

Executive Summary: Responses to Third WEEE and RoHS Consultation

On 30 July 2004, the UK Government, Scottish Executive, Welsh Assembly and the Northern Ireland Administration issued the third consultation paper on implementation of the EC Directives on Waste Electrical and Electronic Equipment and on the Restriction of Certain Hazardous Substances in Electrical and Electronic Equipment, the WEEE and RoHS Directives.

The consultation paper presented a package of Government proposals for how these two Directives could be implemented. It invited stakeholder views on draft implementing Regulations and on guidance to accompany the Regulations.

Responses to the consultation

225 stakeholder responses were received by the end of the three month consultation period. A full assessment of these responses has been carried out for DTI by consultants ERM. It is available on the DTI's WEEE/RoHS webpage (<http://www.dti.gov.uk/sustainability/weee>).

This third consultation is key because this time views were invited on more of the working detail for implementation. The Government is looking very carefully at all of the responses it received from stakeholders.

The Government, in its consideration of the responses, is taking account of the fact that ERM's statistical analysis of the responses does not itself 'weight' responses according to whether they are received from individuals or organisations representing a group of stakeholders. The Government has been informed that there were three batches of identical or near-identical responses.

Next steps

The next step is for Ministers to take decisions on the shape of the final WEEE Regulations, which will transpose the main provisions of the Directive, and on the accompanying guidance.

The environment agencies are reviewing the outcome of their separate consultation on their proposed guidance for the treatment of separately collected WEEE. DEFRA aims to consult shortly on the permitting arrangements for WEEE treatment facilities.

WEEE: The National Clearing House

Respondents to this consultation overwhelmingly backed proposals to establish a National Clearing House (NCH).

However, there remained a variety of views amongst respondents on what exactly the functions of the NCH should be. Some raised questions about the oversight and governance

of an NCH; and concerns about accountability in relation to NCH's operational costs and about added bureaucracy. Supporters of NCH emphasised the need for it to be UK-wide in coverage.

There was a clear, widespread view amongst respondents that the NCH would be too complex and difficult to deliver on the timetable envisaged. The consultation paper itself had acknowledged the timetable for establishing the NCH was "challenging".

The Government is considering the way forward carefully, in the light of the messages from respondents on these issues.

National Clearing House Project Group

Alongside the consultation responses, the Government is also weighing the outcome of the work of the National Clearing House Project Group, which the DTI convened during the consultation period.

The DTI asked the Group to consider the development of the NCH. This Group's activity was intended to complement the wider consultation and to focus on more detailed thinking on NCH, particularly in view of the challenging implementation timetable.

This was a small group, involving producers and other key stakeholder groups, including local authorities, the waste management industry, retailers and the reuse sector; and the environment agencies.

DTI is making available on its WEEE/RoHS webpage, alongside the summary of consultation responses, a paper which the Group sent to the DTI, offering recommendations on issues associated with the allocation of WEEE to producers. It presents the points on which the Group reached agreement in its discussions.

Allocation of WEEE

The consultation included proposals for how household WEEE separately collected at Designated Collection Facilities (DCFs) could be physically allocated to producers for them then to meet their obligations under the Directive. Views were invited on three options. Respondents showed the strongest support for Option 2, 'batch allocation'. However stakeholders raised a number of issues with the practicalities of all three options, including 'batch allocation'.

WEEE: Arrangements for the Collection, Treatment and Recovery of WEEE

A majority of respondents supported proposals to allow producers to make their own arrangements for collecting WEEE from retailer sites or local collection facilities (when an agreement brings particular environmental and social benefits). However, stakeholders sought clarification on what happens to 'excess WEEE' if a producer 'over collects'.

The consultation included proposals to allocate WEEE according to groups of product categories (rather than to individual categories) and to make use of protocols for recovery, where practicable and appropriate. The objective of this proposal was to minimise burdens on both collection facilities and producers. Almost all stakeholders supported the proposals for some form of grouping, although slightly more of those stakeholders who expressed a view disagreed rather than agreed with the four groupings suggested. Local authorities and retailers tended to support the proposed categories for collection.

WEEE: Registration, Reporting and Financing Arrangements

The Government proposed that all product sales, both to business users and householders should be reported to the NCH and be used for calculating market share, where these cannot be differentiated. Most respondents, in particular manufacturers and compliance schemes, disagreed with the proposals for sales data reporting for business-to-business products and many supported alternative methods. The UK has to report all sales of electrical and electronic equipment onto the UK market to the European Commission irrespective of whether it is “household” or “non-household”.

The Government propose that producers, or their compliance schemes, should report evidence of their compliance with obligations at the end of each quarter to the NCH. Respondents generally accepted this frequency of reporting with a smaller number calling for annual reporting.

There was support for the need for producers’ and compliance schemes’ operations to take into consideration wider environmental and social impacts. Transport movements and access by the Third Sector to waste equipment were highlighted as particular issues in this context.

On the financing arrangements for business-to-business WEEE, respondents generally supported the Government proposals which mirror those set out in the Directive.

Visible fees

Although the consultation paper did not ask a question on the Directive’s approach to visible fees, a number of responses raised this issue.

RoHS

Around a third of respondents provided comments relating to the RoHS Guidance.

Compliance and Enforcement

Of those that responded in relation to the RoHS Guidance, 17 respondents provided specific comments in relation to compliance and enforcement issues. In general, there was support for the use of supplier declarations as a method to demonstrate compliance. Most producers were against the analysis of individual products to demonstrate compliance.

Scope, exemptions, definitions

Many respondents pressed for greater clarity on scope, often referring to specific products and exemptions. Some emphasised their opposition to possible future inclusion of WEEE categories 8 and 9 (medical devices, monitoring and control instruments) within the scope of RoHS. However, the exemption for spare parts met with general support.

The whole issue of exemptions is currently under consideration at EU level and this should be finalised in the first quarter of the New Year. The Commission is due to begin the process of reviewing the position of categories 8 and 9 in February.

On a related issue, several respondents sought greater clarity and explanation of the RoHS status of EEE that forms part of another type of equipment that does not fall within the Directive's scope. The UK Government has asked the Commission to clarify this point and is awaiting its response.

In general, stakeholders seemed to welcome the fact that a clear definition of 'homogenous materials' had been decided. However, several were concerned about the practicality of testing for the restricted substances. Beyond this, a number of respondents continue to be concerned about the interpretation of the phrase 'put on the market'.

Regulatory Impact Assessment

Only a small number of respondents provided comments in relation to the updated Regulatory Impact Assessments (RIAs). DTI will review these and update the RIAs, where necessary.

DTI

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