



30.6.2017

NOTICE TO MEMBERS

Subject: Petition No 1440/2016 by R.E.V.O. (Spanish) on unfair competition created by Amazon due to lack of recycling of electrical waste and electronic equipment

1. Summary of petition

According to the petitioner, the company Amazon is failing to fulfil its responsibility to ensure that the electric waste and electronic equipment which is subject to recycling requirements can be returned free of charge as long as the equipment is of equivalent type and performs the same functions as the supplied equipment. This practice is allegedly in breach of Article 5 of Directive 2012/19/EU on electrical waste and electronic equipment (WEEE) and constitutes unfair competition vis-a-vis businesses which are complying with the objective.

2. Admissibility

Declared admissible on 12 April 2017. Information requested from Commission under Rule 216(6).

3. Commission reply, received on 30 June 2017

The Commission's observations

E-commerce is a fast growing retail market in Europe and online sales of electrical and electronic equipment (EEE), in particular small EEE, are a major and growing part of this market.

Directive 2012/19/EU on waste electrical and electronic equipment (the WEEE Directive)¹ provides for obligations for producers and distributors of EEE of relevance to e-commerce

¹ OJ L 197, 24.7.2012

operators.

On one hand, the definition of producer of EEE in the Directive covers also any natural or legal person who sells EEE by means of distance communication (online sellers) directly to private households or to users other than private households in a Member State, and is established in another Member State or in a third country.

Member States have to ensure that producers comply with the obligations set out in the WEEE Directive, either directly or through their authorised representative, that are notably:

- to register to the national registers of the Member States to which they sell EEE;
- to report to the competent national authority in the Member State concerned the quantities and type of EEE that they place on the market of that Member State.

Producers are also obliged to provide for the financing of the collection and treatment of waste coming from the products they place on the market. In practice this in most cases is done by joining a collective take-back system, which establishes collection facilities allowing citizens to return WEEE free of charge. Information on such collection points is normally publicly available¹.

Furthermore, the WEEE Directive (Article 5) provides for specific requirements for distributors of EEE, those who make the EEE available on the market of a Member State. In particular, when supplying a new product, distributors are responsible for ensuring that WEEE can be returned at least free of charge on a one-to-one basis as long as the equipment is of equivalent type and has fulfilled the same functions as the supplied equipment.

This obligation also applies to online sellers, when established in a Member State, and they have to provide to their customers specific places in that Member State to return WEEE on a one-to-one basis when the equipment the customer returns is of equivalent type and has fulfilled the same functions as the supplied equipment. Such information is normally publicly available².

It is incumbent upon Member States to take measures to identify non-compliant operators and, where necessary, to impose penalties for non-respect of the respective national provisions. Work is also underway between Member States aiming at the setting up of a network to share information on, *inter alia*, the prosecution of non-compliant operators, so to assist in improving enforcement within all Member States concerned.

Furthermore, the Commission plans to adopt for early 2018 an implementing act establishing the format for the registration and reporting of EEE producers and the frequency of reporting to the register. This measure is expected to reduce the administrative burden for registration and reporting, and will support compliance with the respective requirements, *inter alia* in improving the ease of the respective procedures for online sellers.

¹ For example, Amazon EU S.à.r.l provides information to the customers in different Member States on the WEEE collection points in each Member State:

<https://www.amazon.co.uk/gp/help/customer/display.html?nodeId=200325090>

² For example, Amazon EU S.à.r.l which is established in Ireland and is considered to be a distributor in Ireland provides to its customers in Ireland specific places to return WEEE on a one-to-one basis:

<https://www.amazon.de/gp/help/customer/display.html?ie=UTF8&nodeId=201577450>

More generally, the Commission currently carries out a targeted compliance promotion initiative to assist Member States in the implementation of the WEEE Directive. The aim is to identify good practices in the implementation of the Directive, including practices to identify non-compliant operators, and to share relevant information, in particular to assist Member States which encounter difficulties that hamper the achievement of the targets of the Directive.

Conclusion

The WEEE Directive provides for specific measures relevant for the different market operators, including online sellers, to ensure that WEEE is separately collected for treatment as required by the Directive.

The Commission recognises that ensuring compliance with the WEEE Directive with respect to distance selling is of growing importance and further enforcement measures by Member States may still be needed. The Commission supports Member States' efforts to tackle this issue *inter alia* by providing guidance and through its compliance promotion initiative.

Furthermore, the planned implementing act to establish the format for the registration and reporting of EEE producers and the frequency of reporting to the national register is expected to assist market operators, including online sellers, in complying with the respective requirements.