

Brussels, 23rd May 2001

Re: Waste of Electrical and Electronic Equipment (WEEE) and Restriction on the Use of Certain Hazardous Substances (RoHS) Directives.

Waste of Electrical and Electronic Equipment (WEEE)

Scope

As this directive tackles a societal concern, to which all actors have contributed, all actors, including consumers, distributors, manufacturers and municipalities, should be included under the scope of the directive in order that it reap rewards for the environment.

Consumables, other than those that are part of the product when it is discarded, should not be part of the scope. Manufacturers of consumables are not necessarily manufacturers of the hardware in which the consumables are used. As such, extending the scope in this way would make the directive more complex by including manufacturers who do not necessarily make electrical or electronic equipment.

We support the conclusion of the European Commission and European Parliament that producer responsibility for professional and household equipment should be clearly distinguished. Producer's future responsibility for the waste of professional equipment will be based on an agreement between the producer and the customer at the time of purchase. We disagree with extending the producer responsibility for professional equipment to equipment produced before the directive enters into force.

Collection

Responsibility should start from designated collection points because a manufacturer should only be made responsible for a cost that is under its control. Municipalities are in most cases handling household collection by a municipal waste tax. In addition, municipalities have the appropriate infrastructures and geographical spread to deal with collection. We believe that this will continue to be the most efficient way to handle household collection in the future.

Producer responsibility

A producer, as well as an importer, should assume financial responsibility for the recycling of the products, intended for households, it introduces after the directive comes into force. This will encourage design for the environment in product development, as well as competition in the waste/recycling industry. Producers should be able to choose either individual or collective systems to handle end of life products in practice. We foresee that companies will work together to manage the recovery of products. An individual financial responsibility does not equate to an obligation to set up individual recycling systems. We support the conclusion reached by the European Parliament regarding producer responsibility.



Retroactivity and historic products

We disagree with making manufacturers retroactively responsible for products put on the market before the entry into force of the directive (historic products). However, we can support the European Parliament's conclusion that if companies are obliged to finance the recycling of historic products, the cost should: a) be proportionate to the market share of producers active on the market when the cost occurs; and b) it should be possible, but never mandatory, for companies to show the cost for historic waste recycling during a 10 year period.

Free riders

Any move to make existing producers financially responsible for the recycling of products from actors that disappear would create an incentive for dishonest actors to free ride (actors not resolving their recycling obligations).

As the European Parliament has concluded, each actor that puts products on the market in the future needs to guarantee that the recycling of his products will be resolved. We support the Parliament's conclusion to emphasise this point in order to reduce the amount of potential free riders and not surrender from the start by passing the cost of free riders to existing producers. (Comment - we do not need the legislation to be any stronger on this point and perhaps mandate a certain type of guarantee!)

Information

The European Parliament is proposing product identification by a mark or label. We would like to point-out that the necessary product identification can be resolved without labels or marking in the traditional sense (e.g. electronic tags).

Treatment

The WEEE Directive lays down extensive and detailed pre-treatment requirements for WEEE. To follow these extremely detailed pre-treatment regulations would inflict huge costs on industry. An improvement to the Commission's text is the substance-based approach (Annex II), as supported by the European Parliament. The application-based approach proposed by the Commission would require the selective treatment of some harmless components and materials and would act as a disincentive to developing components that are free of hazardous substances. A crucial development supported by Parliament is the addition of new language that underlines the necessity for pre-treatment practices that ensure a positive environmental impact, established with the help of the appropriate technical committee. Adding a treatment requirement for hydrocarbons would discourage the use of an environmentally advantageous alternative in the production of refrigerators and freezers.



Restriction of Certain Hazardous Substances (RoHS)

Legal basis

We urge the Council to support the current legal basis of the Commission's WEEE and RoHS directives. The European Parliament has confirmed that Article 95 should remain as the legal basis for the RoHS directive, so as to provide a high level of protection for citizens without creating uncertainty for business and undermining the Single Market. Environmental protection and consumer safety are equally precious for all EU citizens. An improvement affecting all 350 million citizens is more desirable than only a few countries going ahead with divergent national legislation, as is likely to happen with Article 175.

Scope

We support the European Parliament's opinion to exempt consumables, spare-parts and repair for equipment produced before the phase out date.

Any expansion of the scope of the directive (adding or deleting substances for phase-out) must be subject to the full legislative procedure, involving the European Parliament and Council. Unfortunately, the European Parliament has proposed to allow the European Commission to extend the scope to phase out other substances through the European Commission's technical adaptation committee.

Substance phase-out timeline

We urge the Council to support the Commission's proposed phase-out timeline of 2008 and to ensure a proper review of substances before the directive is adopted. This is crucial to let manufacturers know in advance which exemptions are allowed in order to meet the 2008 deadline.

As the European Parliament has concluded, files supplied to the Commission by 31st December 2003 should be taken into account in a review process ending one year later.

Review process

As the European Parliament has concluded any review process or evaluation should include consumer safety and health concerns and technical and scientific feasibility. However, we would like to add that manufacturing safety, product performance and reliability should also be taken into account. Any evaluation should include consideration of the alternative substances.

As the European Parliament has concluded, concentration values need to be set within one year of the adoption of the directive.

Exemptions

We would like to emphasise the importance of the wording of the European Parliament for the following additional exemptions:

- Lead contained in high melting temperature type solder.
- Lead in glass in electronic components.
- Lead in piezoelectric devices.
- Lead in servers, storage and storage array systems, voice and data transmission and networking equipment.

The first three exemptions are necessary for technical reasons, whereas the latter is crucial for product reliability.