Evaluating EU rules on waste from electrical and electronic equipment (WEEE)

Feedback from the European recycling industry

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The European Recycling Industries' Confederation (EuRIC) represents the recycling industry at a European level. Uniting national recycling federations from EU/EEA Member States, the Confederation represents more than 5,500+ recycling companies – from large industry to SMEs – generating an aggregated annual turnover of about 95 billion EUR by treating various waste streams such as household or industrial & commercial waste including ferrous and non-ferrous metals, end-of-life vehicles (ELVs), electronic waste (WEEE), packaging (paper and plastics), end-of-life tyres and textiles.

EuRIC strongly supports the European Commission's initiative to evaluate the Directive on Waste Electrical and Electronic Equipment (WEEE) which goal is to protect the environment and human health, contribute to sustainable production and consumption as well as ensure that resources are used efficiently in an EU circular economy.

In terms of sustainability, although EuRIC believes that a significant step forward has been made since the Directive's entry into force in 2012, European recyclers believe that there is room for improvement in order to realise the objectives of the EU Green Deal and the new Circular Economy Action Plan (CEAP).

What matters most for European recyclers

- **Structural reform: from Directive to Regulation**

  The current WEEE Directive is not directly applicable, and each Member State must ratify it into its domestic legislation. As such, there is a lack of harmonisation of EU rules in terms of obligations on WEEE value chain actors regarding the collection, transport and treatment of WEEE. It is safe to assume that this lack of harmonisation has contributed to the fact that **less than 40% of electronic waste is recycled** in Europe, a figure also highlighted in the new CEAP. This means that large quantities of electrical and electronic equipment (EEE) are either recycled but not accounted for (due to lack of reporting and traceability), inappropriately discarded or illegally traded at the end of their useful life.

> *'Electrical and electronic equipment continues to be one of the fastest growing waste streams in the EU, with current annual growth rates of 2%. It is estimated that less than 40% of electronic waste is recycled in the EU. Value is lost when fully or partially functional products are discarded because they are not reparable, the battery cannot be replaced, the software is no longer supported, or materials incorporated in devices are not recovered (CEAP, 2020).'*

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Therefore, to successfully deliver the EU's ambition for a circular economy, harmonisation of more EU rules is required. **To this end, EuRIC would like to express its support for a Regulation as opposed to a Directive.**

❖ **Better product design (Article 4)**

Eco-design for recycling is a pre-condition to move towards a more circular economy. As emphasised in the Top 5 Priorities of the Recycling Industry for the Period 2019 -2024, it is estimated that **80% of products' environmental impacts are determined at the design stage**. Still, the vast majority of products placed on the market are designed without any consideration of their end-of-life.

Today, the vast majority of EEE placed on the EU market contain components that are not easily removed, and therefore it is difficult to replace or remove them during or at the end of their useful life. This on one hand makes repairing practices more difficult and on the other hand limits the user to remove or switch some components (e.g., batteries, screen etc.,) in case a problem arises.

Furthermore, bonding practices (e.g., adhesive bonding etc) can be an obstacle to recyclers when attempting to remove the different components from WEEE, particularly lithium batteries, as requested by the WEEE Directive. Difficulty in removing lithium batteries from appliances has been found to be one of the main reasons behind the increased number of fires in facilities treating WEEE[1].

Practical proposals from EU recyclers for easier and safer dismantling include:

- Increase the use of mechanical binding practices in all EEE
- Limit the gluing and welding of components except in the absence of any alternative e.g., waterproof mobile phones
- Ensure batteries included in EEE are always removable and not built-in

Finally, setting up requirements for mandatory recycled content targets for plastics in new EEE, would further boost an EU Circular Economy. Besides closing the loop of materials in the plastics value chain, this would also ensure that the proposed collection targets for WEEE are achieved, reducing in that way the amount that ends in undocumented waste streams. To this end, EuRIC supports gradual and ambitious recycled content targets for post-consumer technical plastics in new electrical and electronic equipment.

Therefore, EuRIC proposes that the article on product ecodesign (currently: Article 4 of WEEE Directive) to be linked to Article 5 (ecodesign requirements) of the proposal for Eco-design for Sustainable Products Regulation (ESPR), proposed by the European Commission in March 2022.

[1] More information on the ever-increasing problem of fires caused by lithium batteries in WEEE can be found in the following links (link 1 and link 2)

❖ Increased focus on separate collection of WEEE (Article 5)

Article 5 of the WEEE Directive aims to ensure the adoption of measures to minimise the disposal of WEEE in the form of unsorted municipal waste and the correct treatment of all collected WEEE in order to achieve a high level of separate collection. EuRIC would like to emphasise the need of properly enforcing these measures across all EU Member States. This is particularly important for components of WEEE containing critical raw materials such as lithium-ion batteries. For example, according to Article 51 of the EU Commission's proposed Regulation on batteries and waste batteries, *batteries incorporated in appliances that are readily removable by the end user without the use of professional tools shall be removed and discarded by end users*.

With regards to the second paragraph of Article 5 (collection of WEEE from private households), EuRIC believes that expanding the list of collection points could further incentivise end users to return their unwanted EEE. This is the case in some Member States that have already taken actions to increase their collection rates. The German government, for example, has already passed an amendment to its German WEEE law which introduced new WEEE take-back obligations for supermarkets with a shop area of at least 800 square metres. Finally, should the list of collection points be expanded, **EuRIC strongly believes that authorised WEEE treatment facilities should have the choice to also become a point of collection.** This would positively contribute to achieving better results with respect to separate collection.

Besides the need to increase the number of collection points, EuRIC believes that the new legislation should also mandate the collection of WEEE by municipalities and business-to-business (B2B) networks. Today, there are many occasions where the wrong actors are involved in the collection of WEEE resulting in the wrong handling of devices. This in turn poses a great risk to health and safety and environmental protection. To avoid this, EuRIC believes that the collection of WEEE should follow standards (e.g., CENELEC).

❖ Improved transport of collected WEEE (Article 6)

The average length of life of EEE typically depends on the type of the device/appliance and can fluctuate between 1 year for small devices to more than a decade for larger appliances. While larger appliances are generally returned when they can no longer perform the function for which they have been purchased, for smaller devices this is usually not the case as consumers often upgrade their current models. Many of those devices contain lithium batteries which are more prone to catching fire – especially when not properly transported**. Therefore, EuRIC calls on the European Commission to reinforce Article 6 (2)** which already aims to ensure that the *collection and transport of separately collected WEEE is carried out in a way which allows optimal conditions for re-use, recycling, and the confinement of hazardous substances.*

❖ Collection rates (Article 7)

Ensuring that WEEE is collected at the end of life is prerequisite for closing the loop of materials in the EEE value chain. Under Article 7(1) of the current WEEE Directive, EuRIC would like to draw attention to the text *'…45% calculated on the basis of the total weight of WEEE collected.'* which does not seem to be in line with the more ambitious target of 65% mentioned in the second paragraph.

Besides the aforementioned discrepancy, **EuRIC would also like to propose to the European Commission to move away from the 'Put on Market (PoM)' methodology for the calculation of the collection rate and use instead the 'Available for Collection (AfC)' methodology**. The later would undoubtedly be more appropriate, especially since products change from a product to a waste status after they have been placed on the market a certain number of years.

Regarding the collection targets, **EuRIC believes that much higher collection targets must be achieved in order to be able to meet the increasing demand for raw materials coming from recycling.**

❖ Introduction of a mandatory visible fee

The term "visible fees" refers to an obligation borne by producers to display the financial contribution they are paying to the compliance schemes that manage their products at their end-of-life. Although Article 14 of the EU Directive 2012/19/EU allows the use of visible fees, in most Member States is still a voluntary action while in some others it is prohibited e.g., Germany.

A very good example is the case of the Czech Republic that introduced a new law on waste products No. 542/2020 which requires the "Visible Fee" for the cost of taking back, treating and disposing of waste equipment to be shown. The introduction of a mandatory visible fee should help distributors if they purchase equipment from, both EU and non-EU, manufacturers who have not paid the compulsory fees to a collective manufacturer system (PRO) and makes free riders more easily recognisable.

Therefore, EuRIC calls on the EU Commission to introduce a mandatory visible fee in the revised version of the WEEE Directive.

❖ Information to users (Article 14)

EuRIC believes that producers and distributors of EEE should provide information to users on the fact that EEE should be returned to a collection point at the end of their useful life and the different collection schemes available.

As also indicated in the **proposed Regulation on batteries and waste batteries**, the disclosure of information to all users should make use of modern information technologies such as free of charge websites and social media awareness campaigns. **EuRIC believes that all these activities should be organised and financed by extended producer responsibility (EPR) schemes.**

EuRIC would like to propose that Article 14 should also include obligations to provide information relevant to safety - during collection and storage of WEEE - to distributors and operators involved in collection. At the same time operators should be provided with information to facilitate the removal of waste batteries.

❖ Information for treatment facilities (Article 15)

Disclosure of information on how to treat WEEE at the end of life is crucial for a fully functional circular economy. As mentioned in this article, information must be free of charge and provided for each type of new EEE placed on the EU market for the first time within a period of one year.

Discussion with key stakeholders involved in the treatment of WEEE, showed that the aforementioned information is not always being disclosed by producers, and obtaining it can be challenging. Part of the problem is the absence of a contact person/point (in companies producing EEE) explicitly responsible for this task.

EuRIC would like to make mandatory the disclosure of such information in all EU Member States and proposes that producers always provide treatment facilities with a contact point.

❖ Extended producer responsibility for WEEE

Extended producer responsibility (EPR) is mandatory in the EU within the context of the WEEE Directive, which places the responsibility for financing the collection, recycling and responsible end-of-life disposal of WEEE on producers. This allows the EU to reach the collection and recycling targets set in EU legislation. However, some Member States go beyond the requirements laid down by the current WEEE Directive (e.g., traceability, increased documentation regarding shipments, removal of substances of high concern, etc.) which automatically increase the cost of recycling. Unfortunately, these extra costs are not factored into the fee that producers currently have to pay. Therefore, the extra cost is currently fully being absorbed by recycling facilities, leaving them with substantially less revenues.

Furthermore, with regards to the collection rates achieved by EPR schemes (Article 7), it is not clear whether these must also be achieved at a regional level. For this reason, and for a more ambitious legislative framework, **EuRIC would like to propose that these rates should be met in every region of every EU Member State and not only at Member State level. Additionally, EuRIC believes that the annual quantities collected by each EPR schemes should be made publicly available on a free access website.**

Therefore, EuRIC calls on the EU Commission to:

- Ensure that the future WEEE Regulation takes into consideration all costs for the treatment of WEEE.
- Ensure that in the event that the collection rates are achieved, efforts for further collection by EPR schemes should continue.
- Ensure that the collection rates of WEEE should be met in every region of every EU Member State.
- Provide adequate representation of the waste management and recycling sectors in EPR schemes. The representation in the governing body(-ies) of the EPR scheme shall be proportional to the operational costs borne by the main stakeholders falling under the scope of the scheme. As with other Members of the Board, the composition shall be devised to prevent conflict of interest.

❖ Treatment standards for WEEE

Implementing standards for WEEE treatment can contribute to level the playing field in WEEE treatment at European level. Therefore, EuRIC supports laying down mandatory minimum quality standards **based on** the WEEE treatment standards developed by CENELEC provided that the following conditions are duly observed:

i. Strict observance of the very provisions of the WEEE Directive

- ✓ **Minimum quality standards shall be based on 50625 treatment standards developed by CENELEC. They must be applicable, EU-wide and be properly enforced to guarantee an effective level playing field. This would contribute to a genuine internal market in the field of WEEE treatment.** EuRIC strongly suggests to first lay down mandatory minimum quality standards based on standards and technical specifications that set out "General treatment requirements" as well as for the "collection and logistics associated with WEEE".

- ✓ Distinguish informative from normative requirements as provided by the mandate M/518

That distinction is instrumental to:

a) Ensure compliance with the WEEE Directive and mandate M/518 themselves
b) Prevent shortcomings observed during the standardisation process which failed in making a proper distinction between these two types of requirements.
c) Ensure that minimum quality standards strictly support a better implementation of the WEEE Directive without placing unnecessary administrative burdens on organisations of any size, including SMEs or leading to potential competition or innovation restrictions because of provisions which may be over-prescriptive or not technology neutral.

Such a distinction should be made by a third-party independent expert and verified by the legal service of the European Commission to prevent any conflict of interest.

ii. **The costs of implementing binding minimum quality standards, in particular the costs of auditing, shall be continuously covered by EPR schemes to ensure that treatment operators (including SMEs) are not subject to disproportionate administrative and financial burden.** For similar reasons, costs stemming from WEEE treatment standards or from additional obligations shall also be covered by EPR schemes or alternatively by Member States depending on the system in place.

iii. **Only standards of the EN 50625 series falling under the scope of the WEEE Directive and of mandate M/518 shall be considered as a basis for binding minimum quality standards.** Consequently, the TS 50625-5: Collection, logistics & treatment requirements for WEEE - Part 5: Specification for the end-processing of WEEE fractions- copper and precious metals, which does not fall under the mandate M/518, shall be excluded from the scope of minimum quality standards laid down via implementing acts adopted by the European Commission[2].

[2] Full EuRIC position treatment standards for WEEE: https://www.euric-aisbl.eu/position-papers/item/333-euric-position-on-weee-treatment-standards

❖ BAT AELs overlap with specific national regulations

Directive 2008/1/EC concerning integrated pollution prevention and control (the IPPC Directive) requires treatment plants to comply with the best available techniques (BAT), which often provide emission limits that differ from specific and/or national regulations (e.g., VFC/VHC emissions). To avoid overlaps with national legislation, **EuRIC believes that the new Regulation should require Member States to repeal specific Regulations already covered by BAT and specify clearly which ones.**