



The manufacturers' organisation

EEF Response to the Final Consultation on the Implementation of WEEE and ROHS Directives

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October 2004

**Consultation
Response**

About Us

EEF, the manufacturers' organisation, has a membership of 6,000 manufacturing, engineering and technology-based businesses and represents the interests of manufacturing at all levels of government. Comprising 11 regional Associations, the Engineering Construction Industries Association (ECIA) and UK Steel, EEF is one of the UK's leading providers of business services in employment relations and employment law, health, safety and environment, manufacturing performance, and education and skills.

Summary of concerns

- A major concern for EEF is that the timescale for setting up the NCH seems completely unrealistic. The NCH will play a fundamental role in facilitating producers to meet the requirements of the WEEE Directive. It is therefore, crucial that no short cuts are taken and that the NCH is set up to run as efficiently as possible from the outset.
- Of additional concern is the continued lack of detail on how much it will cost producers to fund the NCH. This was a concern we expressed in the second consultation that was held earlier in the year. Producers need to be able to budget for the extra costs that compliance with WEEE will bring at an early stage.
- Government must not place ad-hoc arrangements on producers which are implemented as a stop-gap to address the failure of government departments to adequately project manage the implementation of this policy.

Detailed Comments

Q1. Do you agree with the proposals for establishment of the National Clearing House, including the suggestions for the specification for its operator?

EEF supports the proposal for a National Clearing House (NCH) that would coordinate the collection of domestic WEEE from designated collection facilities, as we believe that this will be the most efficient way to maximise resources. However, if producers are to fund the NCH through a registration fee, its structure and operation must be efficient, transparent and open to checks so that the producers understand exactly what they are paying for.

We feel that an independent team who will provide a strategic overview of how the NCH is operating is essential. However, it is important that when the Advisory Panel is formed, consideration is taken to ensure that all sectors impacted by Directives are represented.

As acknowledged in the consultation document, a major concern for EEF is that the timescale for setting up the NCH seems unrealistic. The NCH will play a fundamental role in facilitating producers to meet the requirements of the WEEE Directive. It is therefore, crucial that no short cuts are taken and that the NCH is set up to run as efficiently as possible from the outset.. It seems very late in the implementation process to be Whilst we support the principle of setting up a project team from industry who will work with stakeholders to develop the exact working criteria for the NCH for data collection and handling. This is being done far too late in the process

With the NCH expected to be operational for registration at the beginning of 2005, we do not believe that government has left enough time for this to be realistically delivered.

Our views on the specification for the NCH operator requirements are:

- We believe that registration of producers should be the responsibility of the regulator.
- That a list of designated facilities should be compiled and maintained by the NCH.
- We support the NCH collecting and managing the distribution of fees, as long as the system is robust and the fees are fair, proportionate and transparent to the producers.
- EEF support the role of the NCH in allocating WEEE to producers and/or their compliance schemes. However, advocate that the clearing house should manage collection services rather than just passing on responsibilities to specific producers or their agents.
- That we support the argument that the NCH operator should meet certain operational requirements in terms of data handling, confidentiality, quality and environmental performance.

Q2. Which of the three options proposed for allocation of separately collected WEEE to producers do you prefer? Please explain why.

Of the three options presented in the consultation document option 1 appears to represent the most workable, efficient and cost-effective model for industry. As discussed in the consultation document options 2 and 3 would not allow the NCH to match obligations exactly in real time. This is of some concern as producers will rely on accurate real time allocation by the NCH to demonstrate they are fully meeting their obligation.

Each of the three proposed options presents significant obstacles in the provision and movement of containers for the collection of WEEE. It is important that this is clarified at an early stage so that producers are made fully aware of the financial implications facing them.

Of additional concern is the continued lack of detail on how much it will cost producers to fund the NCH. This was a concern we expressed in the second consultation that was held earlier in the year. Producers need to be able to budget for the extra costs that compliance with WEEE will bring at an early stage.

As expressed in our previous response we advocate that the clearing house should manage collection services rather than just allocating them to specific producers or their agents. This would allow producers to pay the NCH a single fee, instead of having to contract separately with waste contractors. There is a real danger that there will be too many parties involved to make the three options cost-effective.

Q3. What is your assessment of the implications for designated collection facilities of these options? The Government particularly invites views from prospective operators of designated collection points including operators of civic amenity sites and retailer led sites.

The implications for the designated collection facilities will significantly vary all according to which of the options is chosen. However, all three options raise significant concerns in terms of the movement of waste containers. This could represent a significant problem, in terms of utilisation and provision of adequate space.

Q4. Which do you think is the allocation approach which best meets the particular requirements of small businesses?

Option 1 is the best allocation approach to meet the requirements of small businesses. Options 2 and 3 would place unfair requirements and could potentially be unreasonably expensive for smaller businesses.

Q5. What level of involvement would it be appropriate for producers, their compliance schemes or their contractors to take in the management of WEEE at designated collection facilities, including civic amenity sites?

The level of involvement will vary according to how much responsibility the producer delegates to their contractors or compliance scheme. However, the producer will have a duty of care to ensure that the waste is disposed of in the correct manner.

Q6. What do you think of the proposed arrangements for direct point-of-sale collection arrangements between producers and retailers and local agreement collection sites, which could run alongside the mainstream NCH allocation of WEEE?

It is important that there is flexibility in how producers can meet their obligation and the proposed arrangements for household WEEE. These should be established at an early stage so that producers who choose to fulfill their obligation via this route know what is entailed. However, we oppose the idea of a ceiling being placed on the proportion of a producer's obligation that could be fulfilled through an alternative route.

Q7. Do you agree with the proposed “grouping” of WEEE categories for collection at designated collection facilities?

Industry welcomes proposals that simplify the process of demonstrating their compliance through report. However, it is essential that the process is carefully managed. This process must be transparent so that producers can see exactly how their allocation has been calculated.

Q8. Do you agree with this approach (to sales data reporting)? If not, can you suggest a way in which all producers can fairly and simply declare their business- to-business sales; and which could be administered cost-effectively?

EEF is in full support of the government decision to base market share of sales on the numbers and weight of products placed on the market.

Q9. Whilst being sensitive to the costs of compliance of the WEEE Directive to UK businesses the Government is minded to ask producers and their compliance schemes to take into consideration wider environmental and social impacts, including local impacts, when discharging their obligations under the WEEE Directive. Do you agree?

Many businesses are already taking into consideration wider environmental and social impacts through the requirements of existing environmental legislation and the implementation of voluntary programmes focusing on corporate social responsibility and sustainable development.

The recycling and recovery target requirements of the directive already represent a significant challenge for the industry to meet. Placing additional, unnecessary requirements on producers would not be welcomed favourably by producers.

In addition we feel that it is the responsibility of government to ensure that the requirements of future legislation do not present conflicting aims to that of the WEEE Directive.

Q10. Do you agree with the proposed approach to enforcement of business-to-business obligations? If you do not, please say why not and explain any alternative approach you would prefer.

Business end-users of WEEE will need to fully understand their obligations in relation to the WEEE Directive. The consultation document is too vague regarding the reporting requirements and enforcement of such users. This needs to be clarified without further delay to give businesses obligated in this way sufficient time to establish systems to collect and report data when required.

It is extremely difficult to see how the obligations of business end users of WEEE will be enforced. The consultation document does not state if business-to-business suppliers of electrical/electronic equipment will need to register with the clearing house.

In addition if the responsibility for reporting falls to the end-user, who it is assumed will not be required to register with the Clearing House, it seems possible that these businesses could quite easily fall through the net with regards reporting compliance and enforcement.

It must be ensured that the system of enabling businesses to be compliant and level of enforcement is fair and proportionate in terms of all businesses with obligations under the directive (domestic equipment suppliers, business-to-business suppliers and the business end user of equipment).

Q11. Do you agree that producers, or their compliance schemes, should report compliance data on a quarterly basis to the National Clearing House; with these reports subject to monitoring and enforcement action by the environment Agencies?

EEF are opposed to the reporting of compliance data on a quarterly basis, we regard this as 'gold plating' the requirements of the directive. It is essential that the reporting process does not become an excessively onerous task and the information required is kept to a minimum.

There is a lot to be learned from the implementation of the existing Packaging Waste Regulations. Obligated businesses only have to report compliance annually under this regime however, they have still had to set up sophisticated databases covering thousands of product lines, which is time consuming and resource intensive. These costs are borne by companies in addition to any fees and charges which they have to pay. These costs do not appear to be taken into account by government when it makes assessments of the regulatory impact of this legislation and we find it hard to accept that ours is the cheapest implementation in Europe.

ROHS Directive

Maximum Concentration Values

EEF welcomes the revised approach in terms of the RoHS Directive for the establishment of maximum concentration values (MCVs) and agree that it is sensible to use the same limits values as those set in the End of Life Vehicles Directive (0.1% by weight and per homogeneous material for lead, hexavalent chromium and mercury and 0.01% for cadmium).

However, whilst we recognise that the establishment of MCVs in the RoHS Directive is a compromise on behalf of the Commission, it is important to point out that to comply still represents a significant cost burden for component suppliers. For example, the implementation of End of Life Vehicles Directive has meant a considerable burden imposed on component suppliers to the automotive industry who have been required to submit data on the composition of products in order to provide assurance to the

automotive assemblers that they are complying with this requirement. An EEF member company has had to employ around 6 people full time to meet this requirement at a cost probably in excess of £0.5M. Whilst it may be possible for larger organisations to absorb this cost, it places the smaller suppliers in a difficult and potentially uneconomical position.

Compliance

On the issue of compliance EEF does not support the proposal of self declaration and believes that it is critical for the government to wait for complaints of non-compliance until investigating. There should be no routine demonstration of compliance, as it should be assumed that products comply with this requirement until proven otherwise. The appropriate enforcing authorities should be responsible for completing any monitoring of the hazardous content of electronic products.

Additional Comments

EEF is concerned by the following statement that has been made within the consultation document: -

“In the event of the NCH not being ready to discharge its proposed role in relation to the allocation of WEEE to producers in time for the onset of producers’ obligations in August 2005, the Government reserves the right to implement other arrangements to ensure that producers and retailers meet their obligations for WEEE under the WEEE Regulations. “

Government must not place ad-hoc arrangements on producers which are implemented as a stop-gap to address the failure of government departments to adequately project manage the implementation of this policy.

Producers and their supply chains have actively been preparing for the implementation of the WEEE Directive for several years. With less than a year to go before producers need to demonstrate they are fulfilling their obligations it is essential that they are given certainty on how they will be required meet these requirements.