

Position paper of ZVEI and BITKOM to the recast of the directive on waste electrical and electronic equipment (WEEE)

16th February 2010

The German Electrical and Electronic Manufacturers' Association (ZVEI - Zentralverband Elektrotechnik- und Elektronikindustrie e. V.) and the German Federal Association for Information Technology, Telecommunications and New Media (BITKOM e.V.) are both largely impacted by the EU WEEE directive. Therefore, both associations have been cooperating in a joint task force and a joint board for many years. This document summarizes both associations' key positions regarding the proposed recast of the directive currently under discussion at the European Parliament and at the European Council.

Producer Responsibility for WEEE

ZVEI and BITKOM appreciate the objectives laid down by the European Commission in their recast of the directive on waste electrical and electronic equipment (WEEE):

- to harmonise the member states' legislation,
- to reduce administrative burdens,
- to avoid inappropriate treatment of WEEE that is harmful to the environment,
- to guarantee efficient resource management.

Yet it remains obvious that some of the proposed new provisions are contrary to these objectives.

Among other changes, the EU Commission proposes the following:

1. to fully extend the responsibility of producers of electric and electronic equipment to financing and operating the entire collection and disposal process for WEEE; this also means extending this responsibility to collecting this equipment from private households (art. 12)
2. to impose on producers a minimum collection target of 65%, which is defined as the ratio of WEEE collected to the quantity of EEE placed on the market during the previous 2 years (art. 7)
3. to increase recycling and recovery quotas for category 3 and 4 equipment by 5 percent (art. 11).

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With regard to these severe additional obligations imposed on producers, ZVEI and BITKOM are satisfied to take notice of the fact that the Senate of the German Federal Parliament (Deutscher Bundesrat) has adopted a position which critically addresses these proposals. The Federal Government is now called upon to represent these positions in all negotiations at EU level.

The Senate of the German Federal Government has stated the following points in particular:

1. Extending the producers' responsibility to collecting waste equipment from private households runs contrary to the well-proven German model. In this model, the responsibility for the collection of waste equipment is shared between the producers and the municipalities; the municipality-operated collection points make the solution efficient and transparent to the consumers.
2. There is no figure-backed basis for the new 65% collection target, which refers to the average quantity of new appliances placed in the market during the past two years.
3. There is no reason to increase existing recycling and recovery quotas.

ZVEI and BITKOM strongly support this clear political statement made by the Senate of the German Federal Parliament.

1 Financial Responsibility for WEEE Collection (article 12)

EU Commission would like to see the member states extend producer responsibility for WEEE collection to start right at private households' doors.

However, the German Federal Government has split responsibility for WEEE collection between municipalities and producers for a reason: The waste equipment that was produced prior to this legislation would have been covered by it retroactively, which is contrary to actual political and legal needs. This would have resulted in an unforeseen burden on the producers.

Integrating the municipalities did intend to find a fair distribution of the collection duty, and to keep up the well-proven collection points for the consumers. Thanks to these circumstances, the producers were willing to face their responsibility retroactively, with regard to so-called historical waste equipment. Under this aspect, the Electrical and Electronic Equipment Act (ElektroG) of March 2005 is a good political compromise.

ZVEI and BITKOM also welcome the support by EuroCommerce, the association for retail, wholesale and international trade interests, for this shared collection responsibility (EuroCommerce position paper of August 2009, page 2).

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Moreover, the EU Commission's proposal to extend the producers' WEEE responsibility to begin right at the private households' door indicates that the Commission has based its application of the extended WEEE responsibility principle on a profoundly wrong assumption: The prerequisite for this would be that the producers are capable of fully managing a product's entire life cycle, particularly the whole registration, recycling and disposal process - from the private household's doorstep all the way to recovery by means of a machine recycling system.

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Experience made in Germany and also in other EU member states shows that this requirement is not met. Depending on the type of device, only a fraction of the WEEE actually arrives at the points provided according to the WEEE directive: at the municipal collection points or at dealers. The rest of the WEEE follows routes outside the producers' range of influence, such as:

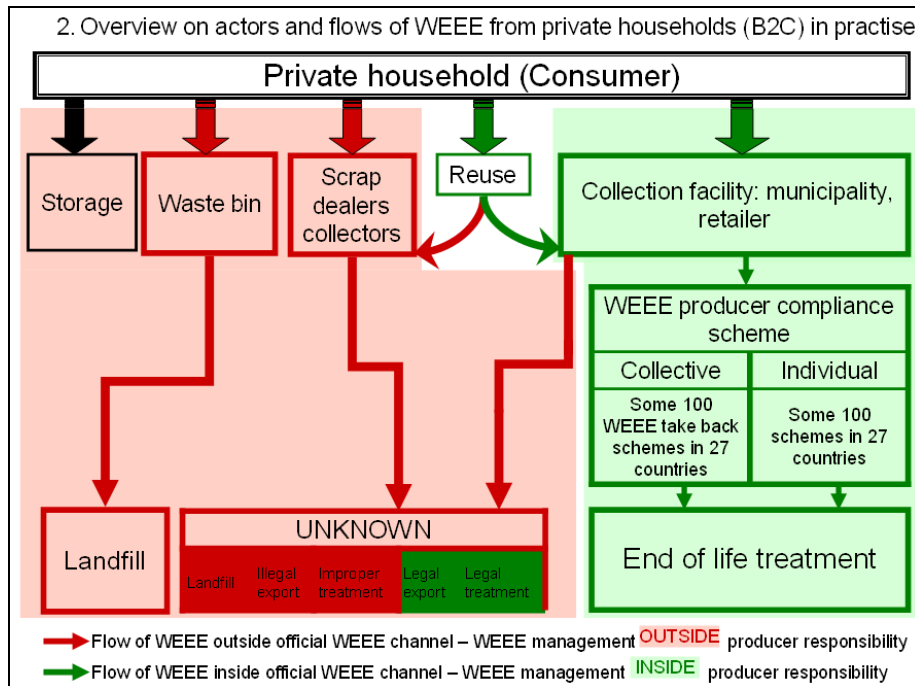
- incorrect disposal via the household waste bin,
- collection or take-back by scrap dealers,
- ■ collection by dealers or repair shops that do not directly report to the national agencies,
- storage at private households,
- export as trade goods (with the risk of illegal disposal and treatment).

This situation is displayed in the following chart, "actors and material flows of WEEE from private households"¹

¹ Source: Position paper by ORGALIME

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Yet another aspect is that the WEEE directive does not cover the majority of the second hand market (i.e. even before the owner of a product wishes to dispose of it). The producers are not in a position to control and manage this flow of electric and electronic appliances.

ZVEI and BITKOM still consider it appropriate for the producers' responsibility of collection to take effect from the municipal collection points only, as the extension of this obligation will impose additional financial and organisational burdens on the producers. These extra burdens jeopardize the established collection systems' function. Moreover, the WEEE organisation in Germany does not provide any financial compensation of any nature.

2 Redefinition of the Collection Target (article 7)

The EU Commission's plan is to directly impose a defined collection target on the producers for the first time, which will be to collect a minimum of 65% of all electric and electronic equipment brought into the market during the past 2 years. This proposal is inappropriate for two reasons:

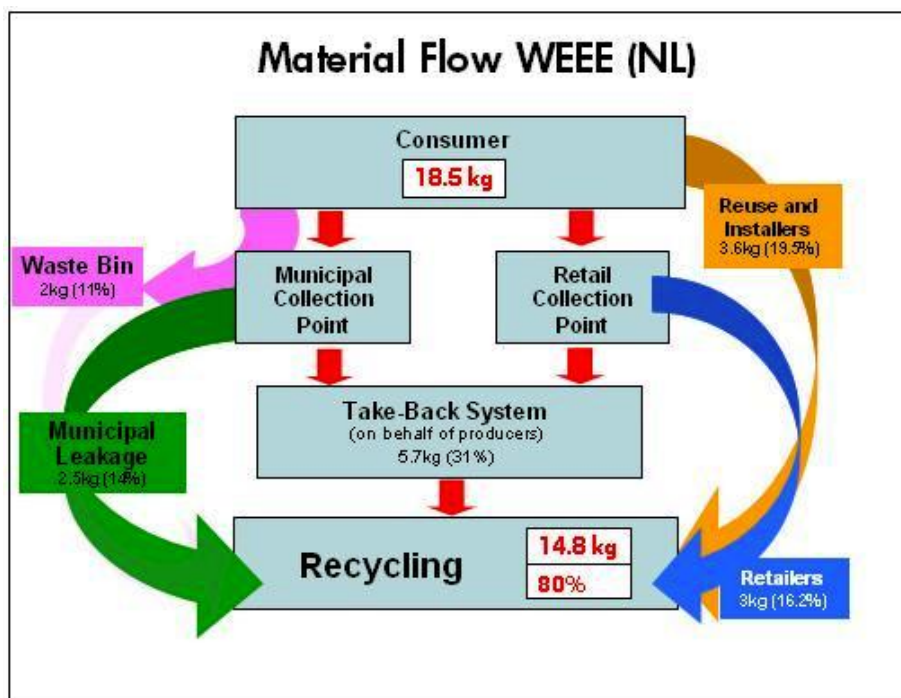
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■ The approach proposed is of a highly theoretical nature, and does not take account of reality. There is no causal conjunction between the return behaviour of private households and the quantity of appliances sold during the past two years. The only conjunction that might be considered is with the quantities sold at the beginning of the respective product's life cycle. In this case, however, the recast should have to take into account the different lifetimes of the appliances subject to the directive's applicability. The lifetime of these appliances ranges between 3 and well over 20 years, depending on the operating conditions and the user's behaviour. Moreover, it cannot be assumed that every new device purchased will replace a similar, older device, as technical progress continuously produces new appliances and functions. Therefore, this way of stipulating a collection target is not suitable, neither in practical nor in theoretical terms, to achieve the desired goal: as high a collection quota as possible.

■ There is no statistical basis for the proposed value of 65% that would justify a corresponding obligation imposed on the producers.

A realistic idea of the WEEE flow can be derived from a report on the WEEE systems in the Netherlands². This report shows that out of the 18.5 kg collected per inhabitant, only 31% (5.7 kg) are fed into the collection systems financed by the producers that act on the basis of the WEEE directive (see illustration³).



² Witteveen+Bos – Onderzoek naar complementaire afvalstromen voor e-waste in Nederland, 10 April 2008

³ Source: Position paper by DIGITALEUROPE

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As already stated in the criticism of extending the producers' responsibility to collecting WEEE from a point near the households (see point 1), ZVEI and BITKOM wish to point out yet one more time that it is not possible to the producers to control and manage the entire WEEE quantity, because many of the appliances are not even offered to them for collection in practice. Therefore, the producers are not in a position to accept the sole legal obligation to guarantee compliance with a minimum collection quota.

Therefore, ZVEI und BITKOM wish to propose to determine the collection target on the basis of „WEEE arising“, the total volume of WEEE being generated yearly in a member state. This proposal is discussed on the EU level at the moment too.⁴ Industry is assuming that statistical data about WEEE arising is at the member states' disposal. This statistical material allows at the same time to identify the volumes of WEEE collected according to the WEEE Directive and the Electro Act, and those volumes that arrive at the treatment facilities of a member states on other routes or are collected in completely different ways. With this background ZVEI und BITKOM do see the following imperatives:

1. Member states are responsible for statistically capturing the volumes of "WEEE arising". Such statistics allow differentiating between volumes of waste arriving at treatment facilities or at facilities for refurbishing WEEE for reuse, waste collectors, scrap dealers, residual waste collection, repair centers or WEEE exporters.
2. Collection targets on the basis of "WEEE arising" support surveys regarding specific WEEE streams aiming at analyzing to which extend small appliances are collected or can be collected separately.
3. Such data will enable member states to continuously develop plans for improved collection results.

3 Increased Recycling and Recovery Targets (article 11)

ZVEI and BITKOM agree with the statement made by the Senate of the German Federal Government that there is no reason for increasing the recycling and recovery quotas. The Senate of the German Federal Government states that hitherto, no statistical data exists about to what extent the member states are currently achieving the demanded recovery targets.

In addition, ZVEI and BITKOM expect the data collection and quota calculation process to be harmonised throughout the EU. New recovery targets can only be defined on the basis of authentically comparable actual values. Therefore, a fundamental change in these goals' systematic is not an option for the present recast draft of the WEEE directive.

⁴ Joint Paper of EEB, CECED and DIGITALEUROPE – The need of ambitious and practical collection targets

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4 Harmonized Producer Registration Process (article 16)

The EU Commission's draft plans for a producer's registration in one single country to be sufficient for all other member states. The producer needs to provide all data in this country, which will then also be the data for all other countries. The other countries are supposed to be informed by data exchange (interoperability).

ZVEI and BITKOM basically support the plan to minimise the administration efforts for the producers. This is a good contribution to deregulation and cost cutting.

However, it has been overlooked that this registration is far more than just a compilation of basic data on all producers that are subject to the obligation. The "relevant data" that is part of the proposal also includes such data that is used to determine the producer's scope of obligations - such as the number of WEEE containers to be picked up or the amount of the monthly contribution – for every country, by its respective device categories. In order to avoid a distortion of competition, the national coordination bodies need to receive this data in correct form, and timely.

Therefore, ZVEI and BITKOM welcome the compromise paper by the Swedish Council Presidency of September 3, 2009, which proposes a concrete harmonisation of the national registration processes in this sense.

5 Harmonization of Product Scope (article 2)

Today, the nationally diverse terminology for the product-related scope of the WEEE directive not only leads to avoidable bureaucratic efforts, but also causes a distortion of competition and trade barriers.

Therefore, ZVEI and BITKOM support the proposals for a unification of the product-related scope. Particularly the WEEE and RoHS guidelines should be assigned individual areas of application.

Basically, it has to be possible to determine the scope by means of clear and comprehensible criteria. These need to empower the producers to make a transparent decision about the category their products are subject to, by means of a "decision tree". For this purpose, explanations on the criteria from the "Frequently asked questions" by the EU commission⁵ should be incorporated into the directive's text.

The following applies both for the WEEE and the RoHS: There must not be a general extension in the scope without assessing the respective impacts.

⁵ http://ec.europa.eu/environment/waste/pdf/faq_weee.pdf (especially see

"1.3. What is the criteria for determining whether a product falls under the WEEE Directive ")

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6 Supplementary Notes

For comments on further proposals by the EU Commission in their recast of the WEEE directive, ZVEI and BITKOM shall refer to the following documents:

- Printed matter by the Senate of the German Federal Government (Deutscher Bundesrat) on the proposal for a recast of the directive by the European Parliament and the Council regarding waste electric and electronic equipment (WEEE), of 03 April 2009
- Position paper by ORGALIME (European Engineering Industries Association), of 18 June 2009
- Position paper by DIGITALEUROPE (European Information and Communications Technology Industries Association) of 13 July 2009
- Position paper by CECED (European Committee of Domestic Equipment Manufacturers) of 05 March 2009
- Joint Paper of EEB, CECED and DIGITALEUROPE – The need of ambitious and practical collection targets of 03 February 2010

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ZVEI - German Electrical and Electronic Manufacturers' Association

The German Electrical and Electronic Manufacturers' Association (ZVEI - Zentralverband Elektrotechnik- und Elektronikindustrie e. V.) represents its member's economical, technological and environmental interests at national, European and international level. Germany's electrical and electronics firms, with over 827,000 employees and an annual turnover of 182 billion euros, manufacture more than 100,000 different electrical and electronic products and systems, ranging from microelectronic components and systems for generating, distributing and transforming electrical energy up to electrical household appliances and consumer electronics equipment. The electrotechnical industry in total comprises about 4.000 companies with 200 employees in average.

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BITKOM - Federal Association for Information Technology, Telecommunications and New Media e.V.

The Federal Association for Information Technology, Telecommunications and New Media (BITKOM) represents more than 1,300 companies in Germany. Its 950 direct members generate a sales volume of 135 billion euros annually and employ 700,000 people. They include providers of software, IT and telecommunication services, manufacturers of hardware and consumer electronics as well as digital media businesses. BITKOM is working, in particular, to improve the regulatory framework in Germany, for modernization of the education system and for an economic policy which encourages innovation.

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