt that Operational Plans do not address re-use adequately (operators are required to “prioritise” re-use and Operational Plans are supposed to include details of how this will be done).

Producers

Some believe that a significant number of producers (perhaps 40%) are aware of their obligations but have made a deliberate decision not to join a compliance scheme/register until there is a real risk of enforcement action. Robust enforcement is therefore seen as important and one suggestion was that PCSs are aware of and could provide information on free-riders. However, most accept that the producers of the vast majority of household EEE (by weight) are registered.

Some felt data and scope to be a (related) problem. They believe there is confusion between categories 3 (IT and Telecoms Equipment) and 11 (Display Equipment) and between categories 1 (Large Household Appliances) and 12 (Cooling Appliances containing refrigerants) (NB Other feedback suggests that there is also confusion between category 4 (Consumer Equipment) and category 11). Lack of clarity about what should be in each category (eg is an LCD computer monitor “display equipment” and is an air conditioning unit a “cooling appliance”?) could be causing inaccurate data.

Some expressed concern about the quality (and speed) of the answers they were getting on scope.

There was a view that properly registered producers are pleased to have compliance visits as it provides comfort that someone is regulating the system.

Some schemes complained of difficulties in getting data from their members. They suggest that up to 20% may be a problem and are concerned that schemes do not have power to take action against offenders (eg cannot expel them). Suggested options included having a clear mechanism for schemes to report offenders to the environment agencies and provision of a template enforcement letter which schemes could use to warn offenders of the risk of action.

Distributors

Some believe that robust enforcement against non-compliant distributors (with associated publicity) would be one way of raising awareness effectively (as noted above, lack of awareness is still felt to be a problem, particularly among small retailers).

Some believe that having a single issue regulator for this aspect is beneficial, although some doubt whether it is appropriate for VCA to enforce use of the crossed-out wheeled bin symbol (they think it is a producer, rather than a distributor, issue).

Some want to see regular publication of headline statistics.

Some raised concern about the system for returning taken-back WEEE to the PCS collection network and, in particular, Duty of Care issues.

AATFs

There was a lot of concern about treatment standards at AATFs. The regulations are not thought to drive high levels of recovery and the Best Available Treatment Recycling and Recovery Technique (BATRRT) guidance is seen as too loose.

Leaving achievement of minimum recycling and recovery to compliance schemes was not thought by many to be effective. It is not possible to see recovery rates on evidence notes in the Settlement Centre before they are traded, so there is little/no prospect of notes with high rates of recovery attracting higher prices, which would be one way of driving improvements.

Some felt that there were too many approved facilities and that not all of them were really treating waste (ie too many simply acting as brokers). One widely supported suggestion was that only those meeting minimum treatment standards should be “approved” in future.

Some also questioned the audit process, suggesting that financial auditors were unlikely to be able to do a good job, as an understanding of the processes involved is felt to be essential. This may account for another assertion; that evidence has been over-issued.

DCFs

There was considerable uncertainty about responsibility for enforcing the Code of Practice for collection of WEEE from Designated Collection Facilities (CoP). Many felt that some sites did not comply but while all understood that the environment agencies are responsible for ensuring that PCSs meet their obligations they were much less sure about who ensures that DCF operators meet theirs (during the final Q&A Session/Summary of the day it was confirmed that the Secretary of State exercises this power through the threat of removal from the list of DCFs if the CoP is breached).

The main concern is “leakage” from sites; particularly of large household appliances, including those potentially suitable for re-use. Potential solutions include a review of the CoP with a view to simplifying it and focusing on key (enforceable) issues coupled with a proactive monitoring programme (linked to existing monitoring of sites under the Environmental Permitting Regulations?)

Other suggestions included regular analysis of WEEE arisings by DCF and the sharing of this information with local authorities (possibly using league tables). Regular sharing of best practice among PCSs was also suggested.