

NAWDO

National Association of Waste Disposal Officers

NAWDO Response to the Government proposed legislation on the WEEE Directive.

These comments are made on behalf of NAWDO (National Association of Waste Disposal Officers) in response to the invitation published by DEFRA in July 2006.

NAWDO is an association of approaching 100 Waste Disposal Authorities across England and Wales. Membership is drawn from all types of authority including London Boroughs, Metropolitan, Unity and County.

Any comments or queries regarding this response should be addressed to:

Paul Borrett
Norfolk County Council

Email: paul.borrett@norfolk.gov.uk

The following is provided in answer to specific questions asked by DEFRA in the consultation document:

Q1. Do the proposals in this document and the accompanying Guidance correctly implement Directives 2002/96/EC and 2003/108/EC?

The principle is for producers to take responsibility for the environmental impact of their products through increased separation, treatment, reuse recovery, recycling etc. The proposals clearly outline a process, which should help achieve this aim.

There is a key need to see waste materials as a resource. Currently, much of the increased costs of sustainable waste management are falling on the public purse.

Producers and retailers play an important part in the waste chain. If the “polluter pays” principle is to be adopted successfully, then both should take a greater responsibility for the environmental impact of the products placed into the market.

Larger companies are more likely to be open to this approach as the scale of

their business means that they can more easily absorb the costs of meeting these requirements. However, the extra responsibilities and costs are likely to leave smaller companies at a disadvantage.

Q2. If you are a small business, what burdens are associated with the introduction of the Regulations and how could these be mitigated?

Whilst NAWDO cannot directly answer this question it does have concerns that many small businesses will seek to avoid the implementation of the requirements. B2B companies will try to use CA sites or local authority waste collection services for the disposal of materials thus placing an additional burden on Local Authority resources. Publicity should be given to these businesses and, whilst many will only produce small annual quantities of WEEE some enforcement action should be undertaken.

Q3. In the Regulatory Impact Assessment, do you agree with the costs and benefits of handling WEEE in accordance with the Directive? If not, please provide your estimate of these costs and provide evidence in support of your figures.

The costs contained within the documentation are, by necessity, aggregated at a national level and without detailed information on how these have been calculated NAWDO is unable to comment on their accuracy.

Whilst Government has stated that the additional costs of separating hazardous wastes have already been included in previous settlements, various Government departments have been unable to state the actual additional expenditure that has been allocated. In addition NAWDO has concerns that, because the framework was not understood at the time, sufficient monies have not been allocated for separating and treating these materials. This has led to a concern amongst Local Authority Waste Managers that implementing the WEEE directive will now identify that additional expenditure is needed to meet hazardous waste issues.

The partial RIA identifies that there are benefits and costs to Local Authorities and Table 1 outlines some of these. It does not however identify the additional revenue costs that will be result from the contractual changes that the new WEEE separation and storage arrangements will necessitate nor the potential significant capital costs that a Local Authority could incur to bring existing sites up to the required DCF standard. Local Authority sites are primarily operated under contract by the waste industry. Some sites are not under the control of the Local Authority and this could lead to excessive demands by Contractors.

It is also unclear whether any note has been taken of the additional costs that will fall to some authorities that cannot, for a number of reasons accept, accept additional material streams.

There is also the potential for significant increases in the quantities of WEEE separately collected at the sites with a consequent requirement for additional expenditure to manage additional deliveries, possibly from businesses, to meet licence conditions and to increase storage areas. This would also have implications for compliance with LATS targets because the increase in non-biodegradable waste will change the mass balance calculation. Increased waste arisings would require Authorities to divert additional biodegradable wastes to maintain compliance levels. Without compensation additional performance they would risk additional penalties or reduced value from surplus allowances.

Q4. What do you think of the approval criteria for producer compliance schemes? Are there any criteria that appear superfluous or are there any important criteria that have not been taken into account?

It is crucial that compliance schemes work with individual Local Authorities and with each other, especially in the first year when the scheme is in its infancy and performance for each compliance scheme will be uncertain. It is understood that schemes will wish to change the contractors at frequent intervals so that their obligations are better matched to DCF outputs. The criteria should require schemes to state how they intend to balance obligations and performance without recourse to “trading” DCFs.

Q5. What would be a reasonable permissible limit for over-or under-collection by a compliance scheme? How could this limit be defined?

The prediction of WEEE quantities is not an exact science and it is likely that schemes will not accurately meet their obligations, especially in the first year when there may be changes in markets and the number of members of producer schemes. Whilst it may be envisaged that in the longer term the Exchange should have little trading, in the first year this is unrealistic. NAWDO considers that reasonable limits should be set when more accurate information is available. Practically, Local Authorities expect that producer schemes will collect all WEEE separated at DCFs and limits should not lead schemes to minimise the amounts of WEEE collected.

Q6. What is the practical limit for payments by the Exchange to schemes which have over-collected? Please explain what the effects of changing this limit would be?

Actual quantities will be difficult to estimate initially and schemes that have over collected should be reimbursed their actual costs. Given that approval for a producer scheme should have made some basic checks that the market share is realistic and that the allocation process has attempted to provide an accurate match, it is difficult to see how limiting expenditure could be justified. If the Exchange is to balance its books then the assumption is that over performance costs would be balanced by the purchase of evidence by under performers albeit that this might be a cost effective process for small compliance schemes that do not have the benefit of economies of scale of the larger schemes.

Q7. What improvements could be made to the arrangements for evidence and trading, which are consistent with the reporting requirements of the Directive and which show that the producers' obligations have been fulfilled?

It appears to be unclear how quantities are to be measured because of the issues of batteries, cabling, associated items and packaging that may or not be WEEE.

There is also a clear need to ensure that household and non-household WEEE are identified and recorded separately, especially when collected at the same DCF, and this will depend on the reporting requirements of the producer compliance schemes. It is likely that household and non-household WEEE from small businesses will be collected in the same container and it will not be possible to have entirely accurate figures. Some guidance is needed to determine the process for accurate and consistent information.

There is also the issue of the performance of ATFs. Their outputs may be difficult to allocate to individual waste streams as inputs to plants may be mixed. This may have implications for Local Authority reporting processes for BVPI and LATS information. Some form of guidance note or protocol is needed to ensure consistency.

Q8. Do you agree that the mandatory presentation of the costs of handling historic WEEE would exceed the requirements and increase the costs of implementing the Directive? How could such a fee be set at an appropriate level (adjusted over time), without arbitrarily distinguishing the costs of handling historic WEEE from other costs faced by producers?

NAWDO understands that the costs of treating some items will be very small relative to the costs of EEE. NAWDO considers that it does not have the necessary understanding of the markets to comment whether the point of sale should show the cost of treating WEEE. However it considers that it would be

useful to inform purchasers that the purchase price of new items includes an element for historic WEEE even though no specific cost might be shown.

Q9. What do you think of the arrangements for business to business producers? Are there any difficulties/particularities about business to business WEEE that have not been taken into account?

It should be noted that whilst the definition of household WEEE in the regulations includes small quantities of electrical waste from commercial, industrial and other sources, most CA sites will have neither a planning permission nor a waste management licence to accept these materials. It should not be assumed that CA sites will be in a position to accept WEEE from businesses.

Q10. The annual subsistence charge payable to the agencies includes the cost of monitoring activities against free-riders. Do you agree that part of the fee should cover monitoring activities? Are there other ways in which the cost of monitoring activities might be recovered from members of a compliance scheme?

Given the large number and range of size of producers it is inevitable that there will be free riders. There must be some process of compliance monitoring and enforcement but this must be proportionate. NAWDO agrees that part of the fee should be used to monitor activities and asks that where Local Authorities provide evidence of illegal use of CA sites, the Environment Agency take action.

Additional comments.

In addition to the questions specifically asked by the consultation NAWDO would also make the following comments:

1. Local Authority waste managers are not yet in a position to understand the practical implications for their authorities. This has come about because of the lack of detailed information concerning financial arrangements and collection arrangements. To avoid delays in the months prior to introducing the regulations it is imperative that adequate detailed information is made available to Local Authorities and early discussions with the DTS operator are undertaken as soon as possible. There is a need to consult all authorities so that a clear understanding of the DCF network is obtained at an early stage.
2. There is concern that the schemes will seek to minimise the quantities of WEEE collected. There are already some differences of opinion between producer schemes and Local Authorities regarding publicity. Local

Authorities want to see as much WEEE recovered and recycled as possible but this would maximise costs for producer schemes.

3. Many Local Authority waste managers do not fully understand the financial implications. It is likely that larger shire counties with many sites have a better understanding, and more flexibility, than smaller Unitary Authorities and London Boroughs with single or small numbers of sites. NAWDO expects that Government will continue to give support under the New Burdens scheme to authorities with sites that physically cannot become DCFs.
4. It appears that Government supports the Retailers in accepting that the amount of money that has been allocated for Local Authority sites is adequate. NAWDO is concerned that this amount is inadequate to fund additional operating costs in future years, nor will it permit sites to be improved. Local Authorities requested that they should be involved in the appointment process for the DTS so that adequate funding was made available over a number of years and NAWDO requests that the appointment terms for the DTS should be discussed with the public sector before an appointment is made.

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