



WEEE Forum guidance document on  
compliance with Directive 2002/96/EC on waste  
electrical and electronic equipment (WEEE)

14 October 2008

## **1. European legislation...**

[Directive 2002/96/EC on Waste from Electrical and Electronic Equipment \(WEEE\)](#) of 27 January 2003 entered into force on 13 February 2003. Member States had to implement this Directive into national law within 18 months after their publication in the Official Journal, i.e. by 13 August 2004. Producer responsibility started one year later, on 13 August 2005.

The Directive on the Restriction of certain Hazardous Substances in Electrical and Electronic Equipment (RoHS) 2002/95/EC of 27 January 2003 entered into force at the same time. This Directive will not be explored in this guidance document.

Take back obligations have been imposed by law on manufacturers and importers of electrical and electronic products. Importers and manufacturers are responsible for the take back and recycling of products discarded by end users

## **2. ...but the legislation differs from country to country**

Directives typically are not directly applicable to manufacturers, i.e. they must first be transposed into national law in every Member State. This area is all the more complex because of the fact that the Directive is under Article 175 of the EC Treaty, which allows Member States considerable freedom in their transposition into national legislation. As a result the various national legislations differ substantially across Europe.

The Directive aims at providing for protection of human health and the environment. Due to fact that EC Treaty article 175 provides for a “minimum harmonization” measure, some Member States have chosen to put in place stricter measures. Plus, the responsibilities and obligations of producers, authorities, distributors, and all other parties are addressed within the framework of each country’s national law. As a consequence producers have to consider the transpositions into national legislation.

## **3. Two compliance options: an individual take back plan or join a compliance scheme**

Importers and manufacturers of appliances falling within the scope of the legislation are responsible for the take back and recycling of appliances discarded by consumers. There are two ways to comply with this obligation: become a member of a collective take back system or draw up an individual waste management plan and submit this for approval to the various supervising governmental agencies.

## **Individual take back plan**

You (or your national representative) have to consult national legislation in order to write this plan. You can use the published legislation as a starting point but we advise you to contact the national authorities for more practical information. You can contact your European or national trade/industry association for support

## **Membership of a compliance scheme**

You (or your national representative) can become a member of a compliance scheme in the state into which you sell your goods. The WEEE Forum website provides an overview of approved open schemes that are member of the WEEE Forum [see [http://www.weee-forum.org/index.php?section=members&page=members\\_community&weeeforum=3380fa05d5d9a2a54fd970962557046d](http://www.weee-forum.org/index.php?section=members&page=members_community&weeeforum=3380fa05d5d9a2a54fd970962557046d)].

Open systems member of the WEEE Forum are run on behalf of manufacturers and importers. They coordinate the collection and the recycling of WEEE. They work closely with retail, municipalities, municipal waste associations and reuse centres, as well as with companies specialised in the logistics and the environmentally responsible treatment of the discarded appliances.

Take back systems have set up a comprehensive approach that carries out the following duties:

- Take on the producers' legal obligations
- Manage the data collection and reporting
- Negotiate contracts with operators
- Arrange logistics
- Arrange recycling
- Manage the financing
- Maintain the audit trails

Undertaking this for many manufacturers and importers together will reduce the costs, compared to individual solutions.

## **4. The WEEE Forum recommends to become a member of one of the existing systems in each Member State**

Producers face logistical, technical and administrative tasks. These tasks require specialised knowledge, personnel capacity and financial resources. The most efficient solution is to commission an experienced, external service provider who takes care of all tasks. But take back of WEEE is far more than just a logistical and recycling task. The legislation places very tough demands on industry.

Collective take back systems take care of the overall practical implementation of the take back obligation. They offer the simplest, cheapest and most comprehensive approach to WEEE management.

## **How to join a collective take back system?**

In principle, each importer or manufacturer of electrical or electronic appliances that produces or imports at least one appliance may join the collective system. Simply conclude an entry agreement with the system in a given country where you act as a producer or importer.

As legislation varies according to the Member State concerned, criteria for joining the systems differ. Please contact the scheme listed for your Member State for further details.

Mostly you simply sign the entry agreement with the system, regularly declare the amount of goods marketed in the national market to the take back system or to any “black box” charged by them that ensures the strictest confidentiality while treating these data and pay the required contributions to the system on the basis of your monthly/quarterly/annual declarations.

Some take back systems also offer the possibility for the national importer of electrical and electronic appliances to give a mandate to their foreign supplier(s) to fulfill their obligations stemming from the entry agreement.

## **What about the contributions?**

The contribution (fee) will vary according to the product type in order to guarantee that each product type covers its own costs and that some product categories do not cross subsidize other product categories.

To fund the take back operations, all schemes make some form of calculation of market share of the scheme participants. Some systems apply visible fees where customers directly cover the take back costs, while others have non-visible fees per unit that can be indirectly passed on to customers through the product price. Other models that charge producers in arrears on the actual costs can also affect the sales price.

For business products the costs in some schemes are not related to market share but relate more to actual waste collected as a result of the members’ supply of new products.

In some collective take back schemes producers can apply for a repayment of fees for products recycled at the company’s expense.

The efficient management of producers’ contributions is fundamental. The collective take back systems work to manage the funds to assure maximum efficiency, to protect the funds from being raided for other purposes, and to engage stakeholders in realising the ongoing success of the system.

If, in your capacity as intermediary or retailer, you export appliances for which you have already paid contributions to your national supplier, you can request a refund from the collective system under certain conditions (proof of export).

Refund of contributions is also possible in some systems in the following situations:

- Sale with foreign VAT
- Defective goods
- Assembly or processing of new products

## **5. Do you want to know more about the business-model of collective take back systems?**

Systems with active stakeholder management, provide a sound basis for moving forward, both at European and national levels, with an efficient and effective system for collection and recycling of electrical and electronic products.

They provide a predictable source of funds, pays for all returned products, adhere to principles of environmentally sound management, provide convenient collection opportunities, and do not place an extra financial burden on local governments.

The collective systems use every means possible to minimize costs employing competitive contracting for services, working with existing businesses and organizations, stimulating product design improvements to lower recycling costs, encouraging an extensive collection network to improve economies of scale etc.

The underlying principle of the take back systems that are members of the WEEE Forum is that the stakeholders in the electronics' chain of commerce should manage the end-of-life system, and that stakeholders' responsibilities should be proportionate to their ability to implement and affect the system.

Collective take back systems place manufacturers in a key role as the primary managers of the recycling infrastructure through governance of the management entity. Consumers discard their end-of-life products at appropriate collection facilities. Retailers participate in the collection of products. Business end users' requirements are met. Logistics companies and recyclers compete to provide environmentally responsible collection and processing. Government provides leadership by helping assure that all stakeholders perform their duties and the rules are followed. All stakeholders share responsibility to educate and inform the public.

Within the collective take back structure, certain manufacturers should be allowed to benefit from their initiatives to design more easily recycled products and to create internal recycling infrastructures by taking individual responsibility for the collection and recycling of their products. Manufacturers that choose to establish their own collection and recycling systems should be free to do so, and they should be compensated for their actions by the collective take back system in the same manner as other collectors and recyclers. If their collection and recycling processes are more efficient, the marketplace will reward them. However even within the framework of collective take back systems there are a number of opportunities to enhance manufacturers' responsibilities for end-of-life management and to stimulate improvements in environmental design. For example, the increased flow of information from recyclers to manufacturers through participation in the collective take back system will enhance the knowledge and sophistication of product designers

## 6. Some thoughts on brand-specific systems

The idea of brand-specific systems is attractive because it sounds so simple – just make producers responsible for their products. But this approach implies laws, regulations and enforcement that mandate companies to fulfill their obligations. The obligations that must be enforced include: financial obligations must be met by all manufacturers, recycling services are environmentally responsible and meet performance targets, and pick-ups from consolidation centres are timely and fairly distributed the tendency to “cherry pick” shipments from population centres must be controlled.

Governments must ensure that many small and often foreign manufacturers meet their obligations. Enforcement can be expensive, and a lack of enforcement – one of the industry’s chief worries – results in an uneven playing field in the marketplace, allowing free riders to continue to escape any responsibility.

As amounts of historic waste steadily decline, and when all consumer waste put on the market has financial guarantees, it will be reasonable for producers to make calculations on the actual return share of their branded products. As the actual return share may be less than present market share, due to longevity or market saturation of the products, it would be more equitable to divide costs via return share. This may be done through statistic sampling, and perhaps later through the use of Radio Frequency Identification technologies to recognize specific brand-owners.

For more information on the WEEE Forum and a profile of each system and contact information, see <http://www.weee-forum.org>. Drop a line with the Brussels office: [secretariat@weee-forum.org](mailto:secretariat@weee-forum.org). Call us on (32-2) 706 87 01. Or pay us a visit: Diamant conference and business centre, Boulevard Auguste Reyerslaan 80, 1030 Brussels (Belgium).