



POSITION PAPER

Brussels, 22 September 2023

Orgalim position and recommendations on the upcoming revision of the Waste Electrical and Electronic Equipment (WEEE) Directive

Executive summary

✔ What we support

- A WEEE Directive harmonised with other relevant legislation.
- A proportionate harmonisation.
- WEEE should be properly collected, transported, and treated regardless of the Member State or operator.
- Enforceable and comprehensive Extended Producer Responsibility measures and requirements.
- Assessment of calculation of collection rate.
- Enhanced monitoring of WEEE flows.

⚠ What concerns us

- Revision resulting in double regulation.
- Illegal transboundary shipments.
- Provisions that have become obsolete or not in line with EU's circular economy goals.

Introduction

Orgalim represents Europe's technology industries, providing innovative technology solutions which are underpinning the twin green and digital transitions and can unlock a greener, healthier and more prosperous future for the European Union and its citizens. Our industries stand ready to continue providing innovative, high-quality, functional and safe products that are efficient and affordable, last longer, and are designed for reuse, repair, and high-quality recycling.

We thank the European Commission for the opportunity to comment on the upcoming revision of Directive 2012/19/EU on waste electrical and electronic equipment (WEEE), aiming at a safe and environmentally sound management of WEEE.

Our industries share this objective, and our sector has been actively involved for many years in the implementation and development of the WEEE, as well as in the different means to extend the lifetime of products and improve the collection and treatment of waste electrical and electronic equipment in conjunction with Commission's new Circular Economy Action Plan (see our position paper [here](#)).

What we support

❖ Our industries support that the management of waste electrical and electronic equipment should **be closely aligned with other pertinent legislation** governing the environmental impact of electrical and electronic products. To ensure a comprehensive and holistic approach, it is crucial to harmonise WEEE with other relevant frameworks such as the Restriction of Hazardous Substances (RoHS) Directive, the Ecodesign for Sustainable Products Regulation (ESPR), the Critical Raw Materials Act, the Packaging and Packaging Waste Regulation (PPWR), and the Batteries Regulation.

By synchronising these legislative efforts, we can **enhance the effectiveness of WEEE management, streamline compliance procedures, and maximise the environmental benefits** of responsible electrical and electronic waste disposal. Through the alignment of WEEE with these relevant legislations, we can foster a circular economy, encouraging resource efficiency in the current geopolitical context, promoting recycling and recovery, and ultimately reducing the environmental impact of electronic waste in line with the objectives set by the [Green Deal](#) and [Circular Economy Action Plan \(CEAP\)](#).

❖ Proportionate harmonisation

In the course of the upcoming revision of the WEEE Directive, there are demands for **stronger "EU harmonisation"**, set against the background of the recently adopted Battery Regulation and the harmonisations associated with it. However, we believe it is absolutely necessary to consider WEEE separately and to define exactly what is meant by EU harmonisation:

- We ask for **harmonisation so that the provisions of the Implementing Regulation 2019/290 apply equally to registration and notifications via PROs** (Producer Responsibility Organisations). The format of registration and notifications has already been widely harmonised by the European Implementing Regulation 2019/290 to the extent that registration and notifications are provided to national registries. In many Member States, manufacturers provide their registrations and notifications exclusively, or at least also, to a PRO. As the legal basis for the Implementing Regulation 2019/290 in Article 16 (4) WEEE² only regulates the format for registrations and notifications towards registries, the format for registrations and notifications to PROs could not be harmonised. PROs use different reporting keys (according to their sub-categories, see also next point), which can vary even in one country for the same product. This divergence between Member States, depending on which PRO one belongs to, creates significant and unnecessary additional burdens for manufacturers because they have to use different reporting keys in each Member State.
- We ask for **harmonisation of the conditions required for the implementation and operation of individual systems**. Differences in transposition of the Directive between Member States lead to different obligations for the implementation and operation of individual systems and to differences in treatment between companies in the EU.

- Introducing a **European register, or a European registration, will drastically increase the number of free riders** because, in both cases the market overview and insight are missing to ensure an efficient and effective free rider tracking. The national manufacturer registration is the basis on which all further interactions between manufacturer and registry, such as notifications, WEEE take-back and disposal, can be based and enforced if necessary.
 - We also need **harmonisation on the calculation methodologies to establish the targets, on the definitions.**
 - These measures would create a **European level playing field** in the long term.
- ❖ We strongly support proposals enabling high-quality recycling. Not only do quantities of secondary raw materials matter for a circular economy to develop, but also their quality in order to meet the regulatory obligations and technical specifications of industry. Operators should not be allowed to undertake 'lower quality recycling' activities depending on the Member State where they operate. **All WEEE should be properly collected, transported and treated regardless of the Member State or operator** (working on behalf of producers or not). Please see details in [the Orgalim Guide on WEEE](#).
- ❖ As regards **Extended Producer Responsibility (EPR)**:

EPR has certainly achieved positive results, including increased collection volumes and improved recycling results.

- We recognise the role of producers in the proper collection and treatment of their end-of-life products. However, producers alone cannot achieve all of the objectives and any extension of EPR's obligations should be carefully analysed from that perspective. Successful EPR solutions depend not only on producers but also on the effective cooperation of several actors such as municipalities, retailers, users, waste companies and recyclers, and enforcement authorities. In our view, obligations, responsibilities and effective enforcement go hand in hand – which means that the responsibility of each actor has to be defined clearly and fairly. **All actors must contribute to achieving the objectives and authorities should enforce the different obligations.**
- **We call for a true 'shared responsibility' approach:** all actors involved in the collection and treatment of different waste streams, not only producers, need to respect the same obligations to achieve the collection and recycling targets of EPR-related directives.
- We therefore **urge the authorities to:**
 - Define obligations for all actors based on a good understanding of their respective roles;
 - Define minimum quality WEEE treatment standards for all actors in strict accordance with the European standards for WEEE. All WEEE has to be properly collected and treated by whoever is responsible;
 - Implement an effective reporting obligation for all actors to better monitor the flows;
 - Effectively enforce the different obligations.

❖ **Assessment for calculation of the collection rate**

The collection rate of 65% is not achieved in most EU Member States. However, in our view, the determination of the collection rate is based on assumptions that do not correctly reflect the realities and developments in the market. We ask for a **change in the calculation formula for the collection rate**; with reference not to the average of the last three years, but with reference to the average of the product life. Explanation:

- **Three year rule:** Collection quantities are related to the average of the quantities placed on the market in the last three years. However, the actual collection depends on what quantities were placed on the market 10 or 15 years earlier. In growing markets, and for equipment with more than three years of lifetime, the calculated three year average quantity may be significantly higher than the quantities actually placed on the market 10 or 15 years ago. Accordingly, the calculated quota results in a value that is too low. This effect is known in the case of photovoltaic modules and is referred to, for example, in publications by the German Federal Environment Agency. However, the effect also occurs with other product groups such as large household appliances.

- **Legal requirements and voluntary measures for the circular economy** (repair, minimum durability requirements, second use, etc.) **are likely to further extend product life**; accordingly, this will also have a dampening effect on quota achievement.
- **Devices go into undefined channels.** Collections that do not comply with the law play a major role here (private sector collections, theft from municipal collections, etc.). As long as equipment goes through undefined channels, either due to ignorance on the part of citizens or due to inadequate enforcement, it is not available for proper take-back and recycling and is not included in the collection quota.

❖ **Enhanced monitoring of WEEE flows**

Many "official" and "unofficial" actors deal with WEEE, from scrap dealers to retailers, municipalities, waste management companies and recyclers. While producers are required to report the WEEE they collect and handle, other actors handling WEEE can easily circumvent these reporting requirements, even if the WEEE they handle is properly collected and managed. The channels through which WEEE is collected are very diverse, and it is difficult to determine how much WEEE is actually generated. This means that some of the resources from WEEE are not documented, i.e. it is not known whether they are actually returned to the material cycle as secondary raw materials. There is a strong need for member states to have the necessary resources to rigorously control waste management operators and waste shipments.

We propose:

All treated WEEE that meets treatment quality standards should be reported and registered as recycled so that these quantities are included in the overall collection and recycling results in a given country. An example of good practice in some countries is a clearinghouse established as an impartial body that monitors, coordinates, and financially accounts for the allocation of WEEE collection for each registered actor; this always includes producers, depending on the country, but also municipalities, retailers, recyclers, and other waste organisations. The clearinghouse can also report to the authorities. The clearinghouse concept, or other bodies with similar function such as national agencies, should also apply to future WEEE legislation, which would legally oblige all actors to fulfil the obligations set out in the legislation. The following elements should apply to a future multi-stakeholder coordinating body that includes all WEEE stakeholders:

- Register for all actors
- Monitoring and reporting of WEEE flows
- Support for enforcement actions
- Reporting of collection rates to authorities
- Ensuring transparency of data – at aggregated level
- Accreditation by the competent authorities

What concerns us

Orgalim would regret the potential **double regulation** and believes in the clear **differentiation and separation of tasks** between the Waste Electrical and Electronic Equipment Regulation and other relevant legislation, particularly the future Ecodesign Directive (ESPR) and the possibly revised RoHS Directive. An example of potential double regulation is large scale photovoltaics, whose waste handling is already regulated by Electricity Market Directive and Risk Preparedness Regulation. Therefore, we suggest that large scale photovoltaics are exempted from the WEEE Directive in line with other large scale installations mentioned in article 2(4)(c) of the WEE Directive.

This is essential to avoid unnecessary duplication, inconsistencies, and overlapping of regulatory requirements. Each regulation should have its specific scope and objectives to ensure clarity and effectiveness. This approach allows for targeted measures within each regulation, addressing specific environmental concerns and promoting sustainable practices without **unnecessary overlap or redundancy**.

We are concerned about the existing **illegal transboundary shipments** of waste electrical and electronic equipment disguised as used electronic and electrical equipment. Such practices pose **significant risks to human health and the environment** in the destination countries. Therefore, Orgalim notes the need to take **appropriate and proportionate actions to curtail and ultimately stop** these illicit activities and ensure the legitimate shipping of used EEE for various purposes, such as direct reuse, end-of-lease, resale, or reuse after repair, refurbishment, or remanufacturing.

Orgalim emphasises the crucial need to ensure that the revised directive avoids retaining provisions that have become obsolete or are no longer compatible with the EU's circular economy goals. For example, the registration process of the WEEE is currently too burdensome for companies, which makes it difficult to comply with and the current wording on repair and refurbishment of goods, whose provisions, as they were drafted long ago, are not aligned with the Commission's Circular Economy Action Plan.

Orgalim represents Europe's technology industries, comprised of 770,000 innovative companies spanning the mechanical engineering, electrical engineering, electronics, ICT and metal technology branches. Together they represent the EU's largest manufacturing sector, generating annual turnover of over €2,906 billion, manufacturing one-third of all European exports and providing 11.19 million direct jobs. Orgalim is registered under the European Union Transparency Register – ID number: 20210641335-88.

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