

**THE REVIEW OF DIRECTIVE 2002/96/EC
OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
ON WASTE ELECTRICAL AND ELECTRONIC EQUIPMENT (WEEE)**

1 INTRODUCTION: THE DIRECTIVE

The Directive 2002/96/EC on waste electrical and electronic equipment (WEEE) is a key element of EU's environmental policy on waste. It addresses a particularly complex waste flow in terms of variety of products, association of different materials and components, contents in hazardous substances and growth pattern. It seeks to prevent waste, to reduce the disposal of waste, and to improve the environmental performance of all operators involved. Among other, it aims to induce design modifications that make WEEE easier to dismantle, recycle and recover. It contributes to reducing the dispersion of hazardous substances throughout the waste management operations in particular in shredder residues which are problematic waste streams if they are contaminated by such substances. The WEEE Directive is currently being implemented by the Member States.

2 INTRODUCTION: THE REVIEW

The Directive requires the Commission to submit a report to the European Parliament and the Council based on the experience of the application of the Directive; the report shall, as appropriate, be accompanied by proposals for the revision of the relevant provisions of the Directive and in particular of the collection and recovery targets.

An impact assessment will be produced to examine the costs and benefits of different policy options for the revision of the Directive, based on previously gathered information and according to the impact assessment guidelines, published in June 2005 as amended¹.

The European Commission is taking this opportunity to examine a range of defined issues, in particular as regards separate collection, treatment, recovery and financing, to inform decisions on whether improvements could be made to better achieve the Directive's aims.

The WEEE Directive is among the EU legal acts identified as presenting a simplification potential in the Commission Communication² of 25 October 2005 to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – implementing the Community Lisbon programme “A strategy for the simplification of the regulatory environment”.

¹ http://ec.europa.eu/governance/impact/docs/SEC2005_791_IA_guidelines_main.pdf;
http://ec.europa.eu/governance/impact/docs/SEC2005_791_IA_guidelines_anx.pdf

² http://ec.europa.eu/enterprise/regulation/better_regulation/simplification.htm; the objective of the simplification exercise is to contribute to a European regulatory framework of the highest standards in respect of the principle of subsidiarity and proportionality. Simplification intends to make legislation less burdensome, easier to apply and thereby more effective in achieving its goals. Following on these principles, a regulatory action should not be beyond what is necessary to achieve the policy objectives pursued, needs to be cost-efficient, and should take the lightest form of regulation called for.

The review of the WEEE Directive will be based on the experience of the application of the Directive and the ongoing development of the state of technology, environmental requirements and the functioning of the internal market. This review will also assess options that contribute to the Thematic Strategy on the prevention and recycling of waste contained in Commission Communication 2005(666) Final³ and shall, as appropriate, be in line with the Community environmental policy⁴.

The issues will be examined during 2006 and 2007. The European Commission will be launching a number of separate exercises to gather and analyse information to inform the review, described below. The participation of stakeholders is essential to the review.

Neither the fact that the review process is being launched, nor the results of this process at any stage should be interpreted as a political or legal signal that the Commission intends to take any given action.

3 TOPICS OF THE REVIEW

The review will examine possibilities to increase the efficiency and effectiveness of the Directive in achieving its environmental goals, and to eliminate any unnecessary costs to business, consumers, NGOs and public authorities arising from implementation of the Directive. Whilst the review will consider WEEE requirements as a whole in the view of the objectives of simplification and better regulation the issues can be thought of falling into four areas:

3.1 REVISION OF TARGETS

The review will examine new targets for the quantities of Electrical and Electronic Equipment (EEE) collected in Member States⁵ and new targets for recovery and reuse and recycling of EEE, including targets for medical devices.⁶

In doing this, it will take into account:

- the experience gained by the Member States and the industry;

³ <http://europa.eu.int/comm/environment/waste/strategy.htm>

⁴ <http://europa.eu.int/comm/environment/waste/strategy.htm> and <http://europa.eu.int/comm/environment/natres/index.htm>

⁵ Article 5(5) provides that “The European Parliament and the Council, acting on a proposal from the Commission and taking account of technical and economic experience in the Member States, shall establish a new mandatory target by 31 December 2008. This may take the form of a percentage of the quantities of electrical and electronic equipment sold to private households in the preceding years.”

⁶ Article 7(4) provides that “The European Parliament and the Council, acting on a proposal from the Commission, shall establish new targets for recovery and reuse/recycling, including for the reuse of whole appliances as appropriate, and for the products falling under category 8 of Annex IA, by 31 December 2008. This shall be done with account being taken of the environmental benefits of electrical and electronic equipment in use, such as improved resource efficiency resulting from developments in the areas of materials and technology. Technical progress in reuse, recovery and recycling, products and materials, and the experience gained by the Member States and the industry, shall also be taken into account

- the environmental benefits of EEE in use (such as improved resource efficiency resulting from developments in the areas of materials and technology);
- technical progress in reuse, recovery and recycling, products and materials;
- the overall environmental impact of collection and the various recovery/recycling/reuse options;
- criteria or standards to determine what equipment can be reused;
- costs of different options.

The new targets may cover all categories of equipment covered by the WEEE Directive:

- Large and Small Household Appliances
- IT and Telecommunications Equipment
- Consumer EEE e.g. televisions, audio equipment, musical instruments
- Lighting Equipment
- Electrical and Electronic Tools
- Toys, Leisure and Sports Equipment
- Medical Devices
- Monitoring and Control Instruments
- Automatic Dispensers

3.2 THE SCOPE OF THE DIRECTIVE

The scope of the Directive has been one of the major elements of discussion during the implementation process. It relates, on the one hand, to interpretation issues and, on the other, to the possibility of Member States to go beyond the provisions of the Directive for reasons of environmental protection, as the Directive is based on Article 175 of the EC Treaty.

The review shall therefore investigate changes to the scope of the Directive. The implementation of the scope by the Member States and in particular the exclusion clauses in article 2.1 (part of another equipment), article 2.3 (military equipment), category 6 (the large scale stationary industrial tools) and category 8 (implanted and infected products) therefore need to be evaluated. Furthermore it needs to be analysed whether the current scope is appropriate from a qualitative perspective (amount of hazardous substances addressed) and from a quantitative perspective (link with the targets).

In the framework of this investigation, stakeholders are free to suggest additional options for changes to the scope.

Options for change can address among other:

- the use of criteria to determine whether a product falls under the scope or not,
- the use of a fixed list of products,
- the inclusion of (other) types of equipment categories in the scope, e.g. those covered by the definition but not yet defined/concretised in Annex IA,
- the exclusion of certain types of equipment categories from the scope, e.g. those covered under "users other than private households" equipment or those with a low content of hazardous substances.

3.3 THE OPERATION OF THE PRODUCER RESPONSIBILITY PROVISIONS

The review shall examine the implementation in Member States of the individual producer responsibility provided for by the WEEE Directive. Member States have significant flexibility in their application of the various elements of producer responsibility⁷.

The review shall examine the costs and benefits of different institutional and legal arrangements for WEEE producer responsibility and will look into the financial obligations on producers and other concerned parties. Furthermore it will address possible consequences (including possible multiple financing and registration of the same product as well as the implications for distance selling).

In particular, it will consider:

- the interactions between different Member States' approaches,
- the inclusion of distance selling into the definition of producer,
- the use of the term "put on the market",
- the national producer register,
- the financing obligations,
- the labelling requirements as further elaborated in CENELEC standard EN50419.

The issues to be assessed include: costs of the management of waste; the efficiency of organisation of the collection schemes; the interactions of different national collection and financing schemes when products move across national borders; correct funding of schemes in relation to future waste generation; the accuracy of allocation of charges between producers; administrative costs from compliance with different requirements of various national registration and financing schemes; differences in labelling requirements between nations; competition issues (including free riding and impacts on Small and Medium Enterprises); competition in the waste management industry, supply chain issues, impacts on innovation.

On the basis of the information received, potential changes to this aspect of the Directive will be considered.

3.4 TREATMENT REQUIREMENTS

The review shall evaluate the treatment requirements specified by the Directive in the light of actual and future technologies and assess options to further reduce the environmental and health impacts of WEEE. This will include an overview of the best practices in the EU25 and an evaluation of how these can be further supported and developed.

As a minimum, the following options will be looked at, in connection with the related work under the IPPC Directive and the Thematic Strategy on the prevention and recycling of waste, as appropriate: a) the possibility to require use of specific technologies/techniques b) the inclusion of a set of criteria to determine if a treatment

⁷ (i) design responsibility (Article 4), (ii) organisational responsibility for the waste management of EEE (Article 5(3), Article 6(1) and Article 7(1)), (iii) financing responsibility (Article 8 and 9), (iv) information responsibility (Article 7(3), Article 10(1) and (2), Article 11 and Article 12) and (v) labelling responsibility (Article 10(3) and article 11(2)).

(technology) meets the adequate environmental standards and c) the inclusion of criteria on the required outputs of the treatment processes.

It shall be evaluated in particular whether the current treatment requirements specified in the Directive should be amended, in particular for printed circuit boards for mobile phones, for liquid crystal displays and for the recovery of hydrocarbons with a global warming potential below 15.

The review will address the operation of the provision in Annex II.3 to the Directive and investigate criteria to determine when environmentally sound reuse and recycling of components or whole appliances are hindered by the provisions set out in points 1 and 2 of Annex II.

4 THE REVIEW PROCESS

4.1 THE DIFFERENT ELEMENTS OF THE REVIEW PROCESS AND TIMING

4.1.1 Implementation Assessment

A research study to generate full understanding of implementation of the Directive by the Member States and to obtain feedback on potential areas for revision has been carried out and resulted in a report. It was conducted during 2005. The review of the implementation of the WEEE Directive in EU Member States on which this report is based has been undertaken for the Commission (DG Joint Research Centre, Institute for Prospective Technological Studies) by AEA Technology in association with the Regional Environmental Centre for Central and Eastern Europe.

The report identifies and describes regulatory and management approaches considering WEEE at worldwide level. It outlines key trends and describes the main benefits and problems in the implementation of the WEEE Directive. It also identifies opportunities for harmonisation and improvement in the way the Directive is being implemented across Member States.

This report is available at: <http://www.jrc.es/home/pages/list.cfm> (Publications 2006).

4.1.2 Data Gathering Exercise

Stakeholders are requested to provide information for the review. It is the opportunity to provide information upon which the succeeding steps in the review process can be based. Stakeholders can in that sense contribute to the outcome of the review and, potentially, the future operation of the WEEE Directive.

More information is available under "events – information gathering exercise" at http://ec.europa.eu/comm/environment/waste/weee_index.htm. The indicative timing for carrying out this exercise is from June-11 August 2006.

4.1.3 Research Studies

Research studies further analysing the impact and implementation of the WEEE Directive and potential changes are intended to be launched. The objective of these studies is to complete the information needed to inform an analysis of options for the review of the Directive and to provide that analysis, in particular by providing a thorough evaluation of the impacts, effectiveness and efficiency of the Directive. In particular, the elements set out in point 3 above will be addressed.

The specifications of these studies will be published after contracting at http://ec.europa.eu/comm/environment/waste/weee_index.htm. The studies will be conducted during 2nd half of 2006 and 2007.

4.1.4 Impact Assessment

An impact assessment will be produced to examine the costs and benefits of different policy options for the revision of the Directive, based on previously gathered information. It should be noted that the impact assessment is an aid to political decision-making, not a substitute for it.

More information on the impact assessment will be made available at http://ec.europa.eu/comm/environment/waste/weee_index.htm. The indicative timing is 2nd half of 2007.

4.1.5 Proposal & legislative procedures

As provided for in the Directive, the European Parliament and the Council, acting on a proposal from the Commission, shall establish new targets for collection, recovery and reuse/recycling, including for the reuse of whole appliances as appropriate, and for the products falling under category 8 of Annex IA by 31 December 2008. Furthermore, the Commission has to submit a report to the Parliament and Council based on the experience of the application of the Directive which shall, as appropriate, be accompanied by proposals for revision of the relevant provisions of the Directive.

Any proposals by the Commission for a revision of the Directive to Parliament and Council will be subject to the co-decision procedure if modifications to the Directive are concerned. More information on the co-decision procedure and detailed information on the development and the content of the dossier can be found, respectively, at http://ec.europa.eu/comm/codecision/index_en.htm and <http://ec.europa.eu/prelex/apcnet.cfm?CL=en>.

4.2 STAKEHOLDER AND MEMBER STATE INVOLVEMENT IN THE REVIEW

A large part of the information which the European Commission needs in order to analyse the future operation of the Directive is in the hands of Member States, competent authorities, collection schemes, firms and industry associations, NGO's and other stakeholders.

The success of the review depends largely on the participation of these stakeholders. The European Commission is launching this review publicly to encourage and allow stakeholders to provide information. As described in Section 4.1 above, the review process consists of several steps and stakeholders will have the opportunity to contribute throughout this process at various occasions. Those already foreseen at this stage of the process are highlighted here.

4.2.1 Information gathering exercise

The information gathering exercise, as described above in point 4.1.2, is designed to give stakeholders the opportunity to provide basic information upon which the succeeding steps in the review process can be based. For more information please refer directly to "events – information gathering exercise" at http://ec.europa.eu/comm/environment/waste/weee_index.htm. Stakeholders are invited to send their information **by 11 August 2006**. The information gathered under this initial exercise will be presented at the CIRCA web-site: http://forum.europa.eu.int/Public/irc/env/weee_2008/home.

4.2.2 Research studies

The Commission services intend to organise expert workshops to discuss issues identified by the research studies. The discussions of these workshops and the further analysis of the study researchers will form the basis for drawing the draft recommendations for options for change of the Directive. Stakeholders will have the opportunity to provide input to and receive information on the progress of the studies.

4.2.3 Impact assessment

A stakeholder consultation based on the results of the Commission's research will be used to gather information and opinions on the impacts of potential revisions.

The possibilities for contribution by the stakeholders will be announced on DG Environment's website and be updated in this document at the appropriate time. An indicative timing for consultation is after the finalisation of the research studies or during the drafting of the Impact Assessment, namely 2nd half of 2007 (indicative).

May 2006 – last updated June 2006

