



Department  
for Business  
Innovation & Skills

**IMPLEMENTATION OF THE WEEE  
RECAST DIRECTIVE 2012/19/EU AND  
CHANGES TO THE UK WEEE  
SYSTEM**

**Response Form**

**APRIL 2013**

# IMPLEMENTATION OF THE WEEE RECAST DIRECTIVE 2012/19/EU AND CHANGES TO THE UK WEEE SYSTEM – RESPONSE FORM

The Department may, in accordance with the Code of Practice on Access to Government Information, make available, on public request, individual responses.

The closing date for this consultation is **21/06/2013**

## About You

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Please choose the option(s) that apply

	Business representative organisation/trade body
	A Producer Compliance Scheme
	A Producer of EEE
	A Distributor (retailers and distance sellers) of EEE
	WEEE Treatment Facility
	Waste Management Company
	Electrical Reuse Organisation
	Central government
	Charity or social enterprise
	Individual
	Legal representative
<b>X</b>	Local Government
	Micro business (up to 9 staff)

	Small business (10 to 49 staff)
	Medium business (50 to 250 staff)
	Large business (over 250 staff)
	Trade union or staff association
	Other, please specify

## Where to Send This Form

This form can be submitted online/by email or by letter or fax to:

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Respondents in Scotland should also send their response to:

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E-mail: [timothy.chant@scotland.gsi.gov.uk](mailto:timothy.chant@scotland.gsi.gov.uk)

Respondents in Wales should also send their response to:

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Cardiff  
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Respondents in Northern Ireland should also send their response to:

Janis Purdy  
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Email: [wslpr@doeni.gov.uk](mailto:wslpr@doeni.gov.uk)

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## YOUR RESPONSE

This response form is split into 4 sections. Section 1 asks questions around the recast WEEE Directive, Section 2 asks questions around proposed improvements to the UK WEEE system, Section 3 deals with any other changes and Section 4 asks for your details.

### Section 1 - Changes to the UK WEEE Regulations as a Result of the Recast WEEE Directive

1. **Do you agree with the Government's proposed approach on Photo Voltaic (PV) panels?**

- Yes, I agree with the proposal  
 No, I do not agree with the proposal  
 Not sure

Comments

The consultation notes that 'most PV panels will not be disposed of at local authority DCFs' and that the Government has been told that 'the industry is establishing a network of private DCFs where old PV panels can be deposited'.

The Authority agrees with the need to address PV panels as a new waste stream and agrees with the approach to create a 14<sup>th</sup> category of EEE 'photovoltaic panels' on the basis that the Government is satisfied that PV producers are able to deliver a sustainable strategy for the collection and treatment of end-of-life PV panels.

The Authority has no direct interface with PV panel producers so cannot comment upon the realism of a sustainable strategy for the collection and treatment of end-of-life PV panels being implemented by producers, or whether the network of private DCFs proposed will be sufficient and/or sufficiently used.

However, the Authority would suggest that some clear guidance is provided about the obligations regarding PV panels arriving at local authority DCFs because in the Authority's view some PV panels may arrive at local authority DCFs. In areas where the private DCF network is still being established or is insufficient to meet the demand there could particularly be a problem with PV panels arriving at local authority operated sites.

It would also be useful if some indication could also be provided about the review period and methodology which DCLG will use to assess the efficacy of the new system for PV panels collection. It would be inappropriate for local authorities to face the administrative and resources burden of having to unexpectedly handle PV panels if the industry network of private DCFs failed to develop as planned, although the Authority has no grounds to suggest that it would not and in the case of batteries, the industry operated take-back arrangements work well hand-in-hand with the local authority/WEEE compliance scheme supported network.

**2. Do you agree that the current reporting Category 13 should be expanded to include LED lamps?**

Yes, I agree

No, I do not agree

Not sure

Comments

The Authority agrees with the proposal to expand the 'Gas Discharge Lamp' (GDL) category of WEEE (Category 13) to include LED lamps.

The expansion of the scope of this category complies with the new 'open scope' basis of the recast Directive, i.e. the assumption that every EEE product is covered by the Directive apart from a list of specifically excluded products.

The implementation of the Directive into UK regulations needs to reflect the changing market place. If the type of EEE placed on the market changes over time as technology changes, then the Regulations need to be updated to accommodate this. If not, then there is a risk that only a proportion of the material originally intended to be covered by the Directive and the UK Regulations will be captured over time.

Whilst we recognise that LED light sources may not yet be entering the waste stream to any significant extent, given their recency of introduction, their market share of the light sources market will continue to increase. It would be an anomaly in the implementation of the Directive in the UK if an increasing share of the WEEE stream is excluded from the scope of the UK Regulations and if a stream that has been included in the drafting of the recast Directive, i.e. included in the calculation of targets for Europe as a whole is excluded from the UK's implementation of the Directive.

It is important that the UK maximises the opportunities to meet the targets contained within the recast Directive. If there is an opportunity to collect a stream which is legitimately included within the scope of the Directive there is no reason to exclude it from the UK's planned approach to meet those targets. In the light of this the Authority would just additionally question if there are any other categories of EEE where technology change is creating similar issues such that the scope of materials included in the Regulations is outdated relative to the scope of materials being placed on the market and "orphan" waste streams may arise. The 'open scope' basis of the recast Directive whereby every EEE product is covered by the Directive and the transposition of this to UK regulations should in theory however, prevent this happening.

**3. Do you have any comments on the proposed approach of developing a protocol to estimate the tonnage of Large Domestic Appliances (LDA) and Small Domestic Appliances (SDA) collected and treated outside the WEEE system established by the regulations?**

Comments

The Authority understands the rationale for seeking to capture details of the tonnage and type of 'unobligated WEEE' collected and treated outside of the operation of the current Regulations and which currently goes un-recorded.

The Authority also agrees that WRAP is the best placed organisation to develop a protocol for producing 'substantiated estimates' of the tonnage of this material that is collected and treated. However, the Authority has some concerns about the comparability of treatment between WEEE collected and treated within the scope of the current Regulations and that which is outside of the Regulations and accordingly whether the protocol for establishing substantiated estimates or the one-off trial to assess the basis for estimation would take this into account.

As an example if it is cheaper to take small WEEE to an ATF, rather than send it through a system with compliance scheme involvement e.g. to an AATF with larger and more complex dismantling and reprocessing operations paying the costs of registration as an AATF, then there is a risk that material will be diverted from operations within the scope of the Regulations and moved into the unobligated category on the basis of the costs of treatment. Whilst this may be acceptable in principle, if this results in material being treated in a less extensive way then there is a risk that valuable components whilst recycled, may not be extracted for maximum value or using the best available technology.

Similarly if the targets are being reached principally through the capture of material measured using substantiated estimates, then there may be less of an incentive to invest in new reprocessing infrastructure within the scope of the Regulations.

Operations that may be working outside of the Regulations may additionally not be contributing as much to the promotion of WEEE recycling as those within them, for very valid reasons. For example, PCSs working with local authorities may be sharing publicity activities and signposting residents to local WEEE collection facilities as they have an interest in maximising capture to meet their members' obligations. They may also be providing more local collection points to maximise capture, such as on-street small WEEE banks or regular door-to-door collections. A small metal collector's principal business on the other hand is metal recycling not WEEE recycling and they do not have the benefit of producers' financial investment through membership fees which PCSs do. Accordingly they may provide less extensive additional services to encourage the greater use of WEEE collection services than collection operations supported by compliance scheme involvement and producer responsibility investment. In the long term there is a risk that if a greater percentage of WEEE is moved into the unobligated category that, whilst initially more material may be captured, over time as the service is less heavily promoted and there is proportionately less investment in localised collections that tonnages will decline.

For the obligated producers and compliance schemes if they lose too many customers and tonnage to the unobligated route they will also have less money to support the additional services that they currently provide.

In addition to the provision of facilities and collection services, meeting the requirements of the WEEE Directive requires continuous promotion to be part of the service. There is a risk that any move to manage more of the UK's WEEE tonnage through the unobligated route could result in a declining emphasis on promotion to the long term detriment of tonnages collected.

We would urge that these issues be taken into account within the scope of the WRAP trial.

It may be preferable, given the points made above and additionally the nature of the material currently collected by scrap metal operators and small metal collectors, to only allow substantiated estimates of unobligated LDAs to count towards the targets. Small WEEE might be best handled through obligated routes.

**4. What other measures might the Government take to establish "substantiated estimates" of WEEE collected and properly treated or sent for re-use via other routes - in particular B2B WEEE - in order to meet the new collection targets coming in to force in 2016?**

Comments

The Authority supports proposals to develop a system for making substantiated estimates of unobligated WEEE streams so that all the WEEE which is being recycled and reused is properly captured and can contribute towards the evidence base for the UK's progression towards the new targets included in the recast Directive. A presentation slide provided by BIS at a recent conference which is included below also suggested that unobligated tonnages are increasing so that it is increasingly important to capture the tonnage of material thus collected.

However, efforts to develop a system for making substantiated *estimates* should not be to the detriment of efforts to encourage more material to go through obligated routes where the tonnages are weighed rather than estimated.

The Authority has relatively limited knowledge of the B2B market for WEEE so is not commenting upon how a system for establishing substantiated estimates might be developed for this stream.

For the reuse stream there may be an opportunity to work with the Community Recycling Network (CRN) or Furniture Reuse Network (FRN) to develop an approach. In London there is a pan-London reuse network and a company called London Reuse Ltd has been established to provide a pan-London reuse service for a range of items. The LRN service includes collections offered by a range of WEEE collectors and refurbishment provided by a number of reuse organisations. More information is available on the London Re-use Network website: [www.londonreuse.com](http://www.londonreuse.com)

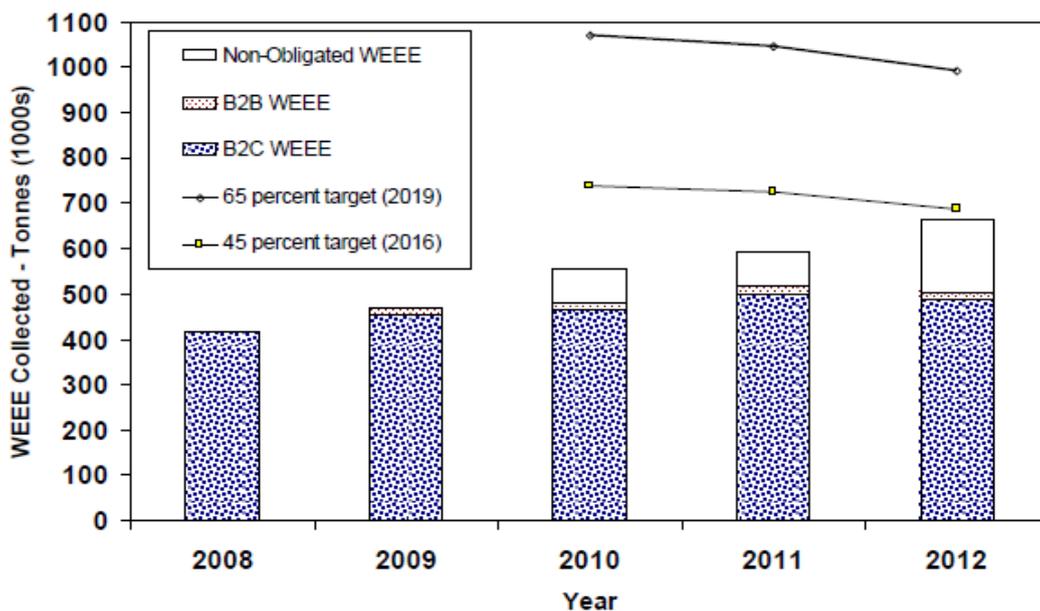
In north London the WEEE reuse service providers work with the Authority's WEEE compliance scheme so that this material is captured through the obligated WEEE route, for community reuse services operating very independently from producer compliance schemes the Authority would recommend that BIS consults with LRN to assess how substantiated estimates might be achieved, at least for the community reuse sector.

The community sector has experience of receiving grant funding and providing necessary evidence to grant funding organisations like the GLA and the BIG Lottery about reuse tonnages, often with the absence of weighbridges for material. They may therefore be able to suggest some approaches which would be both sufficiently statistically robust and which would work practically for operators. Such systems might also be suitable for implementation within the 'for profit' sector too.

At a local level the Authority has worked with community sector organisations for example to deliver ‘give and take’ events where residents give items they no longer need and take away any that they wish, for free. Portable appliance testing (PAT) is provided at these events to ensure that donations of WEEE can be taken away for reuse. Details of materials diverted through a number of Give and Take Days delivered in north London is provided in the attached ‘Give and Take Day Report , November 2011’.

Although the report doesn’t specifically mention the tonnage of WEEE that was reused at each event, this type of data could be captured. The FRN for example has also developed a list of ‘standard weights’ of furniture items, including WEEE which is used on a national basis and this could perhaps be updated and then used for establishing a methodology for making substantiated estimates for WEEE reuse.

### Collection rates



Slide presented by BIS, (David Styles and Graeme Vickery) at the ‘Reshaping the WEEE Regulations’ conference organised by LetsRecycle.com , 1 May 2013, London

**5. Which, if any, of the IPR working group's three options would you like to see considered further and why?**

- A Design for Reuse and Recycling weighting
- Return share based on brand sampling
- Front end payment for WEEE arising

Comments

The Authority is not best placed to comment on the most practical and realistic system for IPR as this is principally a matter for producers.

However, whichever system is selected it would need to work alongside local authority arrangements as these are key to the collection of B2C WEEE in particular, which represents the largest proportion of WEEE on the market as shown in the slide above.

**6. What are the economic and environmental costs and benefits of the IPR working group's three options for developing financial IPR?**

Comments

As above.

## Section 2 - Improvements to the UK WEEE system as a result of the Red Tape Challenge

**This section asks for your opinion on proposed improvements to the UK system of producer compliance as well as other proposed improvements to the overall UK WEEE system. Before answering these questions it is essential that you have read the accompanying consultation document, as well as impact assessment 0393**

Questions 7-10 refer to option 3, A Collection Target and Compliance Fee, referred to in the consultation document and impact assessment 0393.

7. **Do you agree that, if this option were to be adopted, the Regulations should enable the establishment of a compliance fee by producers, approved by Government subject to due consultations?**

- Yes, I agree  
 No, I do not agree  
 Not sure

Comments

The Authority is uncertain about the suggestion of introducing a compliance fee as part of the proposals for Option 3 and recommends that additional detail and then due consultation is required. The Authority welcomes the proposal for revenue from a compliance fee being made available to local authorities, particularly for authorities without compliance scheme support and the Authority understands the rationale for the proposal to introduce a compliance fee. However, the Authority has some concerns about the practical implications of this proposal.

### Operation of a compliance fee

Our key concern is about how the compliance fee will work in practice – for example when will the fee be set, how will the fee be set and how will the fee be publicised? Impact assessment 0393 notes (paragraph 95) that:

“It is envisaged that producers working with PCSs would formulate proposals setting out who would run the compliance fee scheme, the mechanism for setting the price, management of the scheme including calculating and verifying the amount to be paid by PCSs, management of the dispersal of funds and liaison as necessary with the regulators and Government.”

This is an insufficient level of detail in the Authority’s view to enable stakeholders to appropriately assess whether they support this proposal or not.

### Fee level

From a local authority perspective, the level of compliance fee would also be important because under Option 3 local authorities would still contract with compliance schemes. However, if the compliance fee is set very low, it will be less attractive for compliance schemes to work with local authorities and instead they may simply pay the fee rather than go through the process of contracting with authorities, if not for all streams then maybe for some (the most expensive). There is a lack of clarity too regarding whether there would be a limit placed upon the proportion of a PCS's obligated tonnage which could be covered by a compliance fee payment. Would the fee be an option only if a shortfall was identified at the year end or could a PCS choose to pay the fee at the start of the compliance year? It is uncertain also, given that PCSs are required under this option to provide a collection free-of-charge to a DCF operator, i.e. a local authority, what the relative attraction of the compliance fee would be. They may run the risk for example of deciding to pay the compliance fee as a way of meeting their compliance requirements, but then find they are asked to collect from numerous DCFs, thus effectively paying twice to provide a service.

In theory the compliance fee should not create an additional burden because compliance scheme revenue will be made available to local authorities and they could use this for activities that compliance schemes currently carry out, such as WEEE recycling collection promotion. However, in practice we have concerns that this would result in additional administration, extra tendering etc for authorities if they are left without a compliance scheme because the scheme they had contracted with chooses to pay the fee instead and in the case of PCSs that they pay the fee but are additionally asked to provide collections too.

Whilst a key driver for the proposed changes is to reduce the burden of compliance on business, this should not be at the expense of placing additional costs on the public sector. There is a need to avoid additional administration and resource costs; at a time of financial constraint and reductions in local authority budgets local authorities will not be able to make additional contributions towards the cost of developing a service.

Option 3 with a compliance fee could create a three tier system:

- with some local authorities actively choosing to manage their WEEE by contracting directly with other operators and retaining the income from value streams
- other local authorities without a compliance scheme contract, or with a contract for some streams only, managing their own WEEE (supported by some income from the compliance fee) and/or requesting PCSs come to collect on an almost 'ad hoc' basis and
- other authorities working with compliance schemes and thereby opting into producer funded collections free of charge.

The risk is that the level of the compliance fee could affect the number of local authorities which operate in each category. If the fee changes too frequently this changing of arrangements could create instability in collection arrangements for WEEE with a resultant risk that targets are not met as arrangements do not have sufficient time to 'bed down' and maximise the tonnage of material collected.

Information provided in Impact Assessment 0393 suggests that demand is price inelastic given the penalty for non-compliance is criminal sanctions with implications on reputation. The Authority understands that the government is therefore concerned that the resultant high willingness of producers to pay means

they are vulnerable to excessive charging. The Authority similarly has concerns that if the compliance fee is set too high then those schemes which fail to achieve their collection target will be vulnerable to variable pricing albeit not by local authorities, some AATFs or surplus PCSs as is currently the area of concern but by the organisation operating the compliance fee which may result in an increase in the price of compliance for all.

#### Fee periods

It will be important that consideration is given to the duration of particular fee levels too. For example if a local authority has already contracted with a PCS for three years, but the fee changes annually, (and notwithstanding the points made above questioning why a PCS would pay the fee if they are obliged to offer collections too if asked); the local authority may find itself without a compliance scheme after a year if the fee is set at a more attractive rate in the second year of the local authority's contract. It would be incumbent on local authorities to consider the nature of any contracts they enter into with PCSs and to ensure that appropriate clauses are included to take account of fluctuations in the compliance fee. Local authority contracts would need to be sufficiently robust to ensure that a service continues to be provided to the local area if a PCS decides that they prefer the compliance fee route mid-way through an existing contract.

If local authority-PCS arrangements change year on year as a result of changing compliance fees there would be some practical implications too such as what would happen to on-street WEEE banks supplied by the compliance scheme in such a situation? The banks may be provided in one year, but not the next. This would have knock-on effects for residents' perception and potentially participation in the service.

#### Timescale for implementation

If this option is introduced, the Authority would recommend that additional time is given to consult on the operation of the compliance fee and that consideration is given to introducing the Red Tape Challenge elements of the proposals a year later than currently planned. I.e. it may be preferable to amend the UK Regulations to comply with the recast WEEE Directive by February 2014, but implement the changes being driven by the Red Tape Challenge a year later in February 2015. This would give sufficient time for further consideration of a compliance fee to take place.

#### Capped trading?

An alternative option for accommodating the variability between PCS targets and collected tonnages might be to allow a capped amount of trading between compliance schemes possibly through a central broker to prevent excessive charging. Limited trading would enable those schemes with a shortfall to buy the necessary evidence that they need to ensure compliance with the targets set and would also allow those with a surplus to sell, but not at the expense in either case of carrying out collections to meet the targets. With such an arrangement it may also still be possible to make some contribution to those local authorities without scheme support.

**8. If this option were to be adopted, would you support the methodology for calculating collection targets placed on producers of household EEE via their producer compliance scheme?**

- Yes, I would support the methodology  
 No, I would not support the methodology  
 Not sure

## Comments

This would seem a sensible approach, although producers and compliance schemes will be better placed to answer this question.

The Authority understands that the government is proposing to use data from the most recent period 1 June – 30 July to set the targets. This is because if the targets for each collection stream are passed to PCSs according to market share over a 12 month period, using data from the previous compliance year (1 January to 31 December) this would mean that PCSs would not be informed of their targets until February which would be unacceptable. The proposed timetable would not in our view have any negative implications in relation to local authority reporting through WasteDataFlow. Similarly if local authorities wanted to retain control over the treatment of WEEE streams likely to generate net revenue for the collector they could do this at an appropriate point within the timetable.

**9. If this option were to be adopted, would you support the proposed time-line for implementation for each compliance period? Comment particularly on scope to reduce or remove any of these steps.**

- Yes, I support the proposed timeline  
 No, I do not support the proposed timeline  
 Not sure

### Comments

The Authority has suggested elsewhere in this response that it considers more time is necessary to consider the introduction of the compliance fee if this option was introduced.

A later introduction would also allow the WRAP trial to assess the best approach for providing unsubstantiated evidence to be completed and analysed.

As a result it may be more appropriate to make the relevant changes required to ensure compliance with the recast Directive by February 2014, but introduce the other aspects of the system to meet the Red Tape Challenge in February 2015.

**10. To what extent does this option help contribute to meeting the increasingly challenging collection targets in the WEEE Directive and the priority the new Directive attaches to the separate collection and treatment of hazardous waste?**

## Comments

The impact assessment 0382 shows that this option has the lowest net impact on business in cost terms. It also allows local authorities the flexibility and choice to both select a PCS (and choose between them) or to retain control over the treatment of WEEE streams likely to generate net revenue for the collector which will be attractive for some local authorities.

The inclusion of unobligated WEEE and the development of a system of substantiated evidence for measuring this stream will also ensure that material is not 'leaking' from the system and is all counted towards the UK's progress towards meeting the new targets in the Directive.

Accordingly the Authority would suggest that this option will go a considerable way to meeting the increasingly challenging collection targets in the WEEE Directive.

However, where there is less certainty is how far this option would assist compared to a 'do nothing' alternative. In particular it is uncertain what level of service for WEEE collections local authorities might receive once their nominated PCS has reached its target of material requiring collection.

Because evidence has no value and cannot be traded under this option there may be limited incentives to PCSs to continue to collect once they have reached their target.

Additionally whilst a PCS may collect more or less than its target they would face financial consequences in this instance:

- If they collect too much, they must finance it or retain the income. All the WEEE counts and the scheme is complaint
- If they collect too little, they can pay a compliance fee per tonne (category or collection group specific) into a fund (possibly to support WEEE related projects). Although the methodology for calculating and operating the compliance fee is still to be agreed, BIS has identified that it is designed to encourage achieving target. It is an alternative form of compliance and not a sanction.

One alternative to the compliance fee which the Authority has suggested in its response to question 7 is to allow for a limited amount of trading between schemes as this would ensure that evidence would continue to have a value and might be more acceptable to the schemes.

There is also potential instability introduced with this option as noted previously as a result of compliance fee fluctuations and additionally a risk of fragmentation of the compliance scheme system as more local authorities opt out, which could result in less money being spent on promotion and support services such as door-to-door collections. Local authorities who opt to retain the value of particular streams will be driven more by the income potential generation than achieving the WEEE Regulations targets for which they have no responsibility.

So whilst this flexibility for local authorities to retain the material value by contracting independently is very much welcomed it may result in less support for WEEE recycling as local authority budgets tighten and those authorities which choose to stay with compliance schemes are working with companies which have less tonnage over which to share the costs of promotion and other support. Ongoing monitoring of tonnages and arrangements can be used to assess progress.

Questions 11-14 all refer to option 4, A PCS/DCF Matching Process, referred to in the consultation document and impact assessment 0393.

**11. If this option were to be adopted, would you agree that the matching process should be developed using an algorithm based on matching tonnage obligations by collection stream, rather than a matching of tonnage equivalent to estimated costs for discharging obligations or an auction of collection?**

- Yes, I agree  
 No, I do not agree  
 Not sure

Comments

There is undoubtedly variability nationwide in the kilogrammes of WEEE collected per household and in the costs of collection.

However, the WEEE system is now embedded so that reliable data should be available regarding past performance which could be used to match authorities with compliance schemes and their tonnage obligations.

If this option was selected, it would seem both a deliverable and the fairest approach to develop a matching process using an algorithm based on matching tonnage obligations by collection stream.

However, if this option was adopted it would be necessary to ensure that any matching system avoids orphaning particular authorities with either higher costs of collection and/or lower than average per household amounts of WEEE collected – i.e. placing them with compliance schemes which have limited incentive to provide an excellent service to that authority because the costs of collection are relatively high compared to other authorities with whom they have been matched.

**12. If this option were to be adopted, how should new producers and new DCFs registering midyear be incorporated into the system?**

Comments

Mid-year registrants on either the producer or DCF side would cause difficulties with this option, although the level of disruption would depend upon how the system operates. For example if the matching process matched all DCFs for a particular local authority, for all streams, to a single PCS for a year, one approach might be to match a new DCF with the PCS arranging collections for the remainder of the authority area. So that if for example the NLWA registered a new DCF mid-year we would expect that DCF to be matched with the compliance scheme collecting from all the other north London DCFs for that year.

However, if the matching process could potentially result in more frequent changes of PCS-local authority matches and perhaps different PCSs arranging for the collection of different streams within a local authority area, then a mid-year addition of a DCF would add limited additional disruption compared to the 'norm'.

The Authority does not recommend that if Option 4 is selected that frequent changes of PCS-DCF/local authority matching takes place but the impact of additional DCFs is very much dependent on the stability within the system that is selected.

The Authority recognises, assuming a 12-month PCS-DCF matching period that our suggestion that a new DCF is allocated to the PCS collecting from the rest of that local authority area could lead to over-collection. However, from a local authority perspective over-collection by the PCS collecting from across the area would be preferable to having a new compliance scheme collecting from only one site.

If an incoming DCF was in an area where the local authority had decided to exclude particular streams from the compliance scheme service then we would suggest that it would be reasonable to assume that the incoming DCF relevant streams would be excluded too.

New producers would potentially be more difficult to incorporate into the system because they would be creating a need for additional collections. A new DCF potentially results in extra material being collected whilst a new producer potentially results in a material collection shortfall.

One option in the short term might be to allocate those producers to PCSs with an evidence surplus or to put them into a 'pool' where their obligations are matched against any national surpluses. However, from a producer's perspective this may be unsatisfactory as they would have no guarantee that their obligations would be met. Additionally under this option as described, all producers have to join a compliance scheme so a 'pool' may not be considered an acceptable alternative.

The matching process must be fair, transparent and equitable – taking account of variable factors such as location and demography. If this option is to be taken forward it would be important for local authorities to be involved in the development of the PCS-DCF matching process.

**13. To what extent would this option help contribute to meeting the increasingly challenging collection targets in the WEEE Directive and the priority the new Directive attaches to the separate collection and treatment of hazardous waste?**

Comments

This option would have the benefit that DCFs and retailers would offer all WEEE streams into the matching process (unless they propose to 'self treat' some streams). Accordingly this option would be very comprehensive and nationally controlled, which might assist in providing very up-to-date national reporting which might be useful. For example if the country was close to reaching the increasingly challenging collection targets in a particular year, but just short of tonnage, through the matching system enshrined in this option it might be possible to identify this quickly and take immediate action with the matching service provider acting as a catalyst.

This option also includes a proposal to strengthen and establish the Code of Practice as a high standard service level which would also help to ensure that all DCFs received a high standard of collection service which would assist in encouraging and maintaining public participation.

The Authority would suggest that this option will go some way to meeting the increasingly challenging collection targets in the WEEE Directive, but that option 3 would do more.

Because option 4 could potentially result in relatively short-term relationships between PCSs and local authorities it would not necessarily encourage compliance schemes to adopt locally relevant additional services or to trial them with a particular authority. Under both the current system and Option 3, compliance schemes keen to win local authority contracts in a competitive environment may offer to provide additional services such as support on promotion, work with local reuse organisations or door-to-door collections to increase tonnages collected. Under option 4 however, there would be no element of competition between the compliance schemes for local authority business. Accordingly local authorities may simply receive a 'standard level' of service as provided in the Code of Practice. In some areas for example with high population turnover this 'minimum' standard may be insufficient to maximise collection tonnages.

Although option 3 has more uncertainty within it, because each local authority contracts individually with a PCS we would suggest that it has greater potential to contribute to meeting the increasingly challenging collection targets in the WEEE Directive than option 4.

Neither option in the Authority's view has a particularly different focus on hazardous waste, although Option 4 potentially has scope to focus on this stream at a national level through the matching system.

**14. If this option were to be adopted, would you support the proposed time-line for implementation for each compliance period? Comment particularly on scope to reduce or remove any of these steps.**

The Authority has no comment on the timeline proposed.

**15. Please rank the four options according to your preference – 1 being most preferred, 4 being least preferred, with an explanation. Enter your ranking in the relevant box**

**Option 1: Do Nothing**

**Option 2: Establishing a National Compliance Scheme**

**Option 3: Setting a Collection Target and Compliance Fee**

**Option 4: Establishing a matching process of collection sites to PCSs**

Comments

Albeit with reservations about the compliance fee, the Authority is most supportive of option 3 as it provides local authorities with the opportunity to decide to contract themselves for streams with value or to contract with a PCS.

The current system is working very well from the Authority's perspective but we understand the concerns of others and also the concerns regarding the cost of compliance in particular.

However, the new arrangements for WEEE must not push the costs of compliance from the private to the public sector, because to do so would simply result in local authorities cutting back on the service provided to residents as a way of avoiding the additional costs, which would in turn risk a UK failure to meet the recast Directive's more challenging targets.

**16. Have the WEEE Impact Assessments for the Recast Directive (IA no. 0382) and/or the WEEE system (IA no. 0393) identified the costs and benefits arising from the proposed amendments to the UK WEEE Regulations? If not, please say why and provide supporting evidence.**

**X** Yes, I agree

No, I do not agree

Not sure

#### Comments

The impact assessment for the recast Directive (IA number 0382) and the impact assessment for the WEEE system (IA number 0393) are both extremely comprehensive, but given the timing of the consultation IA 0382 excludes any assessment of the proposals to make substantiated estimates of unobligated WEEE. For example the consultation suggests that WEEE reuse might be an area in which substantiated estimates would be helpful. However, because the work to assess how best to make these estimates has not been undertaken, no impact assessment has or can be carried out. To gain a complete picture of the impact of the revised proposals it will be necessary to include this aspect of the system within any review of the new system.

Similarly, whilst the assessments thoroughly review the different options for compliance they do not take into consideration any additional work which is required by local authorities, such as the administrative costs of tendering a service or managing the relationship with a contracted PCS. Additionally they do not include the costs of promotion and engagement work that local authorities may undertake or assess whether this would be different depending upon the option selected.

Finally, the assessment 0393 includes a sensitivity analysis; however, because of the fluctuating value of the material, depending on the market, councils will potentially act differently in their assessment of the alternatives and may weigh up the positives against the potential risk in a different way depending on market conditions.

From a local authority perspective one of the key risks is the risk of uncertainty and fluctuating PCS arrangements and service standards depending upon the attractiveness of local authority collections compared to the compliance fee (with option 3) and depending upon the allocation process with option 4. Changing collection arrangements at DCFs, particularly if this results in different service levels, could have an impact on public participation in the service.

Much may depend on local authority collection contracts and the flexibility or otherwise that these afford.

The following 4 questions all refer to other proposals to improve the WEEE system brought about by Red Tape Challenge.

**17. Do you support the de-minimis proposal that seeks to reduce reporting and administrative burdens on producers placing a low volume of EEE on the market in the UK?**

- Yes, I support the proposal (go to question 18)  
 No, I do not support the proposal (go to question 19)  
 Not Sure (go to question 19)

Comments

A de-minimis is included in other compliance regimes and would be appropriate for EEE/WEEE.

**18. Do you agree with the proposed threshold of 5 tonnes placed on the market? If not, please select your preferred threshold.**

- I agree with the proposal of a 5 tonne threshold  
 The threshold should be 1 tonne  
 The threshold should be 10 tonnes  
 The threshold should be 20 tonnes  
 Other (please specify)

Comments

The Authority has no additional comments.

**19. Do you support the proposal to allow DCF operators to choose, in advance of each compliance period, those WEEE streams for which they would make their own treatment arrangements and those they would hand over to compliance schemes?**

- Yes, I support the proposal  
 No, I do not support the proposal  
 Not sure

Comments

The opportunity for local authorities to take control of collection and treatment of value streams is to be welcomed. In practice many authorities may not want the risk of effectively entering into the recyclables trading market, because of the uncertainty that is involved. However as noted in the waste management review recently concluded by the LGA there will be some authorities who do want to take control of the material because of the value it provides. One of the recommendations of the review was to

*“Revise the WEEE compliance arrangements to ensure that local authorities that collect and store WEEE have the ability if they wish to manage and receive an appropriate income for it. There should also be additional incentives to reuse an increasing proportion of WEEE while providing assurance that the material will not be illegally exported and landfilled overseas.”*

**20. Do you support the proposal to require data for DCF self treated waste to be reported via AATFs?**

- Yes, I support the proposal  
 No, I do not support the proposal  
 Not sure

Comments

More detail is required on the reporting arrangements for DCFs. The Authority has some reservations about data being reported via AATFs particularly with regard to double counting. There is a need to ensure a clear and simple audit trail, avoid duplication and explore options to use established systems of data reporting such as WasteDataFlow.

## Section 3 – Producer Responsibility Coherence and Powers of Entry

21. Do you agree with the proposals to introduce the additional safeguards in relation to powers of entry?

- Yes, I agree with the proposal  
 No, I do not agree with the proposal  
 Not sure

Comments

22. Are there any additional safeguards that you believe should apply? If so, please specify.

Comments

The Authority has no additional comments.

23. Please tell us if there is anything else you wish to say about any aspect of the consultation.

Comments

The ability for the new Regulations to continue to provide choice, flexibility and competition in the selection of WEEE services for local authorities is very much welcomed and in this regard the Authority has indicated its preference for Option 3.

However, the key areas of concern from the Authority's perspective are:

- The need to avoid additional administration and resource costs. At a time of budget cuts local authorities cannot meet additional costs and want to reduce costs where possible. This may have implications for local authorities' ability to more extensively publicise WEEE collection services for example, which will be necessary to ensure that additional tonnage is collected.

- Aligned to this the Authority is concerned about the lack of information about future funding proposals for improvements in infrastructure, publicity & promotion. This is critical if the amount of WEEE collected and recycled is to be increased.
- Option 4 includes a proposal to strengthen and establish the Code of Practice as a high standard service level. This must be delivered for all options and needs to be completed in a timely manner if any of the options are to be delivered.
- Related to the above, paragraph 85 of Impact Assessment 0393 notes that “Incentives to increase collection rates could be engineered through utilising revenues received by PCS on a £/tonne basis in order to incentivise the PCS to maintain/increase collections.” Further information would be helpful to understand how this might work.
- The future role of the Distributer Takeback Scheme (DTS) is unclear in the proposals – further clarity is required.
- Local authorities need to ensure that they are not left with excess WEEE to manage for which no arrangements are in place, there is some concern that the focus on unobligated WEEE may reduce interest in local authority collected material.
- In this response the Authority has suggested a delay to the implementation of part of the new system if option 3 is adopted (a delay to implementation of option 4 is already included within the consultation proposals). Local authorities need the opportunity to review the potential impact of new regulations on individual contractual agreements and PCSs and producers also need sufficient time to establish new a system if this is necessary. The Authority has therefore suggested that the regulatory requirements for the implementation of the elements of the consultation associated with the implementation of the recast WEEE Directive are introduced in February 2014, but that the elements of the consultation associated with the Red Tape Challenge are investigated further, subject to due consultation and then implemented in February 2015.

The Authority's only additional comment is that there is no particular mention of reuse within the consultation documents. In line with the LGA Waste Review there should be additional incentives to reuse an increasing proportion of WEEE while providing assurance that the material will not be illegally exported and landfilled overseas. The Authority would welcome additional measures in this regard.

Thank you for taking the time to let us have your views. We do not intend to acknowledge receipt of individual responses.

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