

COMMENTS ON THE EVALUATION OF EU RULES ON WASTE ELECTRICAL AND ELECTRONIC EQUIPMENT

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European Recycling Platform (ERP) welcomes the current evaluation of EU rules on waste electrical and electronic equipment (WEEE) and would like to thank the European Commission for the opportunity to contribute to the ongoing call for evidence.

As operator of producer responsibility schemes for WEEE in 12 European countries, we know the challenges related to the implementation of the WEEE Directive and are happy to share our experience and ideas on how to improve the framework for it to better deliver on its goals.

In this paper, we focus on the following aspects:

1. Calculation of collection rates
2. Awareness raising campaigns
3. Modulation of fees
4. Central supervising entity
5. Enforcement

1. Calculation of collection rates

The collection rate is currently calculated on the basis of the total weight of WEEE collected in a given year in the Member State concerned, expressed as a percentage of the average weight of EEE placed on the market in the three preceding years in that Member State. The underlying assumption of this methodology was that the average lifetime of any type of EEE was three years, which in turn suggested a direct correlation between the average weight of EEE placed on the market in the three preceding years and the weight of WEEE available for collection. In Recital 16 of the WEEE Directive, it is stated that a collection rate of 65 %, calculated according to the above-mentioned method, is estimated to correspond to a collection rate of 85 % of WEEE generated.

However, experience with the implementation of the WEEE directive shows that this direct correlation is not valid. Instead, the gap between the weight of EEE placed on the market and the weight of WEEE generated and available for collection is existing and widening, i.e. the former is growing much faster than the latter. This is also the core reason why the majority of Member States still can't reach a 65% POM based collection target, and in turn, means that a collection rate based solely on the weight placed on the market tends to overestimate the waste being available for collection and is no longer a suitable indicator for it. This is particular evident for fast-growing products with long lifetimes such as photovoltaic modules and heat pumps.

Another problem is that product types with different lifetimes fall in the same WEEE category and thus have to jointly fulfil the minimum collection rate. For example, photovoltaic modules fall together with consumer equipment into category 4. However, since photovoltaic energy production is a fast-growing market while the PV modules have a very long lifetime, they only become waste at a much later stage. In consequence, there are

currently not enough waste modules available for collection. In order to reach the minimum collection rate, this gap would need to be filled by other Category 4 equipment, being impossible. As a result, access to waste consumer equipment becomes more difficult, endangering the achievement of the minimum collection rate for the entire product category.

Our proposal:

The collection rates should be calculated as a percentage of the weight of WEEE available for collection rather than the weight of EEE placed on the market in the three preceding years.

2. Awareness raising campaigns

Raising awareness about the importance of the circular economy and providing consumers with suitable information on how to return WEEE are crucial to increasing collection and ensuring proper recycling. Although there have been numerous awareness raising campaigns in the Member States in recent years, there is still room for improvement. In order to increase the impact of these campaigns, they should be carried out nationwide and coordinated among the relevant stakeholders involved.

Deposit refund schemes, in contrast, are not an appropriate instrument for increasing the collection of WEEE. Unlike fast moving goods such as beverage bottles, which are typically produced or sourced locally, WEEE comes not only in different applications, markets, shapes, sizes and compositions, but has also much longer lifetimes, increasing the complexity of the instrument substantially. Retailers, for example, would need to set up a service for sorting the different categories of WEEE and to pay users correctly, which requires expensive retail space, a time-consuming procedure and the necessary training of staff. Further, a deposit refund scheme would bind a lot of capital over many years so that the deposit can still be refunded even after 15 or 20 years. It would also create significant challenges due to the need of clearing mechanisms and of mechanisms to prevent fraud and deposit tourism. In the end, it might even lower the density of collection points since not all existing collection points might be able to handle a deposit refund. Please refer also to a joint [position paper](#), co-signed by ERP, discussing a possible deposit for batteries.

Our proposal:

Member States should be obliged to carry out nationwide awareness raising campaigns on the collection of WEEE, coordinated and jointly financed among all relevant stakeholders involved.

3. Modulation of fees

The Waste Framework Directive requires Member States to ensure that the financial contributions (fees) paid by producers to comply with their EPR obligations are modulated. In order to ensure a proper functioning of this mechanism for WEEE, but also for other waste streams, it is important to take into account the specific aspects of a competitive environment and to avoid that the fee modulation criteria and magnitude are subject to competition.

This requires to define EU-wide harmonised criteria. Leaving the modulation of fees to PROs or Member States alone would have a significant negative impact on the single market. If each Member State or even each actor set individual criteria, this would translate into potentially different design criteria within the European Union or even within Member States. Moreover, fragmented criteria would significantly increase the complexity of producer reports, creating a major burden for all producers and in particular SMEs. Only harmonised EU-wide criteria would assure the desired impact on product design.

Please also refer to an independent [research by Adelphi](#) (chapter 4.2.3) and to a related Master thesis „Harmonised EPR fee-modulation for WEEE, Batteries and Packaging within the EU“ (University of Rostock, 12/2021 – thesis and summary can be provided on request).

Our proposal:

The European Commission should define harmonised criteria for the modulation of fees and a financial mechanism that also work in a competitive environment.

4. Central supervising entity

Where multiple organisations are implementing EPR obligations on producers' behalf, the Waste Framework Directive requires Member States to appoint at least one body independent of private interests or entrust a public authority to oversee the implementation of these obligations.

For WEEE, but also for other waste streams, this requirement should be extended to any markets including those with just a single producer responsibility organisation (PRO) and to cover enforcement of the roles and responsibilities of all actors involved, in order to create a fair and competitive market environment.

Further, in case of multiple competing PRO, the body or authority appointed by the Member State shall also have the obligation to set up an adequate waste allocation mechanism given that in the absence of such a mechanism waste allocation between multiple competing PRO has proven to be difficult due to anti-trust regulations. Lack of waste allocation to PROs may also result in waste hoarding or speculation by owners of the waste, and PROs being under pressure to achieve their target may be forced to pay extortionary fees for access to waste. As a result, many Member States have already successfully transferred waste allocation responsibility to independent clearing houses.

Our proposal:

Member States should be obliged to appoint at least one body independent of private interests or entrust a public authority overseeing the implementation of EPR obligations and allocation mechanisms, irrespective of the number of PROs in the respective market.

5. Enforcement

Extended producer responsibility has proven over the years to be a very effective means to increase collection and ensure proper treatment of WEEE. However, the effectiveness of this instrument depends to a large extent on proper enforcement ensuring a level playing field between the relevant actors involved.

This means that all actors involved follow the same standards and that all obliged parties contribute to the achievement of the Directive's goals. This also means that parallel flows of WEEE are to be avoided and that all WEEE available for collection find their way to those actors held responsible for collection.

Our proposals:

- Existing and new legal provisions in the Member States need to be effectively enforced, especially with regard to EPR, recycling quality, treatment standards and uncontrolled waste flows incl. exports.
- There should be a mechanism established in the regulatory framework to systemically and regularly identify EPR free-riders.
- Cross-border cooperation and mutual support among Member States and between the EU and third countries needs to be intensified, e.g. through global enforcement networks, to combat free-riders and other non-compliant actors as well as to control cross-border sales.

Contact

Dr. Thomas Fischer, Head of Market Intelligence & Governmental Affairs, Landbell Group
Email: t.fischer@landbellgroup.com

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.



For more information on ERP, please visit: www.erp-recycling.org