

INTELLECT'S RESPONSE TO

DTI's 2nd IMPLEMENTATION CONSULTATION on the WEEE & RoHS DIRECTIVES

Intellect is the trade association for the information technology, telecommunications and electronics industries in the UK representing 1000 organisations spanning blue-chip multinationals to early stage technology companies. Intellect is committed to improving the environment in which our members do business and we welcome the opportunity to respond to this second-stage consultation.

A successful implementation must be cost effective with minimised administrative burden on UK business, and it must prevent 'free-riders'. Whilst it must incorporate flexibility to allow choice for financing arrangements and in the way that producers meet their obligations, there are issues that need an EU single market solution e.g. scope and 'distance selling'.

There is a need for Government to stimulate and promote markets for the recycled historic materials much of which the EEE producers no longer use.

Clear, timely regulation and guidance from Government will be essential for all concerned to be able to make the right investment decisions.

WEEE DIRECTIVE

General

Registration

- Para 64 (p.27) – **DTI is to be congratulated that producers will be required to register only once geographically (i.e. in England & Wales, Scotland or N. Ireland) according to the location of their registered office.**

- Para 66 – **all producers should be given an identification number on registering with the Enforcement Agency (like a VAT number) and retailers should be allowed to sell equipment only from registered producers.**

(Article 1 - Objectives)

Question 1 (page 2) – *The Government is considering how best to encourage reuse of EEE in line with the objective of the Directive. Do you have specific suggestions for how to do this? What do you think of the following ideas:*

- *to develop an indicator on reuse for inclusion in the Best Value Performance Indicators for local authorities;*
- *to incentivise producers to give preference to reuse options.*

How do you think this should be done? or

- *to require producer responsibility compliance schemes, as a condition of their registration, to show how they will encourage reuse.*

Whilst re-use should be encouraged, efforts should concentrate on WEEE from business-to-business, not from the domestic waste stream. There are already a number of B2B re-use schemes e.g. for mobile phones, but even so, such re-use should remain a voluntary option and targets for the re-use of equipment would be totally unfeasible. Re-use must continue to be a commercial decision.

Compliance scheme re-use would depend totally on the source (e.g. B2B) and the type of product.

Re-use of equipment from the domestic waste stream raises serious issues: the quality of EEE from LA sites is very low; most WEEE has already reached its end of life; old models are generally less energy efficient; producers have no control over the refurbishment yet will have a liability if the EEE still carries their brand name (e.g. TV fire safety); generally the standard of refurbishment is unsatisfactory; and there is the question of validity of CE marking.

(Article 2 – Scope)

Question 2 (page 3) - *Do you agree with a “decision tree” approach in guidance to help interpret whether “grey area” products should be inside or outside the scope using certain criteria?*

Whilst we would welcome a ‘decision tree’ approach to help ensure a consistent approach, Industry needs a standardised EU scope; anything else would totally distort the market

Question 3 (page 4) - *What else should the Government do to help to clarify scope given that the legal definitions in the Directive cannot be changed in the time available?*

Harmonisation of ‘Scope’ across Europe would ensure that no producers are at a competitive disadvantage to those in another country.

Decisions regarding any new inclusion of products in specific categories should be published on the Government Website.

(Article 3 – Definitions)

Question 4 (page 5) - *Do you agree with the Government’s proposed approach: to transpose the term “put on the market”, taking into account the context in which it appears in the WEEE Directive; and to refer in non-statutory guidance to the interpretation offered by the European Commission in its “Guide to the Implementation of Directives based on the New approach and the Global Approach”?*

‘Placed on the Market’ - Whilst we agree with the Government’s proposed approach, there is need for further clarification. Again, a standardized pan-European definition is essential.

‘Export reporting’ (para. 17, last sentence) - companies are already required to report exported goods by packaged weight and commodity code.

(Article 4 – Product Design)

Question 5 - *Do you agree that a business forum would be useful? What form might it take?*

‘Eco-design’ – There is no case for generic legislation as the EU EuP (Energy using Products) Directive will deal with design issues. Government should concentrate on encouraging good practice but we remain to be convinced that a ‘Business Forum’ would be the solution.

(Article 5 – Collection)

Question 6 (page 10) - *Do you agree with the Government’s proposed criteria for approval of a retail sector take-back compliance organisation (the alternative to having to offer in-store take-back)?*

Question 7 (page 10) - *Is the level of the capped retailer fund about right? Please explain any alternative figures?*

Question 8 (page 12) - *The Government has considered the option of more than one retail compliance organisation, but this might be complex and less straightforward, including for local authorities. Do you agree or would it be possible to have a limited number of schemes within the proposed framework?*

'Retailers' Role' – whilst 'free-riding' must be prevented, retailers should be allowed flexibility so as to meet their obligations in the most cost-effective and environmentally friendly way that they choose, without a mandated fixed financial liability.

If exchange WEEE is collected when EEE is delivered to the domestic user, an audit trail will be necessary.

Question 9 (page 12) - *The Government is minded to explore with business how best to establish a "clearing house". Do you agree this should be a preferred implementation option? Should the Government consider other alternatives further?*

We are convinced that the use of a 'Clearing House' is the by far the best option for the UK and we would welcome the opportunity to develop the concept. The Govt. should not waste time and resources further considering other options.

Question 10 (page 13) - *Should the clearing house manage the collection service or simply pass on responsibilities to specific producers or their agents? If the latter can this be achieved in a fair and equitable manner?*

The Clearing House must not manage the collection service or a monopoly situation will be created. The collection arrangements must be the responsibility of the obligated producers.

Question 11 (page 13) - *Is guaranteed collection within 48 hours sufficient? It is assumed that many local authorities using the service would, in any case, be able to reach agreement on regular pick-ups with the clearing house. Do you agree?*

A 48-hour collection requirement might well be impractical, depending on local circumstances. Much would depend on local patterns of disposal e.g. the usage of Local Amenity sites peaking at weekends. Possibilities could be "three working days", "in a timely fashion" or a choice of 'scheduled collection' and 'collection on notification'.

Question 12 (page 13) - *Do you believe that the clearing house should have responsibility for holding all data and reporting this to the Enforcement authority?*

The Register would be held by the Enforcement Agency but the Clearing House would hold the data, and report to the Enforcement Agency.

The Clearing House should not be involved with waste arising from Business-to-Business transactions.

Question 13 (page 13) - *What measures would provide producers with the appropriate assurances in relation to confidentiality ?*

Companies are already required to provide confidential and market-sensitive information to Government bodies. It is essential that the same constraints on the recipients should apply here.

(Article 6 – Treatment)

Question 14 (page 15) - *The Directive does not appear to go as far as requiring that certain components are removed prior to shredding but does require separate removal. In treating WEEE, which components should be removed prior to shredding and under what circumstances? What would be the environmental and cost benefits?*

The necessity for component removal will depend on the needs of the dismantlers, ‘fragmentisers’ and recyclers. The system must be open to change determined by advances in process systems, and not by regulation.

If there is a requirement for component removal, then it must be based on the hazardous material that the component contains, and not on the component itself.

(Article 7 – Recovery)

Question 15 (page 18) - *Do you agree that the Government should place recovery and recycling targets on groups of producers (grouped according to Article 7 product category targets) ?*

All producers should be separately responsible for achieving their recycling targets whether or not they are members of a consortium or a scheme.

(Article 8 – Financing in respect of WEEE from private households)

Question 16 (page 21) - *The Government will consider further representations on the proposition of a mandatory visible fee. It is especially keen to see more details on estimated costs and administrative implications and any specific proposals on operational aspects. There is no assumption that all products or categories need to be treated identically.*

Intellect acknowledges that for certain products a 'Visible Fee' is necessary. We envisage the Visible Fee as a fixed mandated amount that is levied on agreed products. It would be the same amount for every product of that type independent of weight or value, and would be visible to the consumer.

Virtually all producers of the following products support the use of a visible fee -

- * **Televisions - CRT, Plasma and LCD versions**
- * **Set-top boxes**
- * **DVD - players and recorders**
- * **Home cinema equipment - amplifiers, sound systems and speakers**
- * **VCR**
- * **Audio, systems and separates (excluding personal audio e.g. personal stereos)**
- * **Speakers**

The full list to be developed by producers and published as a public record.

The fee should be set as the result of an independent assessment of the real cost of recycling historic waste and the return ratio, and should be administered by the producers and used to pay for recycling historic waste.

Question 17 (page 21) - *Article 8.2 says that “Member States shall ensure that each producer provides a guarantee when placing a product on the market showing that the management of all WEEE shall be financed ... the guarantee may take the form of participation by the producer in appropriate schemes for the financing of the management of WEEE, a recycling insurance or a blocked bank account.” The Government is considering how to implement this provision in a way which provides businesses with flexibility as to how*

they provide the required guarantees. What do you think of the following possible approaches for financial guarantees?

- A bond open to a company participating in a compliance scheme, with an annual premium payable, to finance "new" WEEE costs in the event of the company becoming insolvent.
- A recycling insurance. This might or might not involve the obligation for WEEE funding remaining with the producer.
- A blocked bank account in the name of the producer, but set aside for future WEEE costs; or a collective scheme into which a producer might contribute.

Financial Guarantees must be adequate to meet producers' obligations, but equally there should be as wide a choice of options as possible acceptable to the Enforcement Organisation and independently audited as part of a firm's standard annual financial audit.

No guarantees are required for a Business-to-Business (B2B) producer. A B2B producer will simply have to demonstrate to the Registration body that it has made adequate financial provision for its recycling obligations.

(Article 12 – Information and reporting)

Question 18 (page 26) - *The Government is considering how to ensure non-UK or EU-based distance sellers register. Do you have specific suggestion for how to do this?*

Registration of distance sellers is a Europe-wide problem and needs a common solution to be applied in each country.

The most practical outcome would be a 'point of entry' fee, rather than registration - because a 'distance seller' (e.g. on the Internet) would not know in advance in which country the product would be bought, and hence would not register. A 'point of entry fee' would be similar to 'import duty' and 'VAT billing', and would be administered by the Customs & Excise. The target would be the actual importer - the carrier company - who would pay and pass the bill up the chain.

Customs & Excise would pass the collected fee to the Enforcement Agency to reduce the overall Registration Fees.

Question 19 (page 28) - *Is the proposed registration period about right?*

Yes, the registration period is about right, as long as all producers know by June 2005 whether or not their products are within the scope of the Directive.

Question 20 (page 28) - *Do you agree that the market share of sales should be based on revenue, as opposed to weight or numbers? Please explain your rationale in the broader context of ease of data collection and benefit to the UK as a whole.*

The basis of market share must be by weight and not by value. As producers will be paying for recycling according to weight of WEEE (and not what it has cost), and recycling targets are based on weight, then it is only logical and practical to calculate 'market share' by weight. This could be actual weight or number of units + protocols.

RoHS DIRECTIVE

Question 1 - General Scope

We agree with the approach that the Govt. proposes (in the box on page two).

Question 2 – *Do you agree with the Government's intended approach in relation to the term 'Put on the Market' ?*

We agree with the Government's intended approach regarding 'put on the market' – when the product leaves the factory or when first imported into the EU.

Question 3 – *Do you agree with the Government's intended approach in relation to Article 2.3 - Spare parts ?*

We agree with the Government's intended approach regarding spare parts.

Question 4 - *'Maximum permitted concentrations'*

We agree with the Government's intended approach regarding maximum permitted concentrations. However, it will be essential to establish standard reference measurement methods.

Question 5 - *'Specified exempted applications'*

We agree with the Government's intended approach.

Question 6 - *'Demonstration of compliance'*

There must be no obligation for producers to prove compliance as a routine (*the explanatory wording of para. 33 implies that they must do so*). Demonstration of "Compliance" should be required only in cases of dispute.

This must be a 'single market' issue.

Question 7. *'Enforcement Regime'*

The regulations should be enforced by Trading Standards, which would be consistent with the Packaging Regs.