

WITH EPR AT ITS HEART – MAKING THE WEEE DIRECTIVE FIT FOR FUTURE

PARIS/MAINZ, SEPTEMBER 2023

Extended producer responsibility (EPR) has been instrumental in significantly improving the collection and recycling of waste electrical and electronic equipment (WEEE) in Europe. However, there are still a number of challenges to overcome in order to achieve a truly circular economy. We therefore welcome the European Commission's evaluation of the WEEE Directive to make it fit for the future and enable it to deliver on its goals even better.

European Recycling Platform (ERP) has helped to implement the Directive since it entered into force 20 years ago. Today, we run producer responsibility organisations (PRO) for WEEE in 12 European countries. Based on this experience, we would like to provide guidance and advice for the upcoming revision of the Directive.

For us, the following points are of particular importance:

1. **Update the calculation of the collection rate.** The method for calculating the collection rate should be updated to be based on the amount of WEEE actually available for collection.
2. **Review collection categories.** Existing product categories should be reviewed, taking into account the characteristics of the products (e.g. their lifespan) and their treatment requirements. Ideally, these new product categories will be fully harmonised across Member States without national sub-categories.
3. **Address parallel flows.** Parallel waste flows shall be avoided or count towards targets placed on producers.
4. **Secure the financing of future waste management obligations.** Member States shall be required to demand financial guarantees for future waste obligations for products having a long lifespan including reasonable criteria and mechanisms defining how and when to release such guarantees.
5. **Establish a harmonised fee modulation mechanism working in a competitive PRO environment.** Harmonised modulation criteria shall be set that improve the product design creating an EU-wide incentive and therefore an EU-wide impact. Moreover, a fee modulation mechanism shall be foreseen that works in a competitive PRO environment.
6. **Ensure effective awareness-raising campaigns.** Awareness-raising campaigns targeting end-users shall be required to increase collection. Those shall be carried out nationwide and jointly coordinated and funded by all relevant stakeholders.
7. **No deposit refund schemes.** Refrain from introducing deposit refund schemes for any WEEE as a tool to increase collection and rather invest into awareness-raising campaigns and enforcement.
8. **Independent body for compliance and a fair allocation of take-back costs.** Member States should establish an independent body irrespectively of the number of PROs in the country overseeing compliance among all EPR actors and assuring a clearing of waste obligations among competing PROs.
9. **Ensure effective enforcement.** Member States shall implement effective enforcement actions considering all actors in the EPR value chain and intensify cross-border cooperation within Europe and globally with third countries.

Our recommendations in detail

1. **Update the calculation of the collection rate.** The collection rate is considered to be the most relevant indicator of the collection performance of an EPR scheme. It is therefore important that the underlying calculation method allows for a fair assessment of this performance. The benchmark against which the collection rate is compared should only be the amount of WEEE that can actually be collected by the schemes, no more and no less. The current calculation method does not meet this standard. It puts the amount of WEEE to be collected in relation to the average amount of new equipment put on market over the last three years. This reflects the notion that average lifespan of electrical and electronic equipment is three years, which is no longer the case due to technological progress and changes in user behaviour. In practice, lifespans are much longer, and users return equipment much later than three years after purchase. This is particularly true for fast-growing, long-life products such as photovoltaic modules and heat pumps. Therefore, the average put on market amount is a poor proxy for the amount available for collection and a poor basis for the collection performance assessment of an EPR scheme.
➔ The method for calculating the collection rate should be updated to be based on the amount of WEEE actually available for collection.
2. **Review collection categories.** Building also on the point above, the grouping of WEEE into existing product categories is problematic in practice because the products concerned sometimes have very different characteristics but are subject to the same requirements. For example, photovoltaic modules are classified as large equipment (category 4), but compared to other products in this category, such as washing machines, they have a longer lifespan and require specific collection, logistics and treatment. What is particularly problematic is that these products, despite their different lifespans, must collectively meet the minimum collection rate. As photovoltaic modules do not become waste for many years, there are currently not enough waste modules available for collection. To reach the minimum collection rate, this gap has to be filled by other category 4 equipment, which is impossible. As a result, access to waste consumer equipment becomes more difficult and the achievement of the minimum collection rate for the whole product category is jeopardised.
➔ Existing product categories should be reviewed, taking into account the characteristics of the products (e.g. their lifespan) and their treatment requirements. Ideally, these new product categories will be fully harmonised across Member States without national sub-categories.
3. **Address parallel flows.** Parallel flows of WEEE, i.e. flows of WEEE that bypass the actors obliged to collect under the Directive (producers or PROs), not only pose a risk to the environment, as they often lead to poor treatment, but also make it more difficult for obliged actors to achieve the collection targets, thus undermining the performance of the obliged collectors and ultimately the Directive as a whole. These parallel flows must be avoided, and it must be ensured that all WEEE available for collection finds its way to the actors responsible for collection. Alternatively, all actors currently collecting WEEE, including those who are not obliged to do so, should also be required to report, and ensure proper recycling. WEEE stream reported in this way should count towards the fulfilment of mandatory collection targets placed on producers.
➔ Parallel waste flows shall be avoided or count towards targets placed on producers.
4. **Secure the financing of future waste management obligations.** Due to the long lifespan of certain products such as photovoltaic modules (between 15 and 30 years), to ensure proper waste management and to create a level playing field between producers and producer responsibility organisations, Member States should be required to introduce financial guarantees to secure the financing of future waste management obligations for products having a long lifespan. These guarantees should be funded by current producers, either directly in case of individual fulfilment of EPR obligations, or indirectly via the designated PRO in the case of collective fulfilment of EPR obligations. Also, there should be clearly defined mechanisms in place regulating the release of such guarantees once the products arrive for collection and treatment. Those shall not add unnecessary administrative requirements leading to an expensive, complex process e.g. release based on products serial number.
➔ Member States shall be required to demand financial guarantees for future waste obligations for products having a long lifespan including reasonable criteria and mechanisms defining how and when to release such guarantees.

5. **Establish a harmonised fee modulation mechanism working in a competitive PRO environment.** The Waste Framework Directive requires Member States to ensure that the financial contributions (fees) paid by producers to fulfil their EPR obligations are modulated. To ensure the proper functioning of this mechanism for WEEE like for any other waste stream, it is important to take into account that in most Member States there are multiple competing producer responsibility organisations (PROs). It shall be avoided that both the EPR fee modulation criteria and the modulated part of the fee itself are subject to competition. Moreover, these criteria shall be harmonised across Member States. Leaving fee modulation to PROs or Member States alone would have a significant negative impact on the internal market. If each Member State or even each PRO were to set individual criteria, this may lead to different design criteria across the European Union or even within Member States which would not only confuse producers, but also hamper the internal market. In addition, non-harmonised criteria would significantly increase the complexity of producer reports, creating a significant burden for all producers and in particular for SMEs.
➔ **Harmonised modulation criteria shall be set that improve the product design creating an EU-wide incentive and therefore an EU-wide impact. Moreover, a fee modulation mechanism shall be foreseen that works in a competitive PRO environment.**
6. **Ensure effective awareness-raising campaigns.** Providing consumers with adequate information on how to return WEEE is crucial to increasing collection and ensuring proper recycling. Although there have been many awareness-raising campaigns in Member States in recent years, there is still room for improvement. To increase the impact of these campaigns, they should be carried out nationwide and coordinated and funded by all stakeholders involved.
➔ **Awareness-raising campaigns targeting end-users shall be required to increase collection. Those shall be carried out nationwide and jointly coordinated and funded by all relevant stakeholders.**
7. **No deposit refund schemes.** Deposit refund schemes are not an appropriate tool to increase the collection of WEEE. Unlike fast-moving consumer goods such as beverage bottles, WEEE not only comes in different applications, shapes, sizes, and compositions, but also has a much longer lifespan, which significantly increases the complexity of potential deposit application and refunds. A deposit refund scheme for WEEE would limit collection points to parties handling financial transactions, mainly being retailers, and consequently reduces the density of collection points. Moreover, those parties would then be required not only to sort the different types of WEEE, but also to calculate and refund the correct deposit. This in turn requires time, expensive (retail) space and staff training, which not all collection points can afford, and could even lead to a reduction in the number of collection points and, ultimately, a reduction in collection. In addition, a deposit refund scheme would tie up a lot of capital for many years, so that the deposit could still be returned after a lifespan of 15 or 20 years. It would also pose significant challenges in terms of the need for clearing mechanisms and instruments to prevent fraud and deposit tourism.
➔ **Refrain from introducing deposit refund schemes for any WEEE as a tool to increase collection and rather invest into awareness-raising campaigns and enforcement.**
8. **Independent body for compliance and a fair allocation of take-back costs.** To ensure effective implementation of the Directive and to oversee the activities of PROs and other stakeholders, Member States should establish a body independent of private interests or a public authority, irrespective of the number of PROs in that Member State. This body shall oversee the compliance of EPR solutions by PROs, by producers individually or any other actor with the obligations of the WEEE policy. This body shall set clear PRO authorisation criteria being open to be met by any economic actor. What is already required by the Waste Framework Directive for setups with multiple competing PROs must therefore be extended to all markets, including those with only one PRO. Furthermore, in a multi-PRO setup, this entity should also be obliged to put in place an adequate waste allocation mechanism, as in the absence of such a mechanism, waste allocation between multiple competing PROs has proven to be difficult due to antitrust rules. The lack of waste allocation to PROs may also lead to waste hoarding or speculation by waste holders, and PROs under pressure to meet their targets may be forced to pay extortionate fees for access to waste. As a result, many Member States have already successfully transferred responsibility for waste allocation to independent clearing houses.
➔ **Member States should establish an independent body irrespective of the number of PROs in the country overseeing compliance among all EPR actors and assuring a clearing of waste obligations among competing PROs.**

9. **Ensure effective enforcement.** The effectiveness of the Directive depends to a large extent on proper enforcement. All stakeholders need to play by the same standards and contribute to the achievement of the Directive's objectives in order to ensure a level playing field. Existing and new legislation in Member States needs to be effectively enforced. Consequently, and as required by the EU Waste Framework Directive, Member States shall establish an adequate monitoring and enforcement framework with a view to ensure compliance of all actors involved in the implementation of the EPR schemes comply – in particular as regards EPR reporting, recycling quality, treatment standards, and uncontrolled waste flows including exports. EPR free-riders need to be systematically and regularly identified. Moreover, cross-border cooperation and mutual assistance between Member States and between the EU and third countries needs to be intensified through European or ideally global enforcement networks.
- ➔ **Member States shall implement effective enforcement actions considering all actors in the EPR value chain and intensify cross-border cooperation within Europe and globally with third countries.**

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About ERP

European Recycling Platform (ERP) was founded in 2002 to ensure high-quality and cost-effective implementation of the WEEE, batteries and packaging directives for the benefit of its customers and the environment. In June 2014, ERP became part of the Landbell Group, an international supplier of service and consulting solutions for environmental and chemical compliance. ERP and Landbell Group have collected more than 5 million tonnes of packaging, more than 4 million tonnes of e-waste, and over 100,000 tonnes of portable batteries.

ERP is the first and only pan-European PRO authorised to operate in Austria, Denmark, Finland, Germany, Ireland, Israel, Italy, Norway, Poland, Portugal, Slovakia, Spain, and the UK. By passing on the advantages of multinational recycling operations to customers, ERP has proved to be the most competitive solution for companies in the countries where it operates for WEEE, batteries and packaging compliance, as well as take-back services.