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*****I**

REPORT

on the proposal for a directive of the European Parliament and of the Council
on waste electrical and electronic equipment (WEEE) (recast)
(COM(2008)0810 – C6-0472/2008 – 2008/0241(COD))

Committee on the Environment, Public Health and Food Safety

Rapporteur: Karl-Heinz Florenz

(Recast - Rule 87 of the Rules of Procedure)

Symbols for procedures

- * Consultation procedure
majority of the votes cast
- **I Cooperation procedure (first reading)
majority of the votes cast
- **II Cooperation procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- *** Assent procedure
*majority of Parliament's component Members except in cases
covered by Articles 105, 107, 161 and 300 of the EC Treaty and
Article 7 of the EU Treaty*
- ***I Codecision procedure (first reading)
majority of the votes cast
- ***II Codecision procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- ***III Codecision procedure (third reading)
majority of the votes cast, to approve the joint text

(The type of procedure depends on the legal basis proposed by the Commission.)

Amendments to a legislative text

In amendments by Parliament, amended text is highlighted in ***bold italics***. In the case of amending acts, passages in an existing provision that the Commission has left unchanged, but that Parliament wishes to amend, are highlighted in **bold**. Any deletions that Parliament wishes to make in passages of this kind are indicated thus: [...]. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). Suggested corrections of this kind are subject to the agreement of the departments concerned.

CONTENTS

	Page
DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION.....	5
EXPLANATORY STATEMENT.....	60
ANNEX: LETTER FROM THE COMMITTEE ON LEGAL AFFAIRS.....	65
ANNEX: OPINION OF THE CONSULTATIVE WORKING PARTY OF THE LEGAL SERVICES OF THE EUROPEAN PARLIAMENT, THE COUNCIL AND THE COMMISSION	67
PROCEDURE.....	69

DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**on the proposal for a directive of the European Parliament and of the Council on waste electrical and electronic equipment (WEEE) (recast)
(COM(2008)0810 – C7-0472/2008 – 2008/0241(COD))**

(Ordinary legislative procedure: recast)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2008)0810),
 - having regard to Article 251(2) and Article 175(1) of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C6-0472/2008),
 - having regard to the Commission Communication to Parliament and the Council entitled 'Consequences of the entry into force of the Treaty of Lisbon for ongoing interinstitutional decision-making procedures' (COM(2009)0665),
 - having regard to Article 294(3) and Article 192(1) of the Treaty on the Functioning of the European Union,
 - having regard to the opinion of the European Economic and Social Committee of 11 June 2009¹,
 - having regard to the opinion of the Committee of the Regions of 4 December 2009²,
 - having regard to the Interinstitutional Agreement of 28 November 2001 on a more structured use of the recasting technique for legal acts³,
 - having regard to the letter of [...] from the Committee on Legal Affairs to the Committee on the Environment, Public Health and Food Safety in accordance with Rule 87(3) of its Rules of Procedure,
 - having regard to Rules 87 and 55 of its Rules of Procedure,
 - having regard to the report of the Committee on the Environment, Public Health and Food Safety (A7-0229/2010),
- A. whereas, according to the Consultative Working Party of the legal services of the European Parliament, the Council and the Commission, the proposal in question does not include any substantive amendments other than those identified as such in the proposal and whereas, as regards the codification of the unchanged provisions of the earlier acts together with those amendments, the proposal contains a straightforward codification of

¹ OJ C 306, 16.12.2009, p. 39.

² Not yet published in the Official Journal.

³ OJ C 77, 28.3.2002, p. 1.

the existing texts, without any change in their substance,

1. Adopts the position at first reading hereinafter set out, taking into account the recommendations of the Consultative Working Party of the legal services of the European Parliament, the Council and the Commission;
2. Calls on the Commission to refer the matter to Parliament again if it intends to amend the proposal substantially or replace it with another text;
3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Amendment 1

Proposal for a directive Recital 7

Text proposed by the Commission

(7) The purpose of this Directive is, to contribute to sustainable production and consumption by as a first priority, the prevention of waste electrical and electronic equipment (WEEE), and in addition, the *reuse*, recycling and other forms of recovery of such wastes so as to reduce the disposal of waste and contribute to the efficient use of resources. It also seeks to improve the environmental performance of all operators involved in the life cycle of electrical and electronic equipment, e.g. producers, distributors and consumers and in particular those operators directly involved in the collection and treatment of waste electrical and electronic equipment. In particular, different national applications of the producer responsibility principle may lead to substantial disparities in the financial burden on economic operators. Having different national policies on the management of WEEE hampers the effectiveness of recycling policies. For that reason the essential criteria should be laid down at Community level.

Amendment

(7) The purpose of this Directive is, to contribute to sustainable production and consumption by as a first priority, the prevention of waste electrical and electronic equipment (WEEE), and in addition, the *re-use*, recycling and other forms of recovery of such wastes so as to reduce the disposal of waste and contribute to the efficient use of resources ***and the retrieval of strategic raw materials***. It also seeks to improve the environmental performance of all operators involved in the life cycle of electrical and electronic equipment, e.g. producers, distributors and consumers and in particular those operators directly involved in the collection and treatment of waste electrical and electronic equipment .In particular, different national applications of the producer responsibility principle may lead to substantial disparities in the financial burden on economic operators. Having different national policies on the management of WEEE hampers the effectiveness of recycling policies. For that reason the essential criteria should be laid down at Community level ***and harmonised standards for the collection and handling of WEEE should***

be developed.

Justification

WEEE represents an opportunity to regain the strategic raw materials tied up in electrical and electronic products back into materials streams.

Amendment 2

Proposal for a directive

Recital 10

Text proposed by the Commission

(10) This Directive should cover all electrical and electronic equipment used by consumers and electrical and electronic equipment intended for professional use. This Directive should apply without prejudice to Community legislation on safety and health requirements protecting all actors in contact with WEEE as well as specific Community waste management legislation, in particular

Directive 2006/66/EC of the European Parliament and of the Council of 6 September 2006 on batteries and accumulators and waste batteries and accumulators¹, and Community product design legislation, in particular Directive 2005/32/EC of the European Parliament and of the Council establishing a framework for the setting of ecodesign requirements for energy-using products and amending Council Directive 92/42/EEC and Directives 96/57/EC and 2000/55/EC of the European Parliament and of the Council.

Amendment

(10) This Directive should cover all electrical and electronic equipment used by consumers and electrical and electronic equipment intended for professional use. This Directive should apply without prejudice to Community legislation on safety and health requirements protecting all actors in contact with WEEE as well as specific Community waste management legislation, in particular

Directive 2006/66/EC of the European Parliament and of the Council of 6 September 2006 on batteries and accumulators and waste batteries and accumulators², and Community product design legislation, in particular Directive 2005/32/EC of the European Parliament and of the Council establishing a framework for the setting of ecodesign requirements for energy-using products and amending Council Directive 92/42/EEC and Directives 96/57/EC and 2000/55/EC of the European Parliament and of the Council. ***Large-scale fixed installations inter alia, should be excluded from the scope of this Directive because they are permanently installed and operated at a particular location, are assembled and disassembled by specialist***

¹ OJ L 266, 26.9.2006, p.1-14. Directive as amended by Directive 2008/12/EC (OJ L 76, 19.3.2008, p. 39).

² OJ L 266, 26.9.2006, p.1-14. Directive as amended by Directive 2008/12/EC (OJ L 76, 19.3.2008, p. 39).

personnel and therefore represent a controlled waste stream. Large-scale stationary industrial tools installed for operation at a specific location should also be excluded from the scope of this Directive. Mobile machinery operated exclusively by professional users should likewise be excluded because it too is disassembled and disposed of by specialist personnel and it therefore represents a controlled waste stream. Photovoltaic modules, which are also installed and removed by specialist personnel and are instrumental in achieving renewable-energy targets, thus helping to reduce CO₂, should also be excluded. Furthermore, the solar industry has concluded a voluntary environmental agreement with the aim of recycling 85% of photovoltaic modules. The Commission should check whether that agreement is achieving at least equivalent results as compared to this Directive and whether it is covering all photovoltaic modules placed on the market and should, if appropriate, on the basis of a report, include photovoltaic modules in the scope of the Directive.

Amendment 3

Proposal for a directive Recital 13

Text proposed by the Commission

(13) Separate collection is a precondition to ensure specific treatment and recycling of WEEE and is necessary to achieve the chosen level of protection of human health and the environment in the Community. Consumers have to actively contribute to the success of such collection and should be encouraged to return WEEE. For this purpose, convenient facilities should be set

Amendment

(13) Separate collection is a precondition to ensure specific treatment and recycling of WEEE and is necessary to achieve the chosen level of protection of human health and the environment in the Community. Consumers have to actively contribute to the success of such collection and should be encouraged to return WEEE. For this purpose, convenient facilities should be set

up for the return of WEEE, including public collection points, where private households should be able to return their waste at least free of charge. Distributors have an important role in contributing to the success of WEEE collection.

up for the return of WEEE, including public collection points, where private households should be able to return their waste at least free of charge. Distributors, ***municipalities and recyclers all*** have an important role in contributing to the success of WEEE collection ***and treatment and thus should be subject to the requirements of this Directive.***

Justification

Underlines the importance of ensuring that all WEEE actors involved in the collection and treatment of WEEE are expected to ensure compliance with this legislation.

Amendment 4

Proposal for a directive

Recital 14

Text proposed by the Commission

(14) In order to attain the chosen level of protection and harmonised environmental objectives of the Community, Member States should adopt appropriate measures to minimise the disposal of WEEE as unsorted municipal waste and to achieve a high level of separate collection of WEEE. In order to ensure that Member States strive to set up efficient collection schemes, they should be required to achieve a high level of collection of WEEE, particularly for cooling and freezing equipment containing ozone depleting substances and fluorinated greenhouse gases, given their high environmental impact and in view of obligations contained in Regulation (EC) 2037/2000 and Regulation (EC) 842/2006. Data included in the impact assessment shows that 65% of electrical and electronic equipment placed on the market is already separately collected today, but more than half of this potentially leaks to improper treatment and illegal exports. This leads to losses of valuable secondary raw materials

Amendment

(14) In order to attain the chosen level of protection and harmonised environmental objectives of the Community, Member States should adopt appropriate measures to minimise the disposal of WEEE as unsorted municipal waste and to achieve a high level of separate collection of WEEE. In order to ensure that Member States strive to set up efficient collection schemes, they should be required to achieve a high level of collection of WEEE, particularly for cooling and freezing equipment containing ozone depleting substances and fluorinated greenhouse gases, given their high environmental impact and in view of obligations contained in Regulation (EC) 2037/2000 and Regulation (EC) 842/2006. Data included in the impact assessment shows that 65% of electrical and electronic equipment placed on the market is already separately collected today, but more than half of this potentially leaks to improper treatment and illegal exports, ***or is treated properly but the amounts treated were not***

and environmental degradation. To avoid this, it is necessary to set an ambitious collection target.

reported. This leads to losses of valuable secondary raw materials, environmental degradation *and provision of inconsistent data*. To avoid this, it is necessary to set an ambitious collection target, *to oblige all actors that collect WEEE to ensure it is treated in an environmentally sound way, and to require such actors to report the volumes collected, handled and treated. It is of fundamental importance that Member States ensure that the Directive is effectively enforced, in particular as regards checks on used EEE shipped out of the Union.*

Justification

Text that adds to the Rapporteur's proposal, emphasising the importance of data collection, effective enforcement, and the inclusion of actors involved in the collection and treatment of WEEE.

Amendment 5

Proposal for a directive

Recital 17

Text proposed by the Commission

(17) The recovery, preparation for re-use and recycling of equipment can be counted into the targets defined in Article 7 of this Directive only if that recovery or preparation for re-use or recycling is not in contradiction to other European and Member States legislation applicable to the equipment.

Amendment

(17) The recovery, preparation for re-use and recycling of equipment can be counted into the targets defined in Article 7 of this Directive only if that recovery or preparation for re-use or recycling is not in contradiction to other European and Member States legislation applicable to the equipment. *Ensuring proper recovery and preparation for re-use and recycling of equipment will account for sound resource management and will optimise the resources supply.*

Justification

These processes are important channels for resource recovery and it is crucial to operate them properly.

Amendment 6

Proposal for a directive – amending act Recital 19

Text proposed by the Commission

(19) Users of electrical and electronic equipment from private households should have the possibility of returning WEEE at least free of charge. Producers should finance **at least** the collection from collection facilities, and the treatment, recovery and disposal of WEEE. Member States should encourage **producers to take full ownership of the WEEE collection in particular by financing the collection of WEEE throughout the whole waste chain, including from private households**, in order to avoid leakage of separately collected WEEE to sub-optimal treatment and illegal exports, **to create a level playing field by harmonising producer financing across the EU, to shift** payment for the collection of this waste from general tax payers to the consumers of EEEs in line with the polluter pays principle. In order to give maximum effect to the concept of producer responsibility, each producer should be responsible for financing the management of the waste from his own products. The producer should be able to choose to fulfil this obligation either individually or by joining a collective scheme. Each producer should, when placing a product on the market, provide a financial guarantee to prevent costs for the management of WEEE from orphan products from falling on society or the remaining producers. The responsibility for the financing of the management of historical waste should be shared by all existing producers in collective financing schemes to which all producers, existing on the market when the costs occur, contribute proportionately. Collective financing schemes should not have the effect of excluding niche and low-volume

Amendment

(19) Users of electrical and electronic equipment from private households should have the possibility of returning WEEE at least free of charge. Producers should **therefore** finance collection from collection facilities, and the treatment, recovery and disposal of WEEE. Member States should encourage **all stakeholders handling WEEE to help achieve the objective of this Directive** in order to avoid leakage of separately collected WEEE to sub-optimal treatment and illegal exports. **In order that** payment for the collection of this waste **be shifted** from general tax payers to the consumers of EEEs in line with the polluter pays principle, **Member States should encourage producers to treat all WEEE collected. In order to make proper treatment possible, consumers should have a responsibility to ensure that end-of-life EEE is taken to collection facilities.** In order to give maximum effect to the concept of producer responsibility, each producer should be responsible for financing the management of the waste from his own products. The producer should be able to choose to fulfil this obligation either individually or by joining a collective scheme. Each producer **or third party acting on their behalf** should, when placing a product on the market, provide a financial guarantee to prevent costs for the management of WEEE from orphan products from falling on society or the remaining producers. The responsibility for the financing of the management of historical waste should be shared by all existing producers in collective financing schemes to which all producers, existing on the market when the costs occur, contribute proportionately.

producers, importers and new entrants.

Collective financing schemes should not have the effect of excluding niche and low-volume producers, importers and new entrants.

Justification

WEEE collection should continue to be handled by existing, reliable bodies. In terms of equipment design or environmental benefits, financing collection from households is immaterial, and shifting how the burden is shared does not guarantee a higher collection rate. Nor must the consumer's responsibility to be involved in the proper disposal of waste equipment be disregarded.

Amendment 7

Proposal for a directive – amending act Recital 20

Text proposed by the Commission

Amendment

(20) Producers should be allowed to show purchasers, on a voluntary basis at the time of sale of new products, the costs of collecting, treating and disposing in an environmentally sound way of WEEE. This is in line with the Commission Communication on Sustainable Consumption and Production and Sustainable Industrial Policy Action Plan in particular with regard to smarter consumption and green public procurement.

deleted

Justification

Collection and treatment costs should be incorporated into the product price so that there is an incentive to reduce those costs. Flat rates reflect neither the actual costs of a product at the end of its service life nor its environmental impact. In the final analysis, consumers receive no information on recyclability and actual treatment costs.

Amendment 8

**Proposal for a directive
Recital 26**

Text proposed by the Commission

(26) The adaptation to scientific and technical progress of certain provisions of the Directive, the selective treatment for materials and components of WEEE, the technical requirements for collection, storage and treatment of WEEE and the symbol for the marking of EEE should be effected by the Commission under a committee procedure.

Amendment

(26) According to Article 291 TFEU, rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers are to be laid down in advance by a regulation adopted in accordance with the ordinary legislative procedure. Pending the adoption of that new regulation, and given the necessity to adopt and implement as soon as possible this Directive, Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission¹ continues to apply, with the exception of the regulatory procedure with scrutiny, which is not applicable. References to those provisions should nevertheless be replaced with references to the rules and principles set out in the new regulation as soon as that regulation enters into force.

¹ OJ L 184, 17.7.1999, p. 23.

Justification

This amendment aligns the old so-called "comitology procedure" to the new procedure under Article 290 of the Treaty on the Functioning of the European Union.

Amendment 9

**Proposal for a directive
Recital 26 a (new)**

Text proposed by the Commission

Amendment

(26a) To reduce barriers to the operation of the internal market, administrative burdens should be reduced by standardising registration and reporting and by preventing multiple charges for multiple registrations in individual Member States. In particular, a producer

should no longer be required to have a legal seat in a Member State in order to be allowed to place EEE on the market in that Member State; rather, the appointment of a local legal representative resident in that Member State should be sufficient. For practical enforcement of this legislation it must be possible for Member States to identify the producer that is responsible for the product and trace back the supply chain from the final distributor. Member States should ensure that a distributor making equipment available for the first time on a national territory from countries inside the Community (intra-community trade) either concludes an agreement with the producer or provides the registration and the financing of the management of WEEE arising from this equipment.

Justification

Additional text that supplements the proposals of the Rapporteur. Intended to promote harmonisation of registration and reporting and encourage interoperability of national registers to strengthen the internal market and curb free riders.

Amendment 10

Proposal for a directive

Recital 27

Text proposed by the Commission

*(27) The measures necessary for the implementation of this Directive should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission. The Commission should be empowered to **adapt the annexes and to adopt** rules for monitoring compliance. *Since those measures are of general scope and are designed to amend non-essential elements of Directive 2002/96/EC, inter alia, by**

Amendment

*(27) In order to adapt the provisions of this Directive to technical and scientific progress and to adopt other necessary measures, the Commission should be empowered to **adopt delegated acts in accordance with Article 290 TFEU in respect of the adaptation of annexes, detailed rules for verifying and** monitoring compliance, **the definition of 'very small volume waste', the format for registration and reporting and the frequency of reporting as well as amendments to the rules concerning reports on the***

supplementing it with new non-essential elements, they must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.

implementation of this Directive.

Justification

This amendment aligns the old so-called "comitology procedure" to the new procedure under Article 290 of the Treaty on the Functioning of the European Union

Amendment 11

**Proposal for a directive
Article 1**

Text proposed by the Commission

This Directive lays down measures to protect the environment and human health by preventing or reducing the adverse impacts of the generation and management of waste from electrical and electronic equipments and by reducing overall impacts of resource use and improving the efficiency of such use.

Amendment

This Directive lays down measures to protect the environment and human health by preventing or reducing the adverse impacts of the generation and management of waste from electrical and electronic equipments and by reducing overall **negative** impacts of resource use and improving the efficiency of such use, **in accordance with Articles 1 and 4 of Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste¹. It contributes to sustainable production and recovery by requiring all operators involved in product life cycles to improve their environmental standards.**

¹OJ L 312, 22.11.2008, p. 3.

Justification

The Commission deleted a reference here to the principles of the Waste Directive – which lays down, inter alia, an environmentally friendly five-stage waste hierarchy – and included it instead in Recital 7.

The 2003 WEEE Directive provides, through a comprehensive life-cycle approach, for improving the environmental standards of all operators who deal with EEE or WEEE. This is a feature of the legislation that ought to be preserved and it should not, therefore, be abstracted from Article 1.

Amendment 12

Proposal for a directive Article 2 - paragraph 1

Text proposed by the Commission

1. This Directive shall apply to electrical and electronic equipment ***falling under the categories set out in Annex I of Directive 20xx/xx/EC (RoHS).***

Amendment

1. This Directive shall apply to ***all*** electrical and electronic equipment.

Amendment 13

Proposal for a directive Article 2 - paragraph 3

Text proposed by the Commission

3. This Directive does not apply to ***any of the following equipments:***

(a) Equipment which is necessary for the protection of the essential interests of the security of Member States, including arms, munitions and war material intended for specifically military purposes.

(b) Equipment which is specifically designed as part of another type of equipment that does not fall within the scope of this Directive and can fulfill its function only if it is part of that equipment.

(c) Equipment which is not intended to be placed on the market as a single functional or commercial unit.

Amendment

3. This Directive does not apply to:

(a) Equipment which is necessary for the protection of the essential interests of the security of Member States, including arms, munitions and war material intended for specifically military purposes.

(b) Equipment which is specifically designed as part of another type of equipment that does not fall within the scope of this Directive and can fulfill its function only if it is part of that equipment.

(ca) large-scale fixed installations;

(cb) large-scale stationary industrial tools;

(cc) non-road mobile machinery intended exclusively for professional users;

(cd) means of transport for persons or goods;

(ce) photovoltaic modules.

- (d) Filament bulbs.
- (e) Implanted and infected medical devices.

- (d) Filament bulbs.
- (e) Implanted and infected medical devices.

No later than [...], and every five years thereafter, the Commission shall submit a report examining the scope of this Directive to the European Parliament and the Council, in particular whether photovoltaic modules should be included in its scope. The report on photovoltaic modules shall assess in particular effective collection and recycling rates achieved. Where appropriate, on the basis of that report, the Commission shall submit a proposal.*

** insert 5 years after entry into force of this Directive*

Amendment 14

Proposal for a directive – amending act Article 2 – paragraph 4

Text proposed by the Commission

Amendment

4. WEEE shall be classified as waste from private households or from users other than private households. The classification of types of WEEE into these categories shall be laid down. This measure designed to amend non-essential elements of this Directive, by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 18(3). This classification among others shall be based on assessing the share of the equipment sold to private households or businesses.

deleted

Justification

Producers cannot know in advance whether dual-use equipment - for consumer or professional use - will end up in a household or in a firm. Collecting waste equipment from private households is usually more costly. Here there is a risk that such equipment will be

designated non-household appliances, thus jeopardising the financing of household waste equipment. There should therefore be a provision and a definition in the directive (see Article 3(1)).

Amendment 15

Proposal for a directive Article 3 - point a

Text proposed by the Commission

(a) ‘electrical and electronic equipment’ or ‘EEE’ means equipment which is dependent on electric currents or electromagnetic fields in order to work properly and equipment for the generation, transfer and measurement of such currents and fields *falling under the categories set out in Annex I of Directive 20xx/xx/EC (RoHS) and* designed for use with a voltage rating not exceeding 1000 Volt for alternating current and 1500 Volt for direct current;

Amendment

(a) ‘electrical and electronic equipment’ (hereinafter ‘EEE’) means equipment which is dependent on electric currents or electromagnetic fields in order to work properly and equipment for the generation, transfer and measurement of such currents and fields *which is* designed for use with a voltage rating not exceeding 1000 volts for alternating current and 1500 volts for direct current;

Amendment 16

Proposal for a directive Article 3 - point b a (new)

Text proposed by the Commission

Amendment

(b a) “medical device” means the electrical equipment falling within the scope of Council Directive 93/42/EEC of 14 June 1993 concerning medical devices¹ and Directive 98/79/EC of the European Parliament and of the Council of 27 October 1998 on in vitro diagnostic medical devices².

¹ *OJ L 169, 12.7.1993, p. 1.*

² *OJ L 331, 7.12.1998, p. 1.*

Justification

It is necessary to define medical devices which are included in the scope of this Directive.

Amendment 17

Proposal for a directive

Article 3 – point j – subpoint i

Text proposed by the Commission

(i) manufactures electrical and electronic equipment under his own name or trademark, or has electrical and electronic equipment designed or manufactured and **markets** that electronic equipment under his name or trade mark

Amendment

(i) manufactures electrical and electronic equipment under his own name or trademark, or has electrical and electronic equipment designed or manufactured and **places on the market** that electronic equipment under his name or trade mark.

Justification

This is a clarification to ensure that responsibility for WEEE is clear. It is important that legislation and responsibility are clearly defined and that the allocation of responsibility is obvious.

Amendment 18

Proposal for a directive – amending act

Article 3 – point l

Text proposed by the Commission

(l) ‘WEEE from private households’ means WEEE which comes from private households and from commercial, industrial, institutional and other sources which, because of its nature and quantity, is similar to that from private households;

Amendment

(l) ‘WEEE from private households’ means WEEE which comes from private households and from commercial, industrial, institutional and other sources which, because of its nature and quantity, is similar to that from private households, **and WEEE which may have been used as EEE by both private households and users other than private households;**

Justification

Producers cannot know in advance whether dual-use equipment - for consumer or professional use - will end up in a household or in a firm. Collecting waste equipment from private households is usually more costly. Here there is a risk that such equipment will be designated non-household appliances, thus jeopardising the financing of household waste equipment.

Amendment 19

Proposal for a directive Article 3 - point s a (new)

Text proposed by the Commission

Amendment

(sa) 'large-scale fixed installations' means a particular combination of several types of apparatus and, where applicable, other devices, assembled and installed permanently at a predefined location.

Amendment 20

Proposal for a directive Article 3 - point s b (new)

Text proposed by the Commission

Amendment

(sb) 'large scale stationary industrial tools' means an assembly of machines, equipment, and/or components, designed to be used together in industry to perform a specific task. They are installed by specialised personnel and they are permanently located during their phase of use.

Amendment 21

Proposal for a directive Article 3 - point s c (new)

Text proposed by the Commission

Amendment

(sc) “non-road mobile machinery intended exclusively for professional users” means machinery the operation of which requires either mobility while working or continuous or semi-continuous movement between a succession of fixed working locations, or machinery which is operated without being moved, but which may be equipped in such a way as to enable it to be moved

more easily from one place to another and is made available for the use by professionals.

Amendment 22

Proposal for a directive Article 3 - point s d (new)

Text proposed by the Commission

Amendment

(sd) 'means of transport' means a vehicle used for transport of people or cargo, such as cars, busses, trucks, trams, trains, ships and aeroplanes;

Amendment 23

Proposal for a directive Article 3 - point s e (new)

Text proposed by the Commission

Amendment

(se) 'photovoltaic modules' means photovoltaic modules which are intended for use in a system designed, assembled and installed for permanent operation at a specified location for power generation for public, commercial and private purposes.

Amendment 24

Proposal for a directive Article 4

Text proposed by the Commission

Amendment

Member States shall, in line with Community product legislation including *Directive 2005/32/EC on eco-design*, encourage measures to promote the design and production of electrical and electronic equipment notably in view of facilitating re-use, dismantling and recovery of

Member States shall, in line with Community product legislation including *Directive 2009/125/EC of the European Parliament and of the Council of 21 October 2009 establishing a framework for the setting of ecodesign requirements for energy-related products¹*,

WEEE, its components and materials. These measures shall respect the proper functioning of the internal market. In this context, Member States shall take appropriate measures so that producers do not prevent, through specific design features or manufacturing processes, WEEE from being re-used, unless such specific design features or manufacturing processes present overriding advantages, for example, with regard to the protection of the environment and/or safety requirements.

encourage *cooperation between producers and recyclers and measures to be taken* to promote the design and production of electrical and electronic equipment notably in view of facilitating re-use, dismantling and recovery of WEEE, its components and materials. These measures shall respect the proper functioning of the internal market. In this context, Member States shall take appropriate measures so that producers do not prevent, through specific design features or manufacturing processes, WEEE from being re-used, unless such specific design features or manufacturing processes present overriding advantages, for example, with regard to the protection of the environment and/or safety requirements. *Eco-design requirements facilitating re-use, dismantling, recovery of WEEE and reducing hazardous substance emissions shall be established in the framework of the implementing measures of Directive 2009/125/EC no later than 31 December 2014.*

¹ OJ L 285, 31.10.2009, p. 10.

Amendment 25

Proposal for a directive Article 5 – paragraph 1

Text proposed by the Commission

1. *Member States shall adopt appropriate measures to minimise the disposal of WEEE in the form of unsorted municipal waste and to achieve a high level of separate collection of WEEE, notably, and as a matter of priority, for cooling and freezing equipment containing ozone depleting substances and fluorinated greenhouse gases.*

Amendment

1. To achieve a high level of separate collection of WEEE *and correct treatment for all types of WEEE*, notably *the* cooling and freezing equipment containing ozone depleting substances and fluorinated greenhouses gases, *mercury-containing lamps, and small appliances, Member States shall ensure that all WEEE is separately collected and not mixed with bulky or unsorted household waste, and that untreated WEEE is not sent to landfill or incineration.*

Justification

Member States should ensure that household WEEE does not pass into unsorted household waste, especially small appliances. This could be done by adopting appropriate measures that will immediately minimise with a view to eventually prohibit the disposal of WEEE in household waste.

Waste deriving from equipment containing ozone depleting substances fluorinated substances, should deserve specific attention. This will ensure that these appliance which needs to be treated in a particular way, due to the nature of the substances they contain, end up in their own waste stream

Amendment 26

Proposal for a directive Article 6 – paragraph 1

Text proposed by the Commission

1. Member States shall prohibit the disposal of untreated separately collected WEEE.

Amendment

1. Member States shall prohibit the disposal of untreated separately collected WEEE **and monitor enforcement of that prohibition.**

Justification

Sound monitoring is necessary in order to avoid the disposal of WEEE that is not collected and treated separately.

Amendment 27

Proposal for a directive Article 6 - paragraph 2

Text proposed by the Commission

2. Member States shall ensure that the collection and transport of separately collected WEEE is carried out in a way which optimises re-use and recycling and the confinement of hazardous substances.

Amendment

2. Member States shall ensure that the collection and transport of separately collected WEEE is carried out in a way which optimises re-use and recycling and the confinement of hazardous substances. ***In order to maximise re-use of whole appliances, Member States shall also ensure that collection schemes provide for the segregation of reusable appliances from separately collected WEEE at the collection points, prior to any transportation.***

Amendment 28

Proposal for a directive Article 7 - paragraph 1

Text proposed by the Commission

1. Without prejudice to Article 5(1), Member States shall ensure that **producers or third parties acting on their behalf** achieve a minimum **collection rate** of 65%. **The collection rate is calculated on the basis of the total weight of WEEE collected in accordance with Articles 5 and 6 in a given year in that Member State, expressed as a percentage of the average weight of electrical and electronic equipment placed on the market in the two preceding years in that Member State.** This collection **rate** shall be achieved annually **and starting in 2016**.

Amendment

1. Without prejudice to Article 5(1), Member States shall ensure that **as of 2016** a minimum of **85% of WEEE that is generated in the Member State is collected**.

Each Member State shall ensure that as of 2012 at least 4 kg/capita of WEEE is collected or the same amount of WEEE in weight as was collected in that Member State in 2010, whichever is greater. Member States shall ensure that the volume of WEEE collected is gradually increased during the years 2012 to 2016. Member States may set more ambitious individual collection targets and shall in such a case report this to the Commission. The collection *targets* shall be achieved annually. Member States shall present their improvement plans to the Commission no later than [...*].
*** insert date 18 months after entry into force**

Amendment 29

Proposal for a directive Article 7 - paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. To establish that the minimum collection rate has been achieved, Member States shall ensure that information on WEEE that has been:

- prepared for re-use or sent to treatment facilities by any actor,***
 - taken to collection facilities in accordance with Article 5(2)(a),***
 - taken to distributors in accordance with Article 5(2)(b),***
 - separately collected by producers or third parties acting on their behalf, or***
 - separately collected via other means,***
- is communicated to the Member States free of charge in accordance with Article 16 on an annual basis.***

Amendment 30

Proposal for a directive Article 7 - paragraph 2

Text proposed by the Commission

Amendment

2. Transitional *arrangement* may be laid down in accordance with the procedure referred to in Article 18(2) to address difficulties faced by a Member State in satisfying these requirements as a result of specific national circumstances;

2. Transitional *arrangements* may be laid down ***in respect of the period until 31 December 2015*** in accordance with the procedure referred to in Article 18(2) to address difficulties faced by a Member State in satisfying these requirements as a result of specific national circumstances ;

Amendment 31

Proposal for a directive Article 7 - paragraph 3

Text proposed by the Commission

3. A common methodology *shall be established for the calculation of the total weight of electrical and electronic equipment placed on the national market.*

This measure designed to amend non-essential elements of this Directive, by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 18(3).

Amendment 32

Proposal for a directive Article 7 - paragraph 4

Text proposed by the Commission

4. By 31 December 2012 at the latest the European Parliament and the Council shall re-examine the collection rate and target date referred to in paragraph 1 also in view of setting a possible separate collection target for cooling and freezing equipment, on the basis of a report of the Commission accompanied by a proposal, if appropriate.

Amendment

3. ***By 31 December 2012 at the latest the Commission shall adopt, by means of delegated acts in accordance with Article 18a and subject to the conditions of Articles 18b and 18c, a common methodology to determine the amount of WEEE generated by weight in each Member State. This shall include detailed rules on the application and calculation methods for verifying compliance with the targets set out in paragraph 1.***

Amendment

4. By 31 December 2012 at the latest the European Parliament and the Council shall re-examine the collection rate, and target date referred to in paragraph 1 also in view of setting a possible separate collection target for cooling and freezing equipment, ***lamps, including filament bulbs, and small appliances***, on the basis of a report of the Commission accompanied by a proposal, if appropriate.

Amendment 33

Proposal for a directive Article 8 - paragraph 1

Text proposed by the Commission

1. Member States shall ensure that all separately collected WEEE undergoes treatment.

Amendment

1. Member States shall ensure that all separately collected WEEE undergoes treatment.

The Commission shall ensure that harmonised standards are developed for the collection, storage, transport, treatment, recycling and repair of WEEE as well as preparation for re-use. To that end, the Commission shall in particular, within 12 months of entry into force of this Directive, commission the European Committee for Standardisation to take the necessary steps. Those harmonised standards shall reflect the state of the art. If conformity of the operators with the harmonised standards is demonstrated, they shall be presumed to comply with the requirements of this Article. Where those harmonised standards have not been applied, the alternative measures applied to meet the requirements of this Article shall be specified.

Reference to the harmonised standards shall be published in the Official Journal of the European Union.

The collection, storage, transport treatment, recycling and repair of WEEE as well as preparation for re-use shall be conducted with an approach geared to preserving raw materials and shall aim at recycling valuable resources contained in EEE with regard to ensuring better commodities supply within Europe.

Amendment 34

**Proposal for a directive
Article 8 – paragraph 4**

Text proposed by the Commission

4. ***Annex II may be amended*** in order to introduce other treatment technologies ensuring at least the same level of protection for human health and the environment.

Those measures, designed to amend non-essential elements of this Directive by supplementing it shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 18(3).

The Commission shall evaluate as a matter of priority whether the entries regarding printed circuit boards for mobile phones and liquid crystal displays are to be amended.

Amendment

4. In order to introduce other treatment technologies ensuring at least the same level of protection for human health and the environment, ***the Commission shall adopt, by means of delegated acts in accordance with Article 18a and subject to the conditions of Articles 18b and 18c, amendments to Annex II.*** The Commission shall evaluate as a matter of priority whether the entries regarding printed circuit boards for mobile phones and liquid crystal displays are to be amended.

Justification

This amendment aligns the old so-called "comitology procedure" to the new procedure under Article 290 of the Treaty on the Functioning of the European Union

Amendment 35

**Proposal for a directive – amending act
Article 10 – paragraph 2**

Text proposed by the Commission

2. WEEE exported out of the Community in line with Regulation (EC) No 1013/2006 on shipments of waste, and Commission Regulation (EC) No 1418/2007 of 29 November 2007 concerning the export for recovery of certain waste listed in Annex III or Annex IIIA to Regulation (EC) No

Amendment

2. WEEE exported out of the Community in line with Regulation (EC) No 1013/2006 on shipments of waste, and Commission Regulation (EC) No 1418/2007 of 29 November 2007 concerning the export for recovery of certain waste listed in Annex III or Annex IIIA to Regulation (EC) No

1013/2006 of the European Parliament and of the Council to certain countries to which the OECD Decision on the control of transboundary movements of wastes does not apply shall only count for the fulfilment of obligations and targets of Article 11 of this Directive if the exporter can prove that the **treatment took** place under conditions that are equivalent to the requirements of this Directive.

1013/2006 of the European Parliament and of the Council to certain countries to which the OECD Decision on the control of transboundary movements of wastes does not apply shall only count for the fulfilment of obligations and targets of Article 11 of this Directive if the exporter can prove, **by submitting conclusive evidence prior to shipment, that recovery, preparation for re-use and recycling will take** place under conditions that are equivalent to the requirements of this Directive. **After recovery, preparation for re-use or recycling has taken place, compliance with those equivalent conditions shall be confirmed.**

Justification

The burden of proof must encompass preparation for re-use, recycling and recovery in order to prevent treatment taking place where environmental standards are low, outside the EU, and to create a level playing field internationally. Exporters must submit proof, before and after shipments, that treatment and recovery standards in the country of reception are equivalent. Ex post verification is not sufficient, since treatment may have already taken place under conditions not meeting the EU standard.

Amendment 36

Proposal for a directive Article 10 - paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Member States shall not permit the shipment of any item of EEE intended for re-use unless it has been certified by an identified individual or corporate body to be in full working order and bears a label to this effect.

Justification

Vast quantities of WEEE are shipped abroad for dismantling in appalling conditions on the pretext that the items are in working order and intended for re-use. A requirement that items intended for re-use be individually certified as in working order will deter illegal shipments and facilitate the prosecution of offenders.

Amendment 37

Proposal for a directive Article 10 – paragraph 3

Text proposed by the Commission

3. Detailed rules for **the implementation** of paragraph 1 and 2, in particular criteria for the assessment of equivalent conditions, **shall be laid down**.

Those measures designed to amend non-essential elements of this Directive, by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 18(3).

Amendment

3. In order to allow treatment operations to be undertaken outside the Community with an equivalent level of protection, the Commission shall adopt, by means of delegated acts in accordance with Article 18a and subject to the conditions of Articles 18b and 18c, detailed rules for paragraphs 1 and 2, in particular criteria for the assessment of equivalent conditions.

Justification

This amendment aligns the old so-called "comitology procedure" to the new procedure under Article 290 of the Treaty on the Functioning of the European Union.

Amendment 38

Proposal for a directive – amending act Article 10 – paragraph 3 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

These detailed rules shall be adopted by [...*] at the latest .

*** Please insert date 18 months after the day of this Directive's publication in the Official Journal of the European Union.**

Justification

Binding deadlines are required for adoption of the implementing provisions in order to create legal certainty and enforcement certainty for government and industry.

Amendment 39

Proposal for a directive

Article 11 - paragraph 1 - point a

Text proposed by the Commission

- (a) for WEEE falling under *categories 1 and 10 of Annex I to Directive 20xx/xx/EC (RoHS)* ,
- 85% shall be recovered , *and*
 - 80% shall be *prepared for re-use and* recycled;

Amendment

- (a) for WEEE falling under *categories 1 and 4 of Annex -IA*,
- 85% shall be recovered,
 - 75% shall be recycled *and*
 - 5% shall be *prepared for re-use*;

Amendment 40

Proposal for a directive

Article 11 - paragraph 1 - point b

Text proposed by the Commission

- (b) for WEEE falling under *categories 3 and 4 of Annex I to Directive 20xx/xx/EC (RoHS)*,
- 80% shall be recovered , *and*
 - 70% shall be *prepared for re-use and* recycled;

Amendment

- (b) for WEEE falling under *category 2 of Annex -IA*,
- 80% shall be recovered,
 - 65% shall be recycled *and*
 - 5% shall be *prepared for re-use*;

Amendment 41

Proposal for a directive

Article 11 - paragraph 1 - point c

Text proposed by the Commission

- (c) for WEEE falling under *categories 2, 5, 6, 7, 8 and 9 of Annex I to Directive*

Amendment

- (c) for WEEE falling under *category 5 of*

20xx/xx/EC (RoHS),

- 75% shall be recovered, *and*
- 55% shall be *prepared for re-use and* recycled;

Annex -IA,

- 75% shall be recovered,
- 50% shall be recycled *and*
- 5% shall be *prepared for re-use*;

Amendment 42

**Proposal for a directive
Article 11 - paragraph 1 - point c a (new)**

Text proposed by the Commission

Amendment

- (ca) for WEEE falling under category 3 of Annex -IA,*
- 75% shall be recovered *and*
 - 50% shall be recycled;

Amendment 43

**Proposal for a directive
Article 11 - paragraph 1 - point c b (new)**

Text proposed by the Commission

Amendment

- (cb) for WEEE falling under category 6 of Annex -IA*
- 85% shall be recovered,
 - 75% shall be recycled *and*
 - 5% shall be *prepared for re-use*;

Amendment 44

Proposal for a directive

Article 11 - paragraph 1 - point d

Text proposed by the Commission

(d) for gas discharge lamps, **85%** shall be ***prepared for re-use and*** recycled.

Amendment

(d) for gas discharge lamps, **80%** shall be recycled.

Amendment 45

Proposal for a directive

Article 11 – paragraph 2

Text proposed by the Commission

2. These targets are calculated as weight percentage of separately collected WEEE that is sent to recovery facilities.

Amendment

2. These targets are calculated as weight percentage of separately collected WEEE that is sent to recovery facilities ***and effectively recovered, re-used and recycled. Storage, sorting and pre-processing operations at recovery facilities shall not be included in calculating whether the targets have been met.***

Justification

This ensures that only final recovery operations are calculated as recovery. Otherwise, waste sent to a recovery facility and subject only to pre-processing operations, such as a sorting and storing, before being disposed of, will be considered to have been recovered.

Amendment 46

Proposal for a directive

Article 11 – paragraph 3

Text proposed by the Commission

3. Member States shall ensure that, for the purpose of calculating these targets, producers or third parties acting on their behalf keep records on the mass of WEEE, their components, materials or substances

Amendment

3. Member States shall ensure that, for the purpose of calculating these targets, producers or third parties acting on their behalf keep records on the mass of ***used EEE***, WEEE, their components, materials

when entering (input) and leaving (output) the treatment facility **and/or** when entering (input) the recovery or recycling facility.

or substances when entering (input) and leaving (output) the treatment facility **and** when entering (input) **and leaving (output as overall percentage)** the recovery or recycling facility.

Justification

Targets can currently be fulfilled by performing only sorting and pre-processing at a R12 recovery facility and then sending all the sorted WEEE fractions on to real recovery operations at another recovery facility. This will easily result in an 80-95% achieved recovery/recycling rate no matter what happens with the sorted WEEE fractions at the final recovery facility. It should not be permissible to consider only input and output at an R12-13 type of recovery facility for the achievement of the targets. Achieved recovery and recycling at the final recovery facility should be taken into account.

Amendment 47

Proposal for a directive Article 12 – paragraph 1

Text proposed by the Commission

1. Member States shall ensure that producers provide at least for the financing of the collection, treatment, recovery and environmentally sound disposal of WEEE from private households deposited at collection facilities set up under Article 5(2). Member States, where appropriate, shall **encourage producers to finance all the cost occurring for collection facilities for WEEE from private households.**

Amendment

1. Member States shall ensure producers provide at least for the financing of the collection, treatment, recovery and environmentally sound disposal of WEEE from private households deposited at collection facilities set up under Article 5(2). ***In addition, Member States, where appropriate, shall ensure that, to improve the collection of WEEE, sufficient financial resources are raised according to the polluter pays principle (where the polluters are to be considered to be the retailers, consumers and producers, but not the general tax payers) at the moment of sale of new EEE to cover the cost of collection of WEEE from households, including the cost of running the collection facilities and associated awareness-raising campaigns on the management of WEEE. These financial resources shall be available only to operators legally obliged to collect WEEE. Where receiving full coverage for their costs, municipalities and private collection points shall hand over all the WEEE***

collected to producer responsibility schemes.

The financing of the collection of WEEE from households for removal to collection facilities should not fall under the individual producer responsibility for financing provided for in Article 12(2). Additional rules on the calculation methods regarding the costs of collection and collection facilities may be laid down by Member States.

Justification

To increase the collection rate, it is important to have local authorities, or any other operators required by law to act as collection points, organise awareness-raising campaigns, door-to-door collection events and other activities designed to collect as much as possible. The costs associated with these actions should be fully covered according to the polluter pays principle, the polluters being the producers, retailers and consumers, but not the general taxpayers. Some flexibility should be given to Member States in establishing the preferred system for raising the financial resources dedicated to these actions.

Amendment 48

Proposal for a directive Article 12 - paragraph 2 – subparagraph 1

Text proposed by the Commission

2. For products placed on the market later than 13 August 2005, each producer shall be responsible for financing the operations referred to in paragraph 1 relating to the waste from his own products. The producer can choose to fulfil this obligation either individually or by joining a collective scheme.

Amendment

2. For products placed on the market later than 13 August 2005, each producer shall be responsible for financing the operations referred to in paragraph 1 relating to the waste from his own products. The producer can choose to fulfil this obligation either individually or by joining a collective scheme. ***A producer should be able to fulfil its obligation through either one, or a combination, of these methods. Collective schemes shall introduce differentiated fees for producers based on how easily products and the strategic raw materials they contain can be recycled.***

Justification

Producers should have maximum flexibility with regard to the means of securing their WEEE.

Amendment 49

Proposal for a directive

Article 12 – paragraph 2 – subparagraph 2

Text proposed by the Commission

Member States shall ensure that each producer provides a guarantee when placing a product on the market showing that the management of all WEEE will be financed and that producers clearly mark their products in accordance with Article 15(2). This guarantee shall ensure that the operations referred to in paragraph 1 relating to this product will be financed. The guarantee may take the form of participation by the producer in appropriate schemes for the financing of the management of WEEE, a recycling insurance or a blocked bank account.

Amendment

Member States shall ensure that each producer provides a guarantee when placing a product on the market showing that the management of all WEEE will be financed and that producers clearly mark their products in accordance with Article 15(2). This guarantee shall ensure that the operations referred to in paragraph 1 relating to this product will be financed. The guarantee may take the form of participation by the producer in appropriate schemes for the financing of the management of WEEE, a recycling insurance or a blocked bank account. ***The financial guarantee in respect of the end of life of products should be calculated to ensure the internalisation of the real end-of-life costs of a producer's product, taking into account treatment and recycling standards as referred to in Article 8.***

Justification

If we have recycling and treatment standards, those should be an element to take into account for calculating the financial guarantees the producers should provide to cover the costs of end of life of their own products, as required by article 12 and 13. They should be captured by the registration system implemented at Member state level. Harmonised minimum requirements on the financial guarantees are needed to allow the meaningful compliance checking of financial guarantees as now made possible through the register in article 16 and required under inspections in article 20.

Amendment 50

Proposal for a directive
Article 12 – paragraph 2 – subparagraph 2 a (new)

Text proposed by the Commission

Amendment

2a. In order to make possible a harmonised approach to compliance with the financial guarantee requirements as established in Article 12, the Commission shall, no later than [...], establish the minimum requirements and methodology for calculating the level of these guarantees, and establish guidelines for their verification and auditing.*

Those requirements shall at least ensure that:

- a) the guarantee creates internalisation of the real end-of-life costs of a producer's product, taking into account the treatment and recycling standards,*
- b) the costs related to a producer's obligation do not fall on other actors, and*
- c) the guarantee will be present in the future and can be utilised to resolve the outstanding recycling obligation of a producer in case of insolvency.*

** insert date 12 months after entry into force*

Justification

If we really want to implement and enforce Individual Producer Responsibility, as a major lever to internalisation of end-of-lifecosts and a driver for ecodesign, we would need criteria set by the Commission to define how to assess the level of financial guarantees, integrating the recycling and treatment standards, and defining rules to verify them.

Amendment 51

Proposal for a directive
Article 12 - paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. Member States shall ensure that producers or third parties acting on their behalf report on the financing and costs of the systems for collection, treatment

and disposal and their efficiency on an annual basis.

Amendment 52

Proposal for a directive – amending act Article 14 – paragraph 1

Text proposed by the Commission

Amendment

1. Member States shall ensure that producers are allowed to show purchasers, at the time of sale of new products, the costs of collection, treatment and disposal in an environmentally sound way. The costs mentioned shall not exceed the actual costs incurred.

deleted

Justification

Collection and treatment costs should be incorporated into the product price so that there is an incentive to reduce those costs. Flat rates reflect neither the actual costs of a product at the end of its service life nor its environmental impact. In the final analysis, consumers receive no information on recyclability and actual treatment costs.

Amendment 53

Proposal for a directive Article 14 - paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. In order to raise users' awareness, Member States shall ensure that distributors put in place appropriate collection and awareness schemes for very small volume waste. Such collection schemes shall:

- (a) enable end-users to discard this kind of waste at an accessible and visible collection point in the retailer's shop;***
- (b) require retailers to take back very small volume WEEE at no charge when supplying very small volume EEE;***
- (c) not involve any charge to end-users when discarding this waste, nor any***

obligation to buy a new product of the same type;
No later than [...] the Commission shall adopt, by means of delegated acts in accordance with Article 18a and subject to the conditions of Articles 18b and 18c, a definition of 'very small volume waste', taking into account the risk of such waste not being separately collected due to its very small size.*
** insert date 12 months after entry into force of this Directive*

Amendment 54

Proposal for a directive Article 14 – paragraph 2 - point b

Text proposed by the Commission

(b) the return and collection systems available to them;

Amendment

(b) the return and collection systems available to them, *encouraging the coordination of information serving to identify all available collection points, irrespective of the producers which have set them up;*

Justification

Users of electrical and electronic equipment have to be able to determine which collection points are most convenient. Given that there are several separate collection systems, it might be difficult for users to find a collection point, and they would therefore be deterred from sending their WEEE for recovery. Arrangements accordingly need to be made to coordinate information and thus enable users to find out what collection points are available.

Amendment 55

Proposal for a directive Article 14 - paragraph 5

Text proposed by the Commission

5. Member States may require that some or all of the information referred to in paragraphs 2 to 4 shall be provided by producers and/or distributors, e.g. in the

Amendment

5. Member States may require that some or all of the information referred to in paragraphs 2 to 4 shall be provided by producers and/or distributors, e.g. in the instructions for use or at the point of sale,

instructions for use or at the point of sale.

or through public awareness campaigns.

Justification

This amendment gives a clarifying example of how this information can be set forward by producers as is done in some of the Member States.

Amendment 56

**Proposal for a directive
Article 15 – paragraph 1**

Text proposed by the Commission

1. In order to facilitate ***the preparation for re-use*** and the correct and environmentally sound treatment of WEEE, including maintenance, upgrade, refurbishment and recycling, Member States shall take the necessary measures to ensure that producers provide re-use and treatment information for each type of new EEE placed on the market within one year after the equipment is placed on the market. This information shall identify, as far as it is needed by re-use centres, treatment and recycling facilities in order to comply with the provisions of this Directive, the different EEE components and materials, as well as the location of dangerous substances and preparations in EEE. It shall be made available to re-use centres, treatment and recycling facilities by producers of EEE in the form of manuals or by means of electronic media (e.g. CD-ROM, online services).

Amendment

1. In order to facilitate ***the use*** and the correct and environmentally sound treatment of WEEE, including maintenance, upgrade, ***re-use, preparation for re-use***, refurbishment and recycling, Member States shall take the necessary measures to ensure that producers provide, ***free of charge***, re-use and treatment information for each type of new EEE placed on the market within one year after the equipment is placed on the market. This information shall identify, as far as it is needed by re-use centres, treatment and recycling facilities in order to comply with the provisions of this Directive, the different EEE components and materials, as well as the location of dangerous substances and preparations in EEE. It shall be made available to re-use centres, treatment and recycling facilities by producers of EEE in the form of manuals or by means of electronic media (e.g. CD-ROM, online services).

Justification

Re-use shall be promoted as a means of waste prevention as well as part of the environmentally sound treatment. For both, the information required is needed by the article.

Amendment 57

Proposal for a directive – amending act Article 16 – paragraph 2 – subparagraph 1

Text proposed by the Commission

Member States shall ensure that any producer on their territory can enter in their national register all relevant information, including reporting requirements and fees, reflecting its activities across all other Member States.

Amendment

Member States shall ensure that any producer on their territory can enter **in electronic form** in their national register all relevant information, including reporting requirements and fees, reflecting its activities across all other Member States.

Justification

It should be possible to exchange information electronically in order to reduce both the administrative outlay and the costs to businesses.

Amendment 58

Proposal for a directive – amending act Article 16 – paragraph 2 – subparagraph 2

Text proposed by the Commission

The registers shall be inter-operational to exchange such information, including on quantities of electrical and electronic equipment placed on the national market **and for** the transfer of money related to the intra-Community transfers of products or WEEE.

Amendment

The registers shall be inter-operational to exchange such information, including on quantities of electrical and electronic equipment placed on the national market, **as well as information enabling** the transfer of money related to the intra-Community transfers of products or WEEE.

Justification

The intention is not that new financial systems should be developed but simply that information about money should be exchanged. Instead of simply collecting fees independently and then transferring the money straight to other Member States, the registers must be interoperable for information purposes.

Amendment 59

Proposal for a directive – amending act Article 16 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

Each Member State shall ensure that a producer that places EEE on its market but is not resident on its territory is able to appoint a local legal representative resident in that Member State to be responsible for its obligations under this Directive.

Justification

The requirement that producers should be legally domiciled in those Member States where they intend to place EEE on the market constitutes an impediment to the internal market and is particularly burdensome for SMEs. For the purposes of implementation of the directive at Member State level, it is sufficient that a resident agent should be available to assume the producer's obligations under it.

Amendment 60

Proposal for a directive Article 16 – paragraph 3

Text proposed by the Commission

Amendment

3. ***The*** format for registration and reporting and the frequency of reporting ***shall be established. Those measures designed to amend non-essential elements of this Directive, by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 18(3).***

3. ***In order to ensure the smooth functioning of the registration, information and reporting system, the Commission shall adopt, by means of delegated acts in accordance with Article 18a and subject to the conditions of Articles 18b and 18c, the*** format for registration and reporting and the frequency of reporting. ***The format for registration and reporting shall include, at least, the following information:***

- the quantity of EEE being placed on the national market,***
- the types of equipment,***
- the brands,***

- *the categories,*
- *the guarantee, where applicable.*

Justification

This amendment aligns the old so-called ‘comitology procedure’ to the new procedure under Article 290 of the Treaty on the Functioning of the European Union.

Amendment 61

Proposal for a directive
Article 16 a (new)

Text proposed by the Commission

Amendment

Article 16a

Identification of economic operators

Member States shall put in place systems to ensure that information is obtained to enable regulatory authorities, producers and distributors to identify:

(a) any economic operator who has supplied them with EEE;

(b) any economic operator to whom they have supplied EEE.

Justification

To ensure that the source of WEEE can be identified it is necessary that Member States make arrangements to curb free riders.

Amendment 62

Proposal for a directive
Article 17 – paragraph 1

Text proposed by the Commission

Amendment

Amendments may be made if necessary in order to adapt Article 16(6) and the Annexes to scientific and technical progress. Those measures designed to amend non-essential elements of this Directive, shall be adopted in accordance with the regulatory procedure with

In order for the provisions of this Directive to be adapted to scientific and technical progress, the Commission may adopt, by means of delegated acts in accordance with Article 18a and subject to the conditions of Articles 18b and 18c, amendments to Article 16(6) and the

scrutiny referred to in Article 18(3).

Annexes.

Justification

This amendment aligns the old so-called "comitology procedure" to the new procedure under Article 290 of the Treaty on the Functioning of the European Union.

Amendment 63

**Proposal for a directive
Article 18 – paragraph 3**

Text proposed by the Commission

Amendment

3. Where reference is made to this paragraph, Article 5a (1) to (4) and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof. *deleted*

Justification

This amendment aligns the old so-called 'comitology procedure' to the new procedure under Article 290 of the Treaty on the Functioning of the European Union.

Amendment 64

**Proposal for a directive
Article 18 a (new)**

Text proposed by the Commission

Amendment

Article 18a

Exercise of the delegation

- 1. The power to adopt the delegated acts referred to in Articles 7, 8, 10, 14, 16, 17 and 20 shall be conferred on the Commission for an indeterminate period of time.***
- 2. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.***
- 3. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in Articles 18b***

and 18c.

Justification

This amendment aligns the old so-called ‘comitology procedure’ to the new procedure under Article 290 of the Treaty on the Functioning of the European Union.

Amendment 65

**Proposal for a directive
Article 18 b (new)**

Text proposed by the Commission

Amendment

Article 18b

Revocation of the delegation

- 1. The delegation of powers referred to in Articles 7, 8, 10, 14, 16, 17 and 20 may be revoked at any time by the European Parliament or by the Council.***
- 2. The institution which has commenced an internal procedure for deciding whether to revoke the delegation of powers shall endeavour to inform the other institution and the Commission within a reasonable time before the final decision is taken, indicating the delegated powers which could be subject to revocation and possible reasons for a revocation.***
- 3. The decision of revocation shall put an end to the delegation of the powers specified in that decision. It shall take effect immediately or at a later date specified therein. It shall not affect the validity of the delegated acts already in force. It shall be published in the Official Journal of the European Union.***

Justification

This amendment aligns the old so-called ‘comitology procedure’ to the new procedure under Article 290 of the Treaty on the Functioning of the European Union.

Amendment 66

**Proposal for a directive
Article 18 c (new)**

Text proposed by the Commission

Amendment

Article 18c

Objections to delegated acts

- 1. The European Parliament or the Council may object to a delegated act within a period of two months from the date of notification. At the initiative of the European Parliament or the Council this period shall be extended by two months.***
- 2. If, on expiry of that period, neither the European Parliament nor the Council has objected to the delegated act, it shall be published in the Official Journal of the European Union and enter into force at the date stated therein.***
- 3. If the European Parliament or the Council objects to a delegated act, it shall not enter into force. The institution which objects shall state the reasons for objecting to the delegated act.***

Justification

This amendment aligns the old so-called ‘comitology procedure’ to the new procedure under Article 290 of the Treaty on the Functioning of the European Union.

Amendment 67

**Proposal for a directive – amending act
Article 20 – paragraph 1 – subparagraph 2**

Text proposed by the Commission

Amendment

Those inspections shall at least cover exports of WEEE outside the Community in accordance with the Waste Shipment Regulation and the operations at treatment facilities in accordance with Directive 2008/xx/EC on waste and Annex II of this Directive.

Those inspections shall at least cover ***the reported quantities of EEE placed on the market, in order to check the amount of the financial guarantees required under Article 12,*** exports of WEEE outside the Community in accordance with the Waste Shipment Regulation and the operations at treatment facilities in accordance with Directive 2008/xx/EC on waste and

Annex II of this Directive.

Justification

The quantities reported by producers have not, to date, been subject to rigorous checking. However, they have implications for financing and for the guarantees.

Amendment 68

**Proposal for a directive – amending act
Article 20 – paragraph 2**

Text proposed by the Commission

(2) Member States shall ***carry out the monitoring of shipments of WEEE*** in accordance with the minimum ***monitoring*** requirements in Annex I.

Amendment

(2) Member States shall ***ensure that shipments of used EEE suspected of being WEEE are carried out*** in accordance with the minimum requirements in Annex I ***and shall monitor such shipments accordingly.***

Justification

Monitoring should focus particularly on equipment that is falsely declared as used but is in fact waste and the shipment of which, therefore, is either prohibited or subject to special conditions.

Amendment 69

**Proposal for a directive
Article 20 – paragraph 3**

Text proposed by the Commission

3. ***Additional*** rules on inspections and monitoring ***may be laid down.***

Amendment

3. ***In order to ensure the proper functioning of inspections and monitoring, the Commission may adopt, by means of delegated acts in accordance with Article 18a and subject to the conditions of Articles 18b and 18c, additional*** rules on inspections and monitoring.

Those measures designed to amend non-essential elements of this Directive, by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 18(3).

Justification

This amendment aligns the old so-called ‘comitology procedure’ to the new procedure under Article 290 of the Treaty on the Functioning of the European Union

Amendment 70

Proposal for a directive Article 20 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. Member States shall create a national register of acknowledged collection and treatment facilities. Only those facilities whose operators comply with the requirements set out in Article 8(3) shall be admitted to the national register provided for in this Article. The contents of the register shall be made public.

Justification

The creation of a central register will provide an overview on the activities of all facilities carrying out collection, treatment, recovery and recycling operations, and will strengthen the possibility of monitoring recovery activities.

Amendment 71

Proposal for a directive Article 20 – paragraph 3 b (new)

Text proposed by the Commission

Amendment

3b. Facility operators shall submit annual proof of their adherence to the requirements of the Directive, and shall submit reports in compliance with paragraphs 3c and 3d in order to maintain their status as acknowledged treatment facilities.

Justification

The creation of a central register will provide an overview on the activities of all facilities carrying out collection, treatment, recovery and recycling operations, and will strengthen the

possibility of monitoring recovery activities.

Amendment 72

Proposal for a directive

Article 20 – paragraph 3 c (new)

Text proposed by the Commission

Amendment

3c. Operators of collection facilities shall submit reports annually to enable national authorities to compare the volume of collected WEEE with the volume of WEEE actually transferred to recovery or recycling facilities. WEEE shall be transferred exclusively to acknowledged recovery and treatment facilities.

Justification

The creation of a central register will provide an overview on the activities of all facilities carrying out collection, treatment, recovery and recycling operations, and will strengthen the possibility of monitoring recovery activities.

Amendment 73

Proposal for a directive

Article 20 – paragraph 3 d (new)

Text proposed by the Commission

Amendment

3d. Operators of treatment facilities shall submit reports annually to enable national authorities to compare the amount of WEEE taken back from owners or acknowledged collection facilities with the amount of WEEE actually recovered, recycled or, in accordance with Article 10, exported.

Justification

The creation of a central register will provide an overview on the activities of all facilities carrying out collection, treatment, recovery and recycling operations, and will strengthen the possibility of monitoring recovery activities.

Amendment 74

Proposal for a directive

Article 20 – paragraph 3 e (new)

Text proposed by the Commission

Amendment

3e. Member States shall ensure that owners hand their WEEE over exclusively to registered and acknowledged collection, recovery and/or recycling facilities.

Justification

The creation of a central register will provide an overview on the activities of all facilities carrying out collection, treatment, recovery and recycling operations, and will strengthen the possibility of monitoring recovery activities.

Amendment 75

Proposal for a directive

Article 21 - paragraph 1 - subparagraph 1

Text proposed by the Commission

Amendment

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with Articles 2, 3, 5, 6, 7, 11, 14, 16, 19, 20 and Annex I by at the latest [18 months after the day of this Directive's publication in the Official Journal of the European Union]. They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive.

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with Articles 2, 3, 5, 6, 7, 11, 14, 16, 19, 20 and Annex I by at the latest [18 months after the day of this Directive's publication in the Official Journal of the European Union]. They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive. ***Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with Article 12(2) so that each producer finances only the operations relating to the waste from his own products placed on the market later than 13 August 2005, and that the appropriate financial guarantees, as required by Article 12(2), are provided.***

Justification

In view of the lack of consideration for the individual producer responsibility principle in the implementation of financial obligations, and given the poor consideration of recycling and treatment standards to drive end-of-life environmental performances of products, it is important to insist on Art 8 and Art 12 to ensure a proper implementation of their principles into national law.

Amendment 76

Proposal for a directive

Article 21 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. In addition to the re-examinations provided for in Articles 2 and 7, the Commission shall, within five years of its entry into force, submit a report to the European Parliament and the Council based on experience with the application of this Directive. If appropriate, the report shall be accompanied by proposals to amend this Directive.

Justification

The intention is that the Directive and its implementation will be subject to broader monitoring in addition to the specific reviews of its scope and of collection rates.

Amendment 77

Proposal for a directive

Article 22 - paragraph 1

Text proposed by the Commission

Amendment

Directive 2002/96/EC as amended by the Directives listed in Annex V Part A is repealed with effect from the day after the date mentioned in Article 21, without prejudice to the obligations of the Member States relating to the time-limits for transposition into national law and application of the Directive set out in Annex V Part B

Directive 2002/96/EC as amended by the Directives listed in Annex V Part A is repealed with effect from the day after the date mentioned in Article 21, ***except for Article 5(5), which is repealed on 31 December 2011***, without prejudice to the obligations of the Member States relating to the time-limits for transposition into national law and application of the

Directive set out in Annex V Part B.

Amendment 78

Proposal for a directive Annex -I A (new)

Text proposed by the Commission

Amendment

ANNEX -IA

***Categories of equipment in accordance
with Article 11***

(1) Cooling appliances and radiators

(2) Screens and monitors

(3) Lamps

***(4) Large appliances other than cooling
appliances and radiators, screens and
monitors and lamps. Large appliances are
all those appliances which are not in
principle movable or which are intended
in principle to remain in their place of use
for the duration of their service life.***

***(5) Small appliances other than cooling
appliances and radiators, screens and
monitors and lamps and IT and
telecommunication equipment. Small
appliances are all those appliances which
are in principle movable and which are
not intended in principle to remain in
their place of use for the duration of their
service life.***

***(6) Small IT and telecommunications
equipment***

Amendment 79

Proposal for a directive Annex -I B (new)

Text proposed by the Commission

Amendment

ANNEX -IB

***Non-exhaustive list of appliances that
come under the categories in Annex IA***

(new)

1. Cooling appliances and radiators

- **Refrigerators**
- **Freezers**
- **Appliances for the automatic dispensing or sale of cold products**
- **Air conditioning appliances**
- **Oil-containing radiators and other heat exchange devices using heat-transfer media other than water (e.g. heat pumps and dehumidifiers)**

2. Screens and monitors

- **Screens**
- **Television sets**
- **Digital picture frames**
- **Monitors**

3. Lamps

- **Straight fluorescent lamps**
- **Compact fluorescent lamps**
- **High-intensity discharge lamps, including pressure sodium lamps and metal halide lamps**
- **Low pressure sodium lamps**
- **LED lamps**

4. Large appliances

- **Large appliances used for cooking and other processing of foods (e.g. hot plates, ovens, stoves, microwaves, fixed coffee machines)**
- **Extractor hoods**
- **Large machines for cleaning (e.g. washing machines, clothes dryers, dishwashers)**
- **Large heating appliances (e.g. large heat blowers, electric stoves, systems for heating marble and natural stone and other large appliances for heating rooms, beds and seating furniture)**
- **Large body-care appliances (e.g. solariums, saunas, massage chairs)**

- *Large IT and telecommunications appliances (e.g. mainframes, servers, fixed network installations and appliances, printers, copiers, coinoperated telephones)*
 - *Large sports and leisure appliances (e.g. sports equipment with electrical or electronic components, slot machines)*
 - *Large luminaires and other appliances for spreading or controlling light*
 - *Large electrical and electronic industrial tools and machinery*
 - *Large appliances for generating or transferring current (e.g. generators, transformers, uninterruptable power supplies (UPS), inverters)*
 - *Large medical devices*
 - *Large monitoring and control instruments*
 - *Large measuring instruments and installations (e.g. scales, fixed machines)*
 - *Large appliances for automated product sales or dispensing and for the automated provision of simple services (e.g. product dispensers, cash machines, machines for the return of empties, photo machines)*
- 5. Small appliances**
- *Small appliances used for cooking and other processing of foods (e.g. toasters, hotplates, electric knives, immersion coils, chopping machines)*
 - *Small cleaning appliances (e.g. vacuum cleaners, irons, etc.)*
 - *Fans, air fresheners*
 - *Small heating appliances (e.g. electric blankets)*
 - *Clocks and watches and other time-measuring instruments*
 - *Small body-care appliances (e.g. shaving equipment, toothbrushes, hairdryers, massage machines)*
 - *Cameras*
 - *Consumer electronics appliances (e.g. radios, audio amplifiers, car radios, DVD players)*
 - *Musical instruments and sound*

equipment (e.g. amplifiers, mixing desks, headphones and speakers, microphones)

- Small luminaires and other appliances for spreading or controlling light

- Toys (e.g. model railways, model aircraft, etc.)

- Small items of sports equipment (e.g. computers for biking, diving, running, rowing, etc.)

- Small leisure appliances (e.g. video games, fishing and golf equipment etc.)

- Electrical and electronic tools including gardening equipment (e.g. drills, saws, pumps, lawn-mowers)

- Small appliances for generating or transferring current (e.g. generators, battery chargers, uninterruptable power supplies (UPS), converters)

- Small medical devices including veterinary devices

- Small monitoring and control instruments (e.g. smoke detectors, heating regulators, thermostats, movement detectors, monitoring appliances and products, remote handling and control devices)

- Small measuring appliances (e.g. scales, display devices, telemeters, thermometers)

- Small appliances for automated product sales or dispensing

6. Small IT and telecommunications equipment

- Laptops

- Notebook computers

- Small IT and telecommunications appliances (e.g. PCs, printers, pocket calculators, telephones, mobile phones routers, radio equipment, baby phones, video projectors).

**Proposal for a directive
Annex I - Title**

Text proposed by the Commission

Amendment

Minimum **monitoring** requirements for shipments of **WEEE**

Minimum requirements for shipments of **used EEE**

Justification

The shipments of all used EEE should be monitored, not just those ‘suspected’ of being WEEE.

Amendment 81

**Proposal for a directive – amending act
Annex I – point 1 – subpoint 1 a (new)**

Text proposed by the Commission

Amendment

Points a and b shall not apply if the used EEE is returned to the producer as a collective consignment of defective products under warranty and intended for re-use.

Justification

In accordance with the waste hierarchy, the re-use of equipment should be supported. It is thus permissible to send damaged equipment that is under guarantee to be repaired. The shipping of non-functional equipment must be made subject to strict conditions, so that it does not open the way to shipments of waste equipment under the guise of repair consignments.

Amendment 82

**Proposal for a directive
Annex I – point 1 - point d**

Text proposed by the Commission

Amendment

d) sufficient packaging to protect the shipped products from damage during transportation, loading and unloading

d) sufficient packaging **and appropriate stacking of the load** to protect the shipped products from damage during transportation, loading and unloading

Justification

Used EEE can often be distinguished from WEEE by appropriate stacking during transport.

Amendment 83

**Proposal for a directive
Annex I – point 2 - step 1 - point a**

Text proposed by the Commission

a) Functionality *should* be tested and hazardous substances *should* be evaluated. The tests *that should* be conducted depend on the kind of electrical and electronic equipment. For most of the used electrical and electronic equipment a functionality test of the key functions is sufficient.

Amendment

a) Functionality *must* be tested and hazardous substances *must* be evaluated. The tests *to* be conducted depend on the kind of electrical and electronic equipment. For most of the used electrical and electronic equipment a functionality test of the key functions is sufficient.

Justification

These requirements need to be legally binding.

Amendment 84

**Proposal for a directive
Annex I – point 2 – step 1 - point b**

Text proposed by the Commission

b) Results of evaluation and testing *should* be recorded.

Amendment

b) Results of evaluation and testing *must* be recorded.

Justification

This requirement needs to be legally binding.

Amendment 85

Proposal for a directive
Annex I – point 2 - step 2 - point a

Text proposed by the Commission

a) The record **should** be fixed securely but not permanently on either the electrical and electronic equipment itself (if not packed) or on the packaging so it can be read without unpacking the equipment.

Amendment

a) The record **must** be fixed securely but not permanently on either the electrical and electronic equipment itself (if not packed) or on the packaging so it can be read without unpacking the equipment.

Justification

This requirement needs to be legally binding.

Amendment 86

Proposal for a directive
Annex I – point 2 - step 2 - point b - indent 1

Text proposed by the Commission

- Name of item (Name of the equipment according to **Annex II** and category according to **Annex I of Directive 20xx/xx/EC (RoHS)**);

Amendment

- Name of item (Name of the equipment according to **Annex -IB** and category according to **Annex -IA**);

Justification

Correction of amendment 39 by the rapporteur that carries over a reference that becomes erroneous due to the change of the reference from RoHS to WEEE. The scope of the directive should be given in this directive, and not in RoHS. An indicative list of EEE is also suggested for this directive (Annex IB), and that should be the reference for the name in the context of this directive, while Annex IA provides the categories.

Amendment 87

Proposal for a directive – amending act
Annex I – point 3 – introductory part

Text proposed by the Commission

In addition to the **document** requested in point 1, every load (e. g. shipping container, lorry) of used electrical and electronic equipment **should** be

Amendment

In addition to the **documents** requested in point 1, every load (e. g. shipping container, lorry) of used electrical and electronic equipment **must** be accompanied

accompanied by a:

by a:

Justification

It must be compulsory that the documents referred to in both point 1 and point accompany the load so that it can be determined whether the equipment in question is used and re-usable or waste.

Amendment 88

Proposal for a directive Annex I – point 4

Text proposed by the Commission

4. In the absence of appropriate documentation required in *point 1 and 3* **and** packaging, Member State authorities shall presume that an item is hazardous WEEE and presume that the load comprises an illegal shipment. In these circumstances the relevant competent authorities will be informed and the load will be dealt with in accordance with Articles 24 and 25 of the Waste Shipment Regulation. ***In the majority of cases those responsible for the shipment will have to take back the waste to the country of dispatch at their own expense and may be liable to a criminal sanction. In those Member States where the burden is on the state authorities to prove the items are WEEE rather than electrical and electronic equipment, absence of the appropriate documentation and packaging is likely to lead to significant delays to the onward transport of the waste whilst the necessary investigations are carried out to establish the status of the items being shipped.***

Amendment

4. In the absence of ***the*** appropriate documentation required in *points 1 and 3*, ***or of appropriate packaging or of appropriate stacking of the load, which it is the responsibility of the holder of an appliance intended for shipment to provide***, Member State authorities shall presume that an item is hazardous WEEE and presume that the load comprises an illegal shipment. In these circumstances the relevant competent authorities will be informed and the load will be dealt with in accordance with Articles 24 and 25 of the Waste Shipment Regulation.

Justification

Appropriate packaging and stacking needs to be provided/ensured. If any of this is missing, the shipment shall be presumed to be waste. Clarification that the burden of proof rests with the holder of the object. The relevant provisions are all contained in Articles 24 and 25.

EXPLANATORY STATEMENT

Waste electrical and electronic equipment (WEEE) represents the fastest-growing waste stream in the EU and we therefore face a range of challenges. On the one hand we need to address the environmental and health consequences if this equipment is not properly treated and disposed of and, on the other, there is a serious problem of loss of raw materials. In a globalised economy, the efficient and innovative use of energy, materials and resources is a key issue. Stepping up the collection and proper treatment of this waste in accordance with the directive thus constitutes a major challenge.

According to the Commission's Impact Assessment¹, 85% of electronic waste is already being collected. A comparison of the quantity of waste equipment collected with the number of appliances coming onto the market yields the figure of 65% as the proportion of appliances sold which will subsequently be collected. However, these quantities are not being reported to official registers and, indeed, much of the waste concerned is not being properly treated: only 33% of waste equipment is being officially reported, collected and treated in line with the directive's stipulations. The challenge in the current review, therefore, is to increase these rates.

In my view, action is needed on a number of fronts to prevent WEEE being disposed of improperly.

Illegal shipment

Efforts to prevent illegal shipment need to begin, notably, at Member State level. It is the Member States' responsibility to see that the directive is implemented and, specifically, that its implementation is enforced and monitored. Large quantities of waste equipment are still being shipped illegally to countries outside the EU. In too many cases, such equipment is being declared as used but functional and, on that basis, is being exported beyond the Union. A simpler distinction between waste and used equipment therefore needs to be introduced with the help of the directive. This will give customs authorities a practical tool enabling them to carry out effective checks. It is important, for the same reasons, to emphasise that the responsibility for proving that used appliances are not in fact waste lies with the exporters. Nonetheless, the Member States need to carry out more checks at ports and border crossings. Given the large volume of waste currently being shipped illegally, the Member States also need to exercise the responsibility that is clearly theirs for enforcement of the directive.

Collection rate

The collection rate is another important lever available for promoting proper treatment of WEEE, in line with the directive, and curbing its illegal export. Increasing the rate of separated collection is a means of keeping waste streams within the EU and directing waste equipment to treatment or preparation for re-use. It is therefore very important to set an ambitious collection target.

Some Member States have met the current collection target of 4kg per inhabitant per year and,

¹ Impact Assessment, COM (2008)810.

indeed, some have achieved considerably higher rates. Other countries, however, fell far short of the target in 2005 and 2006. It is clearly incumbent on the Member States to achieve higher collection rates by every conceivable means. The Commission's task is to monitor observance of the collection targets. The collection target of 4kg per inhabitant per year, applicable thus far, fails to reflect the different circumstances in individual Member States – for example, one Member State had already achieved a rate more than triple the target by 2006. By contrast, other Member States, in which only very limited quantities of EEE are placed on the market and whose markets are not saturated, are unable to achieve the old collection target. For that reason, a percentage collection rate, set in function of the amount of EEE placed on the market over a given period, is more appropriate as it will reflect specific national circumstances.

An interim target will also be necessary if a percentage target is to take effect only from 2016. Setting an interim target will have the further effect of facilitating gradual improvement towards the ambitious target that will apply from 2016. In my view it is very important to have an ambitious collection target as it will help encourage the Member States to reduce the large volumes of waste currently escaping the 'WEEE system'. The Member States can address this problem in various ways: from restricting the number of operators permitted to collect waste appliances, to increasing the number of collection points, to requiring producers to introduce systems of incentives for consumers to return waste appliances. There is considerable diversity in the way that national markets for waste have developed, so this directive does not include stipulations about national market structures. One reference point in this regard is the directive's clear stipulation that all collectors of waste equipment must report the quantities collected to the relevant Member State, at no charge. This provision is intended to facilitate better waste-stream monitoring. The extension of the reporting interval to three years is intended to help even out the impact of market fluctuations and to take better account of unsaturated markets. For environmental reasons, high rates of separated collection need to be achieved for freezers, fridges and lamps containing mercury and, if necessary the Commission should propose specific rates for such appliances. The intention here is that products such as gas discharge lamps and appliances containing CFCs, which have the greatest environmental impact but which have not previously appeared as a separate category, can be the subject of specific attention.

It is important, however, that producers too should behave responsibly, and not only in the interests of the environment: a responsible approach should also be in their own interests. The recovery of WEEE offers them a source of valuable secondary raw materials. Currently, a great deal of equipment of value is not making its way back to the producers and that should stimulate them to devise incentives for consumers to return their waste equipment. A responsible approach on the part of producers requires them to innovate and thus helps to ensure their long-term competitiveness.

Responsibility for collection targets

The fact that responsibility for the achievement of the collection target rests with the Member States, rather than the producers, does not lessen the producers' responsibility – quite the contrary. Placing legal responsibility for achievement of the collection target solely on the producers' shoulders cannot be seen as a means of achieving significantly higher collection rates. While producers – on the basis of producer responsibility – certainly have substantial

duties in relation to the collection of waste appliances, they cannot manage the task alone. It is evident that not all waste equipment makes its way into the collection systems financed by producers. At the point when appliances become waste, they no longer belong to their producers. Apart from incentive systems, the latter have no means of requiring other parties (scrap merchants, for example) to return their products to them. If producers were to be given legal responsibility for the collection target, responsibility for the collection process would also have to be transferred to them. However, the EU has no area of competence under which it can interfere in individual national systems for waste disposal. The intention is to allow collection to remain the task of existing successful infrastructure. It is, moreover, unclear how each individual producer could be held responsible in law for a collective national target. Instead, the Member States must use all available means to achieve ambitious collection rates. That the task is possible is clear from the rates already achieved in some countries.

Consumer responsibility

Consumers too bear a significant share of responsibility for ensuring that waste equipment is disposed of properly. Too many appliances either lie forgotten and unused in drawers or cupboards or end up, illegally, in the domestic waste bin. Producers' incentive systems can certainly play a part here in getting consumers to put their appliances in the proper channels for treatment, but they also have a responsibility of their own for taking equipment to recovery points or back to sales outlets. They cannot be absolved of that responsibility, nor should they be. Another option that must be rejected here is funding the collection of WEEE from the consumer's door. One of the effects of that would be to interfere with tried and tested (e.g. municipal) collection arrangements without any prospect of increased environmental benefit – i.e. of reducing the volume of waste equipment escaping official collection.

Registration

In the first years that the directive was in force, it became clear that differences in its implementation in the different Member States had resulted in some cases in a proliferation of red tape, with associated costs. This has considerably impeded the free functioning of the internal market. According to the Commission's Impact Assessment¹, there is scope here for annual cost savings of EUR 66 million. Differing conditions of registration in the Member States warrant particular attention in this regard. The national rules on reporting requirements also vary tremendously. The Commission proposal, which will facilitate exchanges of information between Member States through a system of inter-operability, is therefore to be welcomed. The intention is to take this a step further, through the proposal to enable online registration. Making national registers interoperable will also prevent the situation whereby fees are levied more than once, placing a recurring burden on producers. Harmonisation of the format for registration and reporting will help significantly to reduce administrative costs and simplify the directive's application. It is important here that the nature of the figures used by the Member States should be harmonised because currently national data are not sufficiently comparable. The weight of waste, for example, is calculated differently in different Member States. The impediment to the internal market created by the insistence of many Member States that producers must have a branch in a given country in order to place equipment on the market there needs to be removed. It is sufficient to allow a resident agent to assume the producer's obligations: national authorities retain their ability to require that producers'

¹ Impact Assessment, COM (2008)810.

obligations under the directive are met, while the burden on SMEs, in particular, is lightened.

Categories of equipment

The reduction of the number of equipment categories from the current 10 to just five constitutes a further simplification. The change reflects current practice and will prevent unnecessary administrative outlay. The categorisation reflects an environmental approach as the grouped appliances have similarities in terms of composition and their environmental impact is taken into account. The categories are no longer relevant with regard to the directive's scope of application: they remain relevant only in relation to the recovery, recycling and preparation-for-re-use rates.

Scope

Experience with the directive has revealed a huge diversity in Member States' interpretation and application of it. For that reason, the intention is that inclusion of an appliance in a specific category should no longer be crucial to determining whether it is subject to the directive's requirements: instead, all EEE are, in principle, to fall within the directive's scope of application. This reflects one of the major concerns in the review of the directive: the need to create legal certainty. Exceptions to the scope of application must be stipulated by the legislators themselves within the directive. On the other hand, it is not sufficient to include a list of products at the end because the electrical and electronics market is a rapidly changing one, so the directive would have to be revised continually and would never be up to date.

Dual-use appliances

Clarification is also required in relation to appliances intended for dual use. Difficulties currently arise with the classification of equipment suitable for both domestic and business use as either 'business-to-business' or 'business-to-consumer'. In the case of many types of appliance, it cannot be foreseen whether the end user will be a consumer or someone running a business. However, collecting waste equipment from private households is usually more costly. There is a risk here that such equipment will be designated as non-household, thus jeopardising the financing for household waste equipment. The directive must, therefore, lay down clear and straightforward rules.

Standards for collection, treatment and recycling

Quality levels in the collection, treatment and recycling of waste equipment currently differ widely and urgent action is needed to remedy that, for the sake of the environment. Inappropriate collection, treatment and recycling methods have serious effects on the environment, and quality differences are also bad for competition. These problems can be countered by the establishment of collection, treatment and recycling standards. It has also become clear that certain Member States do not have enough appropriate recycling facilities and, in some cases, collective schemes for waste collection get in the way of free competition.

Costs shown to the consumer

Producers should integrate the costs generated by collection and treatment into their product prices, so that they will have an incentive to reduce those costs. Undifferentiated flat-rate

charges applied to different products of one type – as they have been in countries where such costs have been shown as extra – offer consumers no information about the real costs of recycling and treatment. Flat rates reflect neither the actual costs of a product at the end of its service life nor its environmental impact. Nor do the costs as shown take account of appliances that have a positive value at the end of their service life. The existing provisions have thus proved ineffective in informing consumers about products' recycling potential.

The proposed amendments are designed to increase the rate of separated collection, to reduce loss of waste equipment within the 'WEEE system', while preventing illegal shipment, and also to ensure that WEEE receives appropriate, high-quality treatment. In addition, red-tape at national level should be reduced, thus removing impediments to the internal market.

ANNEX: LETTER FROM THE COMMITTEE ON LEGAL AFFAIRS

COMMITTEE ON LEGAL AFFAIRS
CHAIRMAN

Ref.: D(2009)19541

Mr Miroslav OUZKÝ
Chair of the Committee on Environment,
Public Health and Food Safety
ASP 05F69
Brussels

*Subject: Proposal for a directive of the European Parliament and of the Council on
waste electrical and electronic equipment (recast)
(COM(2008)810 - C6-0472/2008 - 2008/0241(COD)*

Dear Chairman,

The Committee on Legal Affairs, which I am honoured to chair, has examined the proposal referred to above, pursuant to Rule 80a on Recasting, as introduced into the Parliament's Rules of Procedure by its Decision of 10 May 2007.

Paragraph 3 of that Rule reads as follows:

"If the committee responsible for legal affairs considers that the proposal does not entail any substantive changes other than those identified as such in the proposal, it shall inform the committee responsible.

In such a case, over and above the conditions laid down in Rules 150 and 151, amendments shall be admissible within the committee responsible only if they concern those parts of the proposal which contain changes.

However, amendments to the parts which have remained unchanged may be admitted by way of exception and on a case-by-case basis by the chairman of the above committee if he considers that this is necessary for pressing reasons relating to the internal logic of the text or because the amendments are inextricably linked to other admissible amendments. Such reasons must be stated in a written justification to the amendments".

Following the opinion of the Legal Service, whose representatives participated in the meetings of the Consultative Working Party examining the recast proposal, and in keeping with the recommendations of the draftsman, the Committee on Legal Affairs considers that the proposal in question does not include any substantive changes other than those identified as such in the proposal or in the opinion of the Consultative Working Party and that, as regards the codification of the unchanged provisions of the earlier acts with those changes, the proposal contains a straightforward codification of the existing texts, without any change in their substance.

Furthermore, pursuant to Rules 80a(2) and 80(3), the Committee on Legal Affairs considered that the technical adaptations suggested in the opinion of the abovementioned Working Party were necessary in order to ensure that the proposal complied with the recasting rules.

In conclusion, after discussing it at its meeting of 31 March 2009, the Committee on Legal Affairs, by 17 votes in favour and no abstentions¹, recommends that your Committee, as the committee responsible, proceed to examine the above proposal in keeping with its suggestions and in accordance with Rule 80a.

Yours faithfully,

Giuseppe GARGANI

Encl.: Opinion of the Consultative Working Party.

¹ The following Members were present: Giuseppe Gargani (Chairman), Carlo Casini, Bert Doorn, Klaus-Heiner Lehne, Hartmut Nassauer, Eva-Riitta Siitonen, Jaroslav Zvěřina, Tadeusz Zwiefka, Lidia Joanna Geringer de Oedenberg, Neena Gill, Manuel Medina Ortega, Aloyzas Sakalas, Diana Wallis, Francesco Enrico Speroni, Monica Frassoni, Jacques Toubon, Véronique Mathieu.

ANNEX: OPINION OF THE CONSULTATIVE WORKING PARTY OF THE LEGAL SERVICES OF THE EUROPEAN PARLIAMENT, THE COUNCIL AND THE COMMISSION



GRUPE CONSULTATIF
DES SERVICES JURIDIQUES

Brussels, 4.3.2009

OPINION

**FOR THE ATTENTION OF THE EUROPEAN PARLIAMENT
THE COUNCIL
THE COMMISSION**

**Proposal for a directive of the European Parliament and of the Council on waste electrical and electronic equipment
COM(2008) 810 final of 3.12.2008 - 2008/0241 (COD)**

Having regard to the Inter-institutional Agreement of 28 November 2001 on a more structured use of the recasting technique for legal acts, and in particular to point 9 thereof, the Consultative Working Party consisting of the respective legal services of the European Parliament, the Council and the Commission met on 16 and 17 December 2008 for the purpose of examining, among others, the aforementioned proposal submitted by the Commission.

At those meetings¹, an examination of the proposal for a directive of the European Parliament and of the Council recasting Directive 2002/96/EC of the European Parliament and of the Council of 27 January 2003 on waste electrical and electronic equipment resulted in the Consultative Working Party's establishing, by common accord, as follows.

1) As regards the explanatory memorandum, in order to be drafted in full compliance with the relevant requirements laid down by the Inter-institutional Agreement such a document should have stated the reasons for each proposed substantive amendment and specified which provisions of the earlier act remain unchanged in the proposal, as is provided for under points 6(a)(ii) and (iii) of that agreement.

2) The following parts of the text of the recast proposal should have been identified by using

¹ The Consultative Working Party had at its disposal the English, French and German language versions of the proposal and worked on the basis of the English version, being the master-copy language version of the text under discussion.

the grey-shaded type generally used for marking substantive changes:

- in recital 13, the proposed replacement of the words "*the precondition*" with the words "*a precondition*";
- in Article 3(j)(ii), the word "*name*";
- in Article 4, the word "*re-use*" (having been presented in the recast text between adaptation arrows);
- the entire wordings of the first and second sentence of Article 5(4) of Directive 2002/96/EC, having been identified with double strikethrough and appearing between the texts of Articles 5 and 6 in the recast proposal;
- in Article 8(3), the word "*collection*";
- the entire wording of the second sentence of Article 12(1), which reads "*Member States, where appropriate, shall encourage producers to finance all the cost occurring for collection facilities for WEEE from private households*";
- in Article 15(2), the proposed replacement of the sentence "*The Commission shall promote the preparation of European standards for this purpose*" with the sentence "*The European Standard EN 50419 shall be applied for this purpose*";
- in Article 16(5), the word "*separately*" (having been presented in the recast text between adaptation arrows).

3) The following parts of the recast text correspond to parts of the currently applicable text of Directive 2002/95/EC in respect of which no change is apparently being proposed, and which therefore should have not been marked with grey-shaded type:

- in recital 19, the proposed deletion of the word "*therefore*";
- in Article 2(2), the words "*requirements of*";
- in Article 3(k), the words "*natural or legal*";
- in Article 5, the expression "*in the form of*".

4) In Annex II, point 1, the reference to "*Article 4 of Council Directive 75/442/EEC*" contained in the final sentence should be adapted so as to read as a reference to "*Article 4 of Directive 2006/12/EC of the European Parliament and of the Council*".

In consequence, examination of the proposal has enabled the Consultative Working Party to conclude, without dissent, that the proposal does not comprise any substantive amendments other than those identified as such therein or in the present opinion. The Working Party also concluded, as regards the codification of the unchanged provisions of the earlier act with those substantive amendments, that the proposal contains a straightforward codification of the existing text, without any change in its substance.

C. PENNERA
Jurisconsult

J.-C. PIRIS
Jurisconsult

C.-F.DURAND
Director General

PROCEDURE

Title	Waste electrical and electronic equipment (WEEE) (recast version)		
References	COM(2008)0810 – C6-0472/2008 – 2008/0241(COD)		
Date submitted to Parliament	3.12.2008		
Committee responsible Date announced in plenary	ENVI 19.10.2009		
Committee(s) asked for opinion(s) Date announced in plenary	JURI 19.10.2009		
Rapporteur(s) Date appointed	Karl-Heinz Florenz 31.8.2009		
Discussed in committee	4.11.2009	23.2.2010	6.4.2010
Date adopted	22.6.2010		
Result of final vote	+: 51	–: 1	0: 3
Members present for the final vote	János Áder, Elena Oana Antonescu, Kriton Arsenis, Pilar Ayuso, Martin Callanan, Nessa Childers, Chris Davies, Bairbre de Brún, Anne Delvaux, Bas Eickhout, Edite Estrela, Karl-Heinz Florenz, Elisabetta Gardini, Gerben-Jan Gerbrandy, Julie Girling, Nick Griffin, Françoise Grossetête, Cristina Gutiérrez-Cortines, Satu Hassi, Dan Jørgensen, Karin Kadenbach, Christa Kläß, Jo Leinen, Corinne Lepage, Peter Liese, Linda McAvan, Radvilė Morkūnaitė-Mikulėnienė, Vladko Todorov Panayotov, Gilles Pargneaux, Antonyia Parvanova, Andres Perello Rodriguez, Sirpa Pietikäinen, Mario Pirillo, Pavel Poc, Vittorio Prodi, Oreste Rossi, Richard Seeber, Theodoros Skylakakis, Bogusław Sonik, Catherine Soullie, Salvatore Tatarella, Anja Weisgerber, Glenis Willmott, Sabine Wils, Marina Yannakoudakis		
Substitute(s) present for the final vote	Miroslav Mikolášik, Bill Newton Dunn, Rovana Plumb, Michèle Rivasi, Bart Staes, Michail Tremopoulos, Thomas Ulmer, Vladimir Urutchev, Kathleen Van Brempt, Anna Záborská		