



Orgalime's¹ observations on texts of the Council and the European Parliament on the proposed directives on "Waste Electrical and Electronic Equipment " and " Restriction of the Use of Certain Hazardous Substances in WEEE

30 April 2002

WEEE

Issue/Article	Council Common Position	European Parliament second reading	Commission's opinion on EP second reading	Industry's comments
Exemption of small manufacturers – Article 2.4	Proposes to exempt manufacturers with a turnover of less than EUR 2 million and fewer than 10 employees, from financing requirements in Articles 7 and 8 for a period of 5 years.	Deletes this exemption because it is considered that it: - Would adversely effect the employment potential of firms with fewer than ten employees; - Could result in firms with ten or more employees cutting jobs; - Would result in distortion of competition owing to unequal treatment of producers; - Would mean that the financing responsibility of the firms covered by the exception would have to be borne by all the other producers.	Considers that such an exemption would lead to market distortions.	No economic actor should be exempted from the provisions of the Directive, otherwise others will be called upon to finance the management of waste they did not produce. It could result in “legal free-riding”.
Definition of individual financing	-	In order to give clarification to Article , the Parliament proposes	Supports the Parliament’s definition	Industry supports the clarification provided by

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Article 3 point (1a)		a definition to individual financing. It states that individual financing means the responsibility of each producer for the costs associated with its own products.		Parliament's definition of "individual financing".
Individual/collective systems to handle waste - Article 4.1b	Member states <i>may allow</i> producers to set up and operate individual and/or collective systems	Member states <i>shall ensure</i> that producers can set up and operate individual and/or collective systems	Supports the EP proposal	Industry supports the freedom to choose between individual or collective systems.
Financing – Article 7.2	Proposes that for products produced after the Directive enters into force, the financing shall be provided by means of collective and/or individual financing. Requires that there should be no unjustified differentiation between producers who opt for the different means of financing.	<ul style="list-style-type: none"> - Supports individual financing as the general rule for products produced after the Directive enters into force, in order to give producers an incentive to design products that are easier to recycle. - Requires that guarantees be given to safeguard the financing of disposal even if a producer disappears. - Makes it possible for Member States to use collective financing schemes if they can demonstrate that individual financing would involve disproportionately high costs. - Allows existing financing agreements to be maintained for maximum ten years. 	<ul style="list-style-type: none"> - Believes that individual financing should be encouraged in order to give incentives for eco-design. - Supports possibility of Member States opting for collective financing if costs of individual financing are disproportionate, but believes that the Commission needs only to be notified of such a decision. - Supports, in principle, the possibility of Member States maintaining existing financing agreements for a maximum of 10 years. 	<ul style="list-style-type: none"> - Industry supports the Parliament's approach to article 7.2. It leaves flexibility to producers to determine the most efficient financing scheme and creates incentives to improve eco-design, which is essential to find workable solutions to a complex problem. - Guarantees, such as blocked bank accounts, or recycling insurance or appropriate financing schemes as proposed by the EP, are crucial to avoid that honest producers are forced to finance end of life products of producers who seek to avoid their responsibility ("free-riders"). - Industry agrees that Member States should be able to maintain existing financing schemes
Historic Waste – Article 7.3	Suggests that producers, existing on the market when the respective costs occur, should contribute proportionately to the financing of products put on the market before the directive enters into force (historical waste).	<ul style="list-style-type: none"> - Proposes that the financing of "historical waste" should be shared collectively by all producers existing at the time the costs arise, on the basis of their respective market share by type of equipment. - Requires that for a period of no 	<ul style="list-style-type: none"> - Supportive of Parliament's approach. - Consider the Parliament's approach to the "visible fee" as acceptable as a temporary solution to the historical waste problem. 	<ul style="list-style-type: none"> - Industry supports the Parliament's proposal for article 7.3. - Industry believes that the cost of "historical waste" – if producers are required to finance it –needs to be shared among existing producers when the cost

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		longer than ten years after entry into force of directive, producers are allowed, on a voluntary basis, to show on new products the cost of dealing with the historical waste. The costs mentioned must represent the costs incurred.		occurs and according to their market share. - To cope with the financial burden of historical waste, it is essential that Member States allow producers to temporarily show the costs for the waste management of "historical waste", in addition to the product price at the point of sale.
Free riders– Article 7.4	For waste produced after the Directive enters into force, the Council proposes making existing producers also responsible for the financing of products from producers that are no longer present on the market or who cannot be identified.	To avoid the problem of orphan products and free-riders the Parliament proposes that producers are required to provide a guarantee when placing a product on the market. Such guarantees could include a recycling insurance, a blocked bank account or participation in financial schemes for the management of WEEE. The Parliament proposes that where an importer cannot provide such a guarantee, a guarantee provision should be charged when products enter the EU.	Accepts the Parliament's approach requiring guarantees	Industry supports the Parliament's constructive approach to article 7.4 which aims to limit the existence of free riders. The Council identified a relevant problem, however its proposal would provide an incentive to free-ride, as companies could withdraw from the market before their products become waste in the knowledge that remaining producers would pick up their bill.
Register of producers Article 11.1.1	-	The Parliament requires Member States to draw up a register of producers.	Accepts this proposal as it will make it easier to check whether the objectives of the Directive are being achieved.	Industry supports the Parliament's proposal.
Enforcement – Article 14a	-	The Parliament requires that Member States put in place the necessary inspection and monitoring infrastructure to ensure compliance with the Directive.	Accepts the Parliament's proposal	Industry supports the Parliament's proposal, as it believes that proper enforcement is key to the Directive's success.
Treatment Annex – Annex II paragraph 2, indent 2	Requires selective treatment of CFC, HCFC, HFC and HC in insulation foams and	Proposes that all gases with Global Warming Potentials (GWP) above 15 be selectively	Supports the Parliament's amendment as it provides incentives for manufacturers to	Industry supports the Parliament's proposal. It would enlarge the scope of recovery to

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	refrigeration circuits	treated.	use substances with a GWP below 15.	include gases for purposes other than refrigeration. In addition, it would include in the recovery requirement any ozone depleting or global warming gas with a GWP greater than 15. The Council's wording is disproportionate and costly for HC with a global warming potential below 15. It would have no noteworthy environmental benefit.

RoHS

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Phase-out date - Article 4.1	Proposes a phase-out date by January 1, 2007 at the latest.	Proposes a fixed phase-out date of 2006.	Supports the Parliament's proposal for a fixed date. Considers this to be consistent with the Directive's article 95 legal basis.	In order to avoid distortion of the single market, industry clearly supports the Parliament's call for a fixed phase-out date. Industry reiterates that a phase out date 1 January 2006 is too ambitious.
Spare parts and repair Article 4.2a	-	Spare parts and repair for equipment produced before 1 January 2006 to be exempted from the phase out	Supports the amendment in full	Industry agrees with the EP. Spare parts and repair must be available for equipment produced before the phase out date.
Review Process – Article 5	See Article 5	- Proposes strengthening consideration of health and consumer safety in the review process. - By adding “technically or scientifically possible” to the requirements for deletion from the exemption annex the Parliament proposes that the requirements for adding and deleting exemptions are consistent with one another.	Supports Parliament's strengthening of health and consumer safety requirements.	Industry supports the Parliament's proposal to strengthen the health and consumer safety considerations and make the requirements for addition and deletion from the annex more consistent.