

Warsaw, November 3, 2022

European Commission

Waste electrical and electronic equipment – evaluating the EU rules

On behalf of the Digital Poland Association, an industry employers' organisation which brings together the largest high-tech companies operating in Poland, including manufacturers, importers and distributors of electrical and electronic equipment, we are submitting a position paper on the "*WEEE directive - evaluating the EU rules*".

Although the WEEE directive has been published and transposed to the EU Member States many years ago there are still some challenges:

1. Non-achievable WEEE collection targets in many European countries

The WEEE recast Directive 2012/19/EU sets a collection target of 65% calculated on the basis of previous 3 years sales or 85% of WEEE arising or generated in the Member State to be achieved by 2019.

The latest widely publicly available data on WEEE collection published by the European Commission for 2019 show that there is a huge problem to achieve 65% collection target in many EU Member States. Moreover in well-developed countries like Germany less than 45% collection target has been achieved in 2019. This shows that the collection targets should be revised and set to levels which are achievable in all EU countries, regardless of the degree of wealth of the society.

We are aware that 85% WEEE generated collection target methodology is possible to be applied, however this methodology is tough to implement and has not been widely applied in the EU countries. The studies conducted in a few countries show that that many of WEEE is separately collected outside of producers' systems. This is caused by the fact that WEEE, especially a small devices, are disposed of



as unsorted municipal waste, some of WEEE is illegally exported and WEEE, due to its value, is collected for the purpose of material recovery to have a profit by parties which are not registered in WEEE systems i.e. informal WEEE sector. The industry understands that it is good for the country's economy and quite positive for the environment, however these WEEE volumes are not calculated into producers' collection target.

The revision of the WEEE directive from 2012 requires Member States to gather information of WEEE collected and recycled through all routes - art.16.4. That is why in order to achieve this all WEEE flow measure it is essential to collect information from flows of WEEE collected and treated outside of producer's compliance schemes and establish a mechanism to document also the complementary flows of WEEE by local EU countries' governments.

Additionally the WEEE collection targets should be revised and set to achievable levels in all EU Member States.

The WEEE collection target should not be only the obligation of producers and established by them producer's compliance schemes but it should be a joint responsibility of other stakeholders of the WEEE system including the local governments. Producers are fully committed to treat all WEEE handed over to producer's compliance schemes however they have no control over WEEE volumes collected and treated by other commercial actors.

2. Mandatory visible fee in a few countries

The art. 14.1 of the WEEE Directive allows Member States to require producers to show the purchasers at the time of sale of new products, the costs of collection, treatment and disposal in an environmentally sound way. The costs mentioned shall not exceed the best estimate of the actual costs incurred.

A few Member States launched visible fee as a mandatory requirement for producers. This causes unnecessary administration burden regarding the pricing to be passed on in supply chain. Especially this is a burden in the ICT sector, where products are small and light and the portfolio of products is very broad. Additionally in order to be legally compliant with visible fee requirement the actual costs should be displayed. Any change in take-back costs at the market will require a change to show the up-to-date costs. It may be especially tough to implement in the times of high inflation, like we have in many European countries right now.

We suggest that the decision whether visible fee will be applied is left to producers in all EU member States.



3. The problem with free-riders and grey area

In order to protect the WEEE market from producers that are no longer present on the market or which can not be identified (free-riders) more efficient monitoring system should be created by individual Member States.

Currently there are companies outside of the WEEE system which are not registered or do not report into the national registers. For orphan products left by such producers other stakeholders of the WEEE system need to bear the costs of the management of WEEE and the competition become unfair. The product sales without the registration and contribution in the local WEEE systems should not be possible and stricter enforcement against free-riders should be applied i.e. especially during the entry of products into the EU market.

The substantial problem is with a grey area especially in proper treatment and documenting of treated WEEE. This is the area which should be regulated in more stricter way.

Improvements in these areas will help to build more efficient and fair WEEE systems in respective EU Member States.

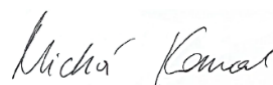
4. Different country implementation

The WEEE directive allows for different country implementation which causes a lot of interpretation and operational issues among countries. i.e. data to be reported are not aligned, different reporting timelines among countries, there are ambiguities in the interpretation of definitions.

That is why we suggest to consider that the revised WEEE directive will be issued in the form of a 'regulation' which will help to avoid different country implementation and ensure smooth enforcement of requirements among the entire EU region.

Yours sincerely,

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Prezes Zarządu

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