

**Brussels, 22 February 2010**

**COMMENTS AND RECOMMENDATIONS ON DRAFT  
REPORT OF RAPPORTEUR KARL-HEINZ FLORENZ ON  
THE PROPOSAL FOR A RECAST WEEE DIRECTIVE  
2002/96/EC  
2008/0241(COD)**

In view of the further proceedings in the European Parliament, Orgalime submits its initial comments and proposals on the **draft report of Rapporteur, Mr. Karl-Heinz Florenz** concerning the recast proposal for Directive 2002/96/EC on Waste Electrical and Electronic Equipment (**WEEE**) with the request for your support:

European manufacturers of electrical and electronic equipment (EEE) fully support the objectives of the WEEE directive: they have set up take back systems in record time and continue their commitment for driving an efficient implementation of the directive. Producers are also committed to treat 100% of WEEE returned to them.

**Orgalime believes that the draft report thoroughly takes into account the complexity of the WEEE management process in practice and is built on a number of key ideas, which we support, however, at the same time Orgalime remains concerned with several elements of the draft report:**

- The draft report underlines that the directive should continue to be based on the principle of **producer responsibility**. However, it also underlines that the **proper implementation of the WEEE Directive and its objectives cannot be achieved by producers alone, but requires responsible action by all other actors that intervene in the WEEE chain in practice**, including, among others, the consumer who has a role to play as a responsible citizen in disposing of WEEE in a manner that respects the provisions of the Directive. This we fully support.
- **Imposing a new reporting obligation on all actors that collect WEEE will contribute to a better control of the waste flows and increase the transparency of the amounts of collected WEEE**. It will equally validate the current figures on amounts of WEEE collected and, in combination with tightened waste shipment and inspection rules, should help to dry out **illegal shipments of WEEE** that occur today primarily **under the ticket of “reuse”**.
- **The draft report correctly underlines that the WEEE recast should not unnecessarily upset running national structures without demonstrated benefit for the environment**, in particular in such areas as the collection rate or the changes suggested to the financing rules of collection from private households.

*Orgalime, the European Engineering Industries Association, speaks for 33 trade federations representing some 130,000 companies in the mechanical, electrical, electronic, metalworking & metal articles industries of 22 European countries. The industry employs some 11.1 million people in the EU and in 2008 accounted for some €1,885 billion of annual output. The industry not only represents more than one quarter of the output of manufactured products but also a third of the manufactured exports of the European Union.*

- **The draft report also recognises that any collection rate can only work if it is placed in the proper legal setting**, i.e.: a target that applies on member states instead of producers, since achieving the target requires the umbrella of a member state's enforcement powers to effectively address all routes and actors, including producers, involved in collection in practice. Finally, it is also not possible to implement a collective rate on individual producers.
- While we acknowledge that the Rapporteur proposes a three years period as the reference time to calculate the **new collection rate**, we remain to be convinced about the workability of a target based on amounts of WEEE placed on the market during that period, bearing in mind the wide range of different products and markets affected.
- We are concerned with the proposal to extend the scope of the Directive to all EEE (**open scope**), since the impacts of such a far reaching modification have not been subject to a **representative, thorough impact assessment at EU level**. This, moreover, is a fundamental principle of Better Regulation. The Commission's preparatory recast studies do not support this way forward, but instead propose to focus on a number of priority waste streams for realising the environmental objectives of the Directive.
- **Establishing five categories of WEEE** for the purpose setting of recycling and recovery targets may be helpful. However, we feel that this proposal, in combination with the new annex I-B list of illustrative product examples, represents an unjustified **extension of the scope in practice**.
- We support the proposed **exclusion of large scale industrial installations**, since such equipment never ends up in the municipal waste stream and represents a separate waste stream that is already taken care of for many years. **But this exclusion alone is insufficient** to avoid severe undesired effects and negative implications in the area of industrial and professional goods, such as at the level of long-ranging product reliability or safety.
- We support the proposal that producers that have no legal seat in a member state shall nominate an **authorised representative** acting on his behalf. However, this could be directly incorporated into the definition of producer in article 3(j) instead of article 16.
- The **proposal to delete the open ended visible fee** should by no means influence today's legal situation, i.e.: that the visible fee can be used for WEEE from private households until 13.02.2011 (for large household appliances until 13.02.2013).
- While we fully agree that illegal waste shipment must be stopped, we feel that the proposal to allow **legal shipments of WEEE** only during the period of warranty falls far short of practical needs for legal shipments for the purpose of **repairing professional goods after expiry of the warranty period**.

**We regret that the following issues have not been addressed in the draft report: these would, in our view, be relevant for a successful implementation of the directive in the future and should therefore be taken up in the further proceedings:**

- **Article 16.4** of the Commission proposal stipulates that the register can be operated by collective responsibility schemes. This in our view creates a conflict of interest, which should be resolved: in our opinion, **market surveillance and enforcement of legislation is, and should remain, a member states' competence**.
- **Article 16** of the Commission proposal asks a manufacturer to provide information "reflecting its activities across all other Member States". This is based on the assumption that all intra-Community transfers would be organised by producers, which is far from reality. A lot of products are moved from one member state to another by distributors, while producers cannot know about these transfers.

- In addition to Article 16, reporting and financing obligations for **distributors in case they knowingly sell EEE from a non-registered producer**, or in case they transfer products from one member state to another (**intra Community trade**) should be codified.
- The proposals for better harmonisation of registration and reporting procedures (**article 16**) should in our view be complemented by the **establishment of a mechanism of mandatory cooperation between national registers**. Some national registers have already taken voluntary efforts in this direction and created an informal network, so called European WEEE Registers Network (EWRN), which should be strengthened.
- **Article 4** of the Commission proposal on product design could in our view still risk undermining the Eco Design Directive, since it encourages national or regional product design requirements and action on a narrow range of criteria such as reuse, dismantling and recovery for an electrical and electronic appliance, outside the life cycle approach of the Eco Design Directive. We would prefer a **deletion of article 4, the content of which is included in the Eco Design Directive** and feel, however, that at the very least the life cycle aspect would have to be incorporated into article 4 to avoid conflicting legislation.

***In conclusion:***

***Orgalime kindly asks you to support amendments 1, 2, 3, 5 second sentence, 7, 8, 11, 12, 14, 16 first sentence, 17, 19, 27, 29, 30 (German version), 31, 34, 39, 40, 41.***

***We also generally support amendment 13, which in our view, however, requires further clarification.***

***We kindly request you not to support amendments 6, 16 second part, 35, 36 and 38.***

***We kindly request you to take up the listed open issues not addressed in the draft report of Rapporteur Florenz and to table related amendment proposals.***

Orgalime looks forward to contributing to the further discussions of European regulators and we remain available for any further information that you may wish to obtain with a view to maintaining sustainable legislation, which will both take due account of the considerable investment made by producers for the setting up of WEEE management schemes in record time, while bringing about those adjustments needed to improve the existing legislation for producers whether large or small.