

EWRN Position Paper

Concerning Article 16 paragraph 4 of the WEEE-Directive Recast

December 22nd, 2010

1 European WEEE Registers Network (EWRN)

EWRN is an independent and open network of National Registers in charge of overseeing the national implementation of the WEEE-Directive in the respective EU Member States. Those responsible for managing the National Registers are working together as experts regarding (W)EEE and its proper treatment – always as representatives of their National Registers.

2 Initial situation

According to Article 16 paragraph 4 of the Commission's Proposal¹, collective producer responsibility schemes ("CS") set up under Article 12 paragraph 2² shall be entitled to operate National Registers drawn up by Member States ("MS"). The CS operating in most Member States are recycling companies or at least are linked to them very closely.

3 EWRN's position

Concerns:

- Different duties:
The Commission's Proposal clearly states in Article 16 paragraph 1 that registers "shall serve for **monitoring compliance with the financing obligations** (emphasis added) under Articles 12 and 13". CS, on the other hand, offer services to **support producers to fulfil their financial obligations**, for the collection, treatment, recovery and environmentally sound disposal of their WEEE³. It would make no sense for an entity to "monitor compliance with the financing obligations" it fulfils itself for producers, especially with the clear objective of gaining profit, an objective which CS have as commercial companies. **These two completely different duties, which therefore need to be handled separately, should not be laid into the same hands.**
- Access to global information:
According to Article 12 of the WEEE directive⁴ (titled "Information and reporting"), "member states shall draw up a register of producers and collect information (...) on the quantities and categories of electrical and electronic equipment put on their market...". Any entity operating as a National Register will therefore inevitably get **access to comprehensive information on all registered producers**. Hence, it is crucial for National Registers to be able to act without any dependencies on or affiliations with single producers.

¹ Commission of the European Communities: Proposal for a Directive of the European Parliament and of the Council on waste electrical and electronic equipment (WEEE), Brussels, 2008

² Unless stated otherwise, all Articles mentioned in this document refer to the Commission's Proposal.

³ Commission's Proposal, Article 12 paragraph 2 subparagraph 1

⁴ Directive 2002/96/EC of the European Parliament and of the Council of 27 January 2003 on waste electrical and electronic equipment (WEEE)

- Endangers competition:
A National Register operated by a CS has the power to **influence or even dominate competition in the field of recycling**, as CS regularly must enter into contracts with recyclers or carry out recycling themselves. According to the specific duties National Registers shall fulfil they should not be entitled with such power.
- CS as competitors:
If **two or more CS exist** in one MS, those CS would either need to **operate the National Register jointly** (in spite of being competitors) or one or more CS would have to be excluded from doing so (as only one register can exist in one Member State). It seems hardly imaginable how this could be executed effectively, especially with respect to the possible and likely competitive nature of CS.
- Less accuracy of data and a burden for producers:
Classification of equipment is a task of National Registers, following a common approach based on the Categories of Annex 1 of the Directive. CS do use **different classification approaches**, based on their business/commercial interests, resulting in a **hardly achievable harmonized and impartial classification of EEE across Europe**. This **creates less accuracy of reported data** and a **burden for producers**, if they have to register and report to CS acting as Registers.
- Endangers continuity of register operation:
CS are **private companies** that can **disappear due to e.g. bankruptcy**. Having a public register managed by a private enterprise is therefore a **risk to the public obligation to establish and run a National Register**.

Proposal:

Due to the problems described above, EWRN suggests to delete Article 16 paragraph 4 from the WEEE directive recast⁵.

⁵The European Engineering Industries Association **Orgalime** share this same suggestion in their Position Paper “Main Priorities and Proposals for further proceedings on WEEE recast”, Brussels, 29 July 2010 (page 2).