

BERR

Department for Business
Enterprise & Regulatory Reform

**Government consultation on
European Commission
proposals to recast the EC
Directives on Waste Electrical
and Electronic Equipment
(WEEE) and on the Restriction
of the use of certain
Hazardous Substances in
electrical and electronic
equipment (RoHS)**

April 2009

URN 09/887

Consultation Paper

The proposed recasts of the EC Directives on Waste Electrical and Electronic Equipment (WEEE) and on the Restriction of the use of certain Hazardous Substances in electrical and electronic equipment (RoHS)

This consultation paper invites views on the European Commission's proposals to amend both the Waste Electrical and Electronic Equipment (WEEE) and the Restriction of the use of certain Hazardous Substances in electrical and electronic equipment (RoHS) Directives.

Your views will be used to help inform the development of the UK Government's negotiating position in advance of discussions with the EC and other Member States in the Council later this year.

Issued 7 April 2009

Respond by 13 May 2009

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This consultation is relevant to: *primarily businesses and trade associations in the electronics and ICT sector, the end users of electrical and electronic equipment, the distributors and importers of electrical and electronic equipment, the waste management sector, Local Authorities and Non Governmental Organisations (NGOs) but also any other interested parties.*

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INTRODUCTION

This consultation paper is being issued by the Department for Business, Enterprise and Regulatory Reform (BERR), jointly with Government Departments and colleagues in the Scottish Executive, the National Assembly for Wales and the Northern Ireland Executive.

The consultation paper requests information and comments from businesses and trade associations in the electrical, electronics and ICT sector, end users of electrical and electronic equipment, the waste management sector, Local Authorities, Non Governmental Organisations (NGOs) and any other parties or stakeholders with an interest in the European Commission's proposed recasts of the Directives on Waste Electrical and Electronic Equipment (WEEE) and on the Restriction of the Use of Certain Hazardous Substances in Electrical and Electronic Equipment (RoHS).

The consultation paper outlines the background to the proposals that were published by the European Commission on 3 December 2008. It invites comments on the likely impact of the proposals on the UK, to enable the Government to take an informed view during the forthcoming negotiations on the Directives. The paper raises a number of specific issues on which we would particularly welcome information and views. These are included at the appropriate points in Parts I and II of this document and reproduced in Annex I. However, we would also be happy to receive other comments on any issues raised by the publication of the proposals. Respondents need only address those specific issues that are of particular interest to them.

Written comments on the issues raised in this consultation paper should be sent by Wednesday 13 May 2009 to:

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The full texts of the European Commission's proposals and copies of the Impact Assessments can be downloaded from the Europa website at http://ec.europa.eu/environment/waste/weee/index_en.htm

An electronic version of this consultation paper may also be downloaded from the BERR website at www.berr.gov.uk/consultations/open-consultations/index.html.

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In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your system will not, in itself, be regarded as binding on the Department.

The Department will process your personal data in accordance with the DPA and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

BERR will copy all responses it receives to the Devolved Administrations and other Whitehall Departments as appropriate.

If you have comments or complaints about the way this consultation has been conducted, these should be sent to:

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BACKGROUND

1. The Waste Electrical and Electronic Equipment Directive (2002/96/EC) and the Restriction of the use of certain Hazardous Substances in electrical and electronic equipment Directive (2002/95/EC) were both adopted by the European Union in January 2003 and published in the Official Journal on 13 February that year.
2. The WEEE Directive aims to minimise the impact on the environment of electrical and electronic equipment by encouraging its reuse, recycling and recovery when it is discarded at end of life. The UK Waste Electrical and Electronic Equipment Regulations 2006, (SI 2006 No. 3289, as amended), came into force on 2 January 2007.
3. The RoHS Directive primarily aims to ensure that Member States apply common restrictions on the levels of six hazardous substances that may be present in a similarly wide range of equipment, but it also has the aim of minimising the end of life environmental impact of that equipment. The UK Restriction of the Use of Certain Hazardous Substances in Electrical and Electronic Equipment Regulations 2006, (SI 2006 No. 1463, subsequently replaced by SI 2008 No. 37) came into force on 1 July 2006.
4. The European Commission's proposals for these recasts arise from obligations within the texts of the original WEEE and RoHS Directives.

Main Issues

5. Article 17.5 of the WEEE Directive stated that the EC should submit a report to both the European Parliament and the Council within five years of the date that the Directive came into force with an assessment of its application across the EU regarding separate collection, treatment, recovery and financing systems. It also said that the report should, as appropriate, be accompanied by proposals for the revision of the relevant provisions of the Directive.
6. Furthermore, Article 5.5 of the original WEEE Directive said that the European Parliament and the Council, acting on a proposal from the Commission, shall establish a new mandatory collection target for Member States and this target may take the form of a percentage of the quantities of electrical and electronic equipment sold to private households in the preceding years.
7. Finally, Article 7.4 of the original WEEE Directive said that the European Parliament and the Council, again 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.

8. Article 6 of the original RoHS Directive (Directive 2002/95/EC) stated that the Commission should review the measures it had put into place to take account of any relevant new scientific evidence. In particular, it called on the Commission to present proposals to the European Parliament and the Council for the inclusion of both remaining categories in the WEEE Directive that were not within its original scope – categories 8 (medical devices) and 9 (monitoring and control instruments) – and the adaptation of the list of restricted substances.

Previous Steps

9. In order to help formulate its proposals, the Commission asked technical consultants to prepare studies on the impact of both Directives and undertook separate rounds of formal consultation with stakeholders at the EU level.

10. Copies of the studies can be downloaded from the Commission's website at http://ec.europa.eu/environment/waste/weee/index_en.htm, whilst the results of the consultations can be found at http://ec.europa.eu/environment/waste/weee/events_weee_en.htm.

11. This work led to the publication of the texts of the recast proposals on 3 December last year.

Next Steps

12. Negotiations will begin and take place in both the Council and the European Parliament in 2009. The outcome of this consultation will help inform the UK's negotiating position. The new Directives (when agreed) are likely to take effect from the beginning of 2012.

13. A formal UK consultation exercise will take place on both the proposed new Regulations and revised guidance, when transposing the new Directives into UK legislation. Guidelines will be published within 12 weeks of implementation. Please note, however, that this process is subject both to the date at which the negotiating process is concluded and the timetable for transposing the agreed final texts into national legislation.

PART I

THE PROPOSED RECAST OF THE EC DIRECTIVE ON WASTE ELECTRICAL AND ELECTRONIC EQUIPMENT (WEEE)

Introduction

1. Article 17.5 of the original WEEE Directive placed an obligation on the European Commission to prepare a report assessing the application of the Directive's requirements across the EU regarding separate collection, treatment, recovery and financing systems. It also said that the report should, as appropriate, be accompanied by proposals for the revision of the relevant provisions.
2. During 2008 the Commission asked consultants to undertake a number of research projects into the implementation of the WEEE Directive across Member States.
3. The results of those studies can be downloaded from the EC's Europa website at http://ec.europa.eu/environment/waste/weee/studies_weee_en.htm. In addition, the Commission formally asked interested stakeholders for their opinions and comments. The results of that exercise can be found at http://ec.europa.eu/environment/waste/weee/events_weee_en.htm
4. On 3 December last year, the Commission published its proposals for a recast WEEE Directive, which can be downloaded from http://ec.europa.eu/environment/waste/weee/index_en.htm.
5. The Commission's objectives for the review of the current Directive are:
 - to reduce administrative costs without lowering the level of environmental protection;
 - to increase the levels of compliance and to reduce free-riding; and
 - to reduce the impact on the environment from the collection, treatment and recovery of WEEE at the level where the greatest net social benefit is gained.

Aims of the WEEE Directive

6. The aim of the recast Directive is unchanged from the aims of the original Directive. That is:
 - to reduce the overall levels of waste electrical and electronic equipment (WEEE) arising as unsorted municipal waste and to promote the reuse, recycling and other forms of recovery and increase the overall standards of treatment and reprocessing;

- to improve the environmental performance of all operators involved in the life cycle of electrical and electronic equipment (that is the producers, distributors, consumers and the waste treatment sector); and
- to ensure that producers take financial responsibility for the collection, treatment and reprocessing of all separately collected WEEE arising from both household and non-household sources.

The Proposals

7. The main features of the Commission proposal together with issues that we feel need to be addressed in this consultation exercise are listed below. Although we have highlighted these issues in order to assist you in responding, you are free to offer comment on any other areas of the recast.

Article 2: Scope

8. The Commission has proposed that the minimum scope of the WEEE Directive, (currently outlined in Annex 1A of the WEEE Directive), should now be found in Annex I of the recast RoHS Directive and cross referenced in Article 2 of the recast WEEE Directive. The rationale for this move is to ensure that the 'minimum' harmonised scope of both Directives has a legal base of Article 95 of the EC Treaty, thereby protecting the Single Market nature of the requirements to be applied by the recast RoHS Directive. Member States would, of course, still be permitted to extend this minimum scope for the implementation of the WEEE Directive in their domestic legislation should they choose to do so.

Issues to be addressed

Q1. Should the scope of the WEEE Directive remain directly linked to the scope of the RoHS Directive?

Q2. Should the UK maintain its policy of transposing only the minimum scope requirements for its WEEE Regulations or should it be more prescriptive?

Article 7: Increases in the Member State Separate Collection Target

9. The Commission are proposing a fundamental change in setting the target for separately collected WEEE. The current target is calculated on a basis of kilograms per head of population and was established in the original Directive as a minimum of 4kgs.

10. The Commission has proposed that a combined target for household and non-household WEEE collection should be calculated as a percentage of the average weight of all relevant EEE placed on the market in the two previous years in each Member State. If an average weight of 100 tonnes of EEE had been placed on the market in any particular Member State during 2009 and

2010 for example, that Member State would then be expected to demonstrate that 65 tonnes had been separately collected, treated and reprocessed in 2011. The attainment of this target will need to be achieved on an annual basis starting in 2016.

11. The rationale behind this proposal is based on the findings of the Commission studies. The studies have shown that although around 80% of the total tonnage of sales is discarded on a two year cycle, less than half of this actually enters the formal WEEE system in each Member State. In reporting the achievements towards this target, Member States governments would not only be obliged to combine the sales and collection, treatment and reprocessing of household and non-household WEEE, but would also need to include the tonnage of WEEE that had been identified and prepared for reuse. (Note - the current UK WEEE Regulations already allow for evidence of reuse to be off set by producers against their notified collection obligations)

Issues to be addressed

Q3. Do respondents agree that moving from a kilogram per head fixed target across all Member States to a percentage target would better reflect the differences in the market conditions of individual Member States?

Q4. Given the findings of the Commission's studies, do respondents think that the Commission's proposed target could be achieved by 2016 and, if not, what level might be possible?

Q5. What proportion of sales do respondents regard as a realistic target for the separate collection, treatment, reprocessing or preparation for reuse? What is seen to be a realistic time scale to achieve this target by the UK?

Article 11: Increases in Recovery and Recycling Targets

12. The Commission has proposed revisions to the recovery and recycling targets set for each of the ten categories of electrical and electronic equipment that are now likely to be listed within Annex 1 of the recast RoHS Directive. It is also proposed to add an additional element to the target – “prepared for reuse”.

13. The rationale behind the proposals is that:

- the underlying objective of the Directive is to limit the environmental impact of electrical and electronic equipment on the environment when it reaches its end of life. Increasing the required level of recovery and recycling will help to achieve this overall objective;
- Article 17.5 of the existing Directive gives a commitment that the Commission would submit a report to the European Parliament and the Council on the experience of the application of this Directive, in particular the separate collection, treatment, recovery and financing systems; and

- part of the responsibility of Member States under the Directive is to establish systems which facilitate the prioritisation of whole items for reuse. This reflects the fact that reuse is generally a preferred waste management option and therefore higher in the Waste Framework Directive's waste management hierarchy. The proposal adds to the recovery and recycling targets the ability for WEEE to be "prepared for reuse".

14. The recast Directive proposes to increase the targets for each of the existing categories of WEEE, (or groups of categories as outlined in the current Directive), by a further 5% across the board. The proposed new targets are:

- Categories 1 and 10 – overall 85% shall be recovered, of which 80% shall be prepared for re-use and recycled.
- Categories 3 and 4 - 80% shall be recovered, of which 70% shall be prepared for re-use and recycled.
- Categories 2, 5, 6, 7 and 9 – 75% shall be recovered, of which 55% shall be prepared for re-use and recycled.
- Gas discharge lamps – overall 85% shall be prepared for reuse and recycled.

15. It is also proposed that a target for category 8 be introduced for the first time, with an overall level of 75% recovery of which 55% preparation for reuse and recycled.

16. It is proposed that the targets shall be calculated as a weight percentage of the separately collected WEEE that is sent to recovery/treatment or reuse facilities.

Issues to be addressed

Q6. Do you consider the increases for categories 1 -7, 9, 10 and gas discharge lamps appropriate and achievable?

Q7. Do you consider the introduction of a target for category 8 (medical devices) appropriate and achievable?

Article12 – Financing in respect of WEEE from private households

17. The Commission is proposing to extend the current level of extended producer responsibility by requiring Member States to "encourage" producers to finance **all** the costs occurring for collection facilities from WEEE from private households. The legal nature of "encourage" would give Member States a degree of flexibility as to how they might implement the proposal.

18. The proposal itself can be interpreted in a number of different ways, including providing direct funding to local authorities or to the other operators

of DCFs to relieve some of the costs associated with maximising separate collection on site or encouraging producers to finance kerb-side collection.

19. The rationale behind the proposals is that: -

- by providing financial support for collection facilities, producers will be able to directly influence the overall levels of separate collection – that is encouraging householders not to dispose of small items of WEEE with other household waste and/or encouraging the operators of collection facilities to maximise correct separate collection on sites by building upon the existing facilities; and
- the operational costs attached to separate collection at collection facilities should be the responsibility of producers and should not be financed by householders via local taxation measures.

Issues to be addressed

Q8. What would be the impact on the levels of separate collection if producer responsibility was extended as proposed?

Q9. What would be the environmental benefit of extending the current level of producer responsibility as proposed?

Q10. What would be the financial burden on extending producer responsibility as proposed?

Article 14: Information for Users

20. It is proposed that Member States should allow producers to show the cost of collection, treatment and disposal of new equipment at the time of purchase. The UK WEEE Regulations (Regulation 40) currently include a ‘no-obstruction’ clause to allow producers to show to the purchaser the cost of collection treatment and reprocessing associated with their new purchase.

Issues to be addressed

Q11. Do you believe that allowing the display of the cost of treatment and reprocessing on a product will have an influence on the consumers purchasing decision?

Q12. Will giving consumers this kind of information result in more environmentally friendly purchases and so help to achieve the overall objective of the Directive in reducing the levels of waste from electrical and electronic equipment?

Article 16: Registration, Information and Reporting

21. The requirements of the existing Article 12 have been enhanced and moved to a recast Article 16.

22. It is proposed that for the benefit of monitoring compliance, Member States shall draw up a register of all producers operating in that particular market. Under the proposals, Member States would be required to work together to ensure that the individual registers have a high degree of compatibility to ensure consistency in the format for registration, frequency of reporting and the information required. It is hoped that this change would facilitate the easier exchange of information between the individual registers of each Member State.

Issues to be Addressed

Q13. Is it desirable to have high level consistency across the registers of all Member States? What benefits would this provide for producers, producer compliance schemes and the treatment industry?

Q14. The proposal suggests that national registers could be operated by collective Producer Compliance Schemes (PCSs) established under the Directive. Do you regard this to be a feasible option in the UK? If so, how do you think this should be organised – that is how would the lead PCS be identified and appointed? If this proposal was accepted in the UK, how would you envisage the way in which the register would interact with the enforcement bodies operating?

Article 20: Inspection and Monitoring & Annex 1: Minimum Monitoring Requirements for Shipments of WEEE

23. It is reported and widely understood that Member States have experienced problems with the export of WEEE, either disguised as whole items for reuse outside the community, or the export of WEEE to countries which do not or cannot then carry out treatment and final recovery as required or simply for disposal.

24. The recast Article 20 requires that as a minimum Member States should put in place a regime to facilitate the inspection and monitoring of activity under the Directive (as implemented by the Member State), which would cover the export of WEEE outside the Community in accordance with the EC Waste Shipments Regulation (2006/1013/EC) and the operations of treatment facilities in accordance with Directive 2008/98/EC on Waste and Annex 2 of the recast Directive.

Issues to be Addressed

Q15. Do you think that the export of WEEE under the guise of working equipment (EEE) is an issue that should, or could, be addressed by the proposed recast Directive?

Q16. Are the steps outlined in the recast Annex I appropriate for inclusion in the new Directive?

Q17. Do you think that the steps outlined in the recast Annex I will help to address the illegal export of whole items of WEEE?

Annex II: Selective treatment for materials and components of waste electrical and electronic equipment

25. The Commission did not include proposals for changes to Annex II in its proposed recast of the Directive. This was the result of the Commission's view that proposed changes to Annex II should not be addressed as part of the 'co-decision' negotiations on the recast Directive, but would be better addressed by Member State officials within the context of the existing Technical Adaptation Committee (TAC). The Commission, therefore, issued separate draft proposals to Member States in December for the revision of the requirements in Annex II for the minimum treatment for material and components from WEEE. These proposals included, in particular, ending the requirement to remove hydrocarbons from equipment and liquid crystal displays (LCDs) and the removal of the *de minimis* for printed circuit boards.

26. Following the publication of the recast Directive, BERR has been contacted by a number of stakeholders operating within the UK treatment sector. Such approaches have been fairly evenly split between opposition and support for this element of the proposals.

27. Stakeholder views on the proposals are invited on this issue to help inform the UK position at the TAC discussions. In particular, stakeholders are asked to present their views on the recast Annex II with supporting evidence on the environmental and economic effects that such changes might bring.

Issue to be Addressed

Q18. What are your views on the proposed changes to a new Annex II?

PART II

THE PROPOSED RECAST OF THE EC DIRECTIVE ON THE RESTRICTION OF THE USE OF CERTAIN HAZARDOUS SUBSTANCES IN ELECTRICAL AND ELECTRONIC EQUIPMENT (ROHS)

Introduction

1. Article 6 of the original RoHS Directive placed an obligation on the European Commission to review the measures it had put into place to take account of any relevant new scientific evidence. In particular, it called on the Commission to present proposals to the European Parliament and the Council for the inclusion of both remaining categories in the WEEE Directive that were not within its original scope – categories 8 (medical devices) and 9 (monitoring and control instruments) – and the possible adaptation of the list of restricted substances.
2. Between 2005 and 2008 the Commission asked consultants to undertake a number of research projects into various aspects of the RoHS Directive.
3. The results of those studies can be downloaded from the EC's Europa website at http://ec.europa.eu/environment/waste/wEEE/studies_rohs2_en.htm. In addition, the Commission formally asked interested stakeholders on two separate occasions for their opinions and comments. The results of those two exercises can be found at http://ec.europa.eu/environment/waste/wEEE/events_rohs2_en.htm
4. On 3 December last year, the Commission published its proposals for a recast RoHS Directive, which can be downloaded from http://ec.europa.eu/environment/waste/wEEE/index_en.htm.

Aims of the RoHS Directive

5. The RoHS Directive aimed to minimise the amount of potentially hazardous substances ending up in landfill sites by restricting the use of six of those substances in the manufacture of a wide range of new electrical and electronic equipment (EEE) placed on the EU market from 1 July 2006. The restricted substances are lead, mercury, cadmium, hexavalent chromium, polybrominated biphenyls (PBB) and polybrominated diphenyl ethers (PBDE). The parts and components of the specified EEE must not contain more than the specified concentrations of these substances. Where there is no acceptable substitute for the use of a restricted substance in a particular application, exemptions from the Directive may be granted in respect of that application under a comitology procedure.
6. In its current form, the Directive is brief, and a number of important details of its application have had to be fleshed out in Commission guidance. It is also closely linked with the WEEE Directive, which set out the basic

categories of equipment to which the RoHS Directive applies. In addition, the RoHS Directive lacked many of the provisions on market surveillance and conformity assessment which are normal in Community harmonisation legislation that controls the placing of products on the EU/EEA market. Market surveillance ensures that only compliant products are placed on the market, whilst conformity assessment is concerned with the processes that are used to demonstrate that any product meets the specified requirements.

The Proposals

7. The main features of the Commission proposal together with issues that we feel need to be addressed in this consultation exercise are listed below. Although we have highlighted these issues in order to assist you in responding, you are free to offer comment on any other areas of the recast.

Article 2, Annex I and Annex II: Scope

8. The scope of the RoHS Directive is now defined more completely in the RoHS Directive itself rather than in the WEEE Directive and includes, for the first time, both medical devices and monitoring & control equipment. These two categories of the original WEEE Directive were excluded from the scope of the original RoHS Directive. However, it is proposed that the application of RoHS to these two additional categories of EEE will be phased in over a period up to 2017 and a new annex of exemptions has been included specifically for these two categories. In addition, specific derogations from scope for military equipment and other equipment, for which explicit provision was not made in the current legislation, are also now included.

9. Annex I of the recast RoHS Directive is a list of the original ten broad categories of EEE to be covered by the Directive and is taken from the old Annex IA of the WEEE Directive, whilst Annex II is (what the Commission has called) a 'binding' list of products which fall under the categories listed in the new Annex I and is essentially the same as the old Annex IB of the WEEE Directive.

10. We would welcome comment on the general proposal to introduce the two previously excluded categories into the scope - medical devices and monitoring & control instruments. These areas were originally excluded as they were considered as safety-critical and not to be exposed prematurely to substitute substances replacing the restricted substances to allay fears of potential equipment failure.

11. It was (in 2002) considered prudent to wait to see if the substitute substances used in non safety-critical areas caused any problems in use over a longer period. The Commission has now decided to introduce these areas into scope in a phased way over a number of years, alongside the introduction of many additional exemptions for specific applications.

Issues to be addressed

Q19. *The status of the lists in the new Annexes I and II is still not entirely clear. What would you feel to be the best way to define the scope of the RoHS Directive; should it be with a definitive list of products or a non-definitive/ "indicative" list?*

Q20. *Should the scope link with the WEEE Directive be broken and, if so, is there the case for no list at all as in the case of the Electromagnetic Compatibility (EMC) Directive (2004/108/EC)? In that event, the Directive would apply to **all** electrical and electronic equipment with the possible inclusion of a list of specific exempted products.*

Q21. *Although the phasing in of both medical devices and monitoring & control instruments is over the period up to 2016, there are likely to be major cost/benefit issues. Are you able to provide data or evidence to inform that debate?*

Article 4, Annex III and Annex IV: The list of restricted substances

12. The Commission is proposing that there should be no immediate change to the list of restricted substances specified by the current RoHS Directive. These are specified in the Annex IV of the recast Directive, along with the existing permitted maximum concentration values that can be tolerated by weight in each homogeneous material within the equipment.

13. There is now, however, a list of four substances in Annex III of the recast Directive that it is proposed should be reviewed by the existing Technical Adaptation Committee (using REACH methodology) to establish whether they should become additions to the restricted list. REACH is an EC Regulation (EC 1907/2006) on chemicals and their safe use. It deals with the **R**egistration, **E**valuation, **A**uthorisation and restriction of **C**hemical Substances and came into force on 1 June 2007.

Issue to be addressed

Q22. *It is still not entirely clear how the exact procedure for using the REACH methodology will operate in practice. Your comments on this issue would be welcomed.*

Article 5: The procedure and criteria for granting exemptions

14. The Commission has proposed a significant change to the current procedure by introducing a four-year maximum validity period for all exemptions. Although exemptions can be renewed, there is a clear indication that the four-year limit will be the general rule.

15. Also, the criteria for determining whether the restricted substances should be permitted in any particular specific applications have changed and now allow for socio-economic aspects to be considered and taken into account.

Issue to be addressed

Q23. The Commission says that it is trying to improve the overall general procedure for granting exemptions. Do you think that it has succeeded? If not, what changes would you suggest?

Articles 7 to 17: Alignment to other “New Approach” Directives

16. Changes have been made to align the proposed Directive with Decision No 768/2008/EC on a common framework for the marketing of products, which was adopted in July 2008 as part of (what has become known as) the “Goods Package”¹ with a view to introducing greater legislative consistency among EC harmonising measures, and in particular among the increasing number of members of the “New Approach” family of legislation setting harmonised requirements for a range of products.

17. These changes include the introduction of common definitions and specify the obligations of economic operators at different stages in the supply chain (manufacturers, importers, distributors) in relation to the placing on the market of EEE. The draft Directive also provides for manufacturers to self-certify the conformity of their products with the requirements of the Directive, to prepare an “EC declaration of conformity” and to affix the “CE marking”. In addition, reference is made to Regulation No 765/2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products.

Issue to be addressed

Q24. Do you think that this re-alignment helps and will it provide economic operators with greater degree of legal certainty? In addition, does it raise new issues or costs?

¹

(<http://europa.eu/rapid/pressReleasesAction.do?reference=IP/08/992&format=HTML&aged=0&language=EN&guiLanguage=en>)

ANNEX I - The list of consultation questions

The recast WEEE Directive

Q1. Should the scope of the WEEE Directive remain directly linked to the scope of the RoHS Directive?

Q2. Should the UK maintain its policy of transposing only the minimum scope requirements for its WEEE Regulations or should it be more prescriptive?

Q3. Do respondents agree that moving from a kilogram per head fixed target across all Member States to a percentage target would better reflect the differences in the market conditions of individual Member States?

Q4. Given the findings of the Commission's studies, do respondents think that the Commission's proposed target could be achieved by 2016 and, if not, what level might be possible?

Q5. What proportion of sales do respondents regard as a realistic target for the separate collection, treatment, reprocessing or preparation for reuse? What is seen to be a realistic time scale to achieve this target by the UK?

Q6. Do you consider the increases for categories 1 -7, 9, 10 and gas discharge lamps appropriate and achievable?

Q7. Do you consider the introduction of a target for category 8 (medical devices) appropriate and achievable?

Q8. What would be the impact on the levels of separate collection if producer responsibility was extended as proposed?

Q9. What would be the environmental benefit of extending the current level of producer responsibility as proposed?

Q10. What would be the financial burden on extending producer responsibility as proposed?

Q11. Do you believe that allowing the display of the cost of treatment and reprocessing on a product will have an influence on the consumers purchasing decision?

Q12. Will giving consumers this kind of information result in more environmentally friendly purchases and so help to achieve the overall objective of the Directive in reducing the levels of waste from electrical and electronic equipment?

Q13. Is it desirable to have high level consistency across the registers of all Member States? What benefits would this provide for producers, producer compliance schemes and the treatment industry?

Q14. *The proposal suggests that national registers could be operated by collective Producer Compliance Schemes (PCSs) established under the Directive. Do you regard this to be a feasible option in the UK? If so, how do you think this should be organised – that is how would the lead PCS be identified and appointed? If this proposal was accepted in the UK, how would you envisage the way in which the register would interact with the enforcement bodies operating?*

Q15. *Do you think that the export of WEEE under the guise of working equipment (EEE) is an issue that should, or could, be addressed by the proposed recast Directive?*

Q16. *Are the steps outlined in the recast Annex I appropriate for inclusion in the new Directive?*

Q17. *Do you think that the steps outlined in the recast Annex I will help to address the illegal export of whole items of WEEE?*

Q18. *What are your views on the proposed changes to a new Annex II?*

The recast RoHS Directive

Q19. *The status of the lists in the new Annexes I and II is still not entirely clear. What would you feel to be the best way to define the scope of the RoHS Directive; should it be with a definitive list of products or a non-definitive/ "indicative" list?*

Q20. *Should the scope link with the WEEE Directive be broken and, if so, is there the case for no list at all as in the case of the Electromagnetic Compatibility (EMC) Directive (2004/108/EC)? In that event, the Directive would apply to **all** electrical and electronic equipment with the possible inclusion of a list of specific exempted products.*

Q21. *Although the phasing in of both medical devices and monitoring & control instruments is over the period up to 2016, there are likely to be major cost/benefit issues. Are you able to provide data or evidence to inform that debate?*

Q22. *It is still not entirely clear how the exact procedure for using the REACH methodology will operate in practice. Your comments on this issue would be welcomed.*

Q23. *The Commission says that it is trying to improve the overall general procedure for granting exemptions. Do you think that it has succeeded? If not, what changes would you suggest?*

Q24. *Do you think that this re-alignment helps and will it provide economic operators with greater degree of legal certainty? In addition, does it raise new issues or costs?*

ANNEX II - The list of individuals and organisations approached as part of this consultation

arc 21 – representing waste management groups for councils in the east of Northern Ireland

AMDEA – Association of Manufacturers of Domestic Appliances

BRC - British Retail Consortium

BMRA – British Metals Recycling Association

CBI – Confederation of British Industry

COSLA - Convention of Scottish Local Authorities

DTS – Distributor Take Back Scheme

EEF – Engineering Employers’ Federation

ESA – Environmental Services Association

FRN - Furniture Re-use Network

FSB – Federation of Small Businesses

ICER – Industry Council for Electronic Equipment Recycling

Intellect - representing the UK Technology Industry

LARAC – Local Authority Recycling Advisory Committee

LGA – Local Government Association

NAWDO – National Association of Waste Disposal Officers

RETRA – Radio, Electrical and Television Retailers’ Association

SEAMA - Small Electrical Appliance Marketing Association

SWAMP – the Southern Waste Management Partnership representing local authorities in southern region of Northern Ireland

WLGA – Welsh Local Government Association

All currently approved Producer Compliance Schemes (PCSs) and Approved Authorised Treatment Facilities (AATFs) under the UK WEEE Regulations

Members of the WEEE Advisory Body (WAB) and its sub-groups

All manufacturers, trade associations and other organisations who have previously expressed an interest in both the WEEE and RoHS Directives and their UK Regulations