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## Opposing policies of the WEEE Directive (2012/19/EU) undermine growth in the proper treatment of WEEE in Europe.

### Introduction:

The WEEE Directive states the following:

*Directive 2012/19/EU of the European Parliament and of the Council of 4<sup>th</sup> July 2012 on waste electrical and electronic equipment (WEEE) (recast)*

*Opening Paragraph No. 6:*

***"The purpose of this Directive is to contribute to sustainable production and consumption by, as a first priority, the prevention of WEEE and, in addition, by the re-use, recycling and other forms of recovery of such wastes so as to reduce the disposal of waste and to contribute to the efficient use of resources and the retrieval of valuable secondary raw materials. It also seeks to improve the environmental performance of all operators involved in the life cycle of EEE, e.g. producers, distributors and consumers and, in particular, those operators directly involved in the collection and treatment of WEEE. In particular, different national applications of the 'producer responsibility' principle may lead to substantial disparities in the financial burden on economic operators. Having different national policies on the management of WEEE hampers the effectiveness of recycling policies. For that reason, the essential criteria should be laid down at the level of the Union and minimum standards for the treatment of WEEE should be developed."***

Opening paragraph number 6 of the WEEE Directive sets out an important policy. It states that different national applications of Producer Responsibility Initiatives (PRIs) and the management of WEEE hampers the effectiveness of recycling policies. For that reason, essential criteria should be laid down at the level of the European Union requiring implementation of minimum standards for the treatment of WEEE. The use of mandatory treatment standards such as the CENELEC EN 50625 Series within the EU is aspired to by EERA members.

Important aims of the WEEE Directive are to:

- Improve the extent and quality of WEEE collection, logistics and treatment in Europe;
- Achieve the targets for collection, re-use, recycling and recovery of the different categories of WEEE;
- Improve product design with a view to preventing WEEE and increasing its reusability, recyclability and/or recoverability (eco-design), and;
- Reduce WEEE disposal to landfill and remove hazardous substances from circulation.

Supporting the purpose of the WEEE directive as set out above are Article 5 where over many paragraphs the Separate Collection of WEEE is set out in great detail leading into Article 7:

*Directive 2012/19/EU of the European Parliament and of the Council of 4<sup>th</sup> July 2012 on waste electrical and electronic equipment (WEEE) (recast)*

*Article 7, paragraph 2: "From 2019, the minimum collection rate to be achieved annually shall be **65%** of the average weight of EEE placed on the market in the three preceding years in the Member State concerned, or alternatively **85%** of WEEE generated on the territory of that Member State."*

If this is what was envisaged by the WEEE Directive, why then did the following Article need to be included:

*Directive 2012/19/EU of the European Parliament and of the Council of 4<sup>th</sup> July 2012 on waste electrical and electronic equipment (WEEE) (recast)*

*Article 16, paragraph 4: "Member states shall collect information, **including substantiated estimates**, on annual basis, on the quantities and categories of EEE placed on their markets, **collected through all routes**, prepared for re-use, recycled and recovered within the Member State, and on separately collected WEEE exported by weight."*

Hence it was already envisaged at the time of implementing the Directive that some Member States may find the collection and recovery targets too ambitious. No restriction or time limit was placed on this provision for the use of substantiated estimates. The door was left wide open for some Member States (MS) to adopt substantiated estimates as a means of meeting their targets. We note that not all MS transposed Article 16 or use substantiated estimates for reporting collection targets.

Separate collection as set out in Article 5 is a precondition for ensuring specific treatment and recycling of WEEE and is necessary to achieve the chosen level of protection of human health and the environment in (and outside) the European Union. Consumers throughout Europe have the equal right to their WEEE being treated in accordance with the Directive and producers have equal obligations throughout Europe to be responsible for the proper collection and treatment of their materials.

### **Why are substantiated estimated volumes affecting the proper collection, logistics and treatment of WEEE?**

#### **The quantity of WEEE in Europe:**

<b>European Market</b>	<b>Mio MT</b>	<b>in %</b>
Placed on Market (POM) EEE	<b>9,50</b>	
Officially reported collections/recycling	<b>3,30</b>	<b>35%</b>
<b>Informal collections/recycling</b>	<b>3,20</b>	<b>34%</b>
Exports (of which 1,3 Mio MT not documented)	<b>1,50</b>	<b>16%</b>
"Scavenging" for parts	<b>0,75</b>	<b>8%</b>
Losses (such as through waste bin)	<b>0,75</b>	<b>8%</b>

*Source: CWIT Study (2015)*

Informal collections/recycling volumes are 34% of the EU total. These substantiated estimated volumes are often based on analysis of the input material of large shredders. If this concerns small equipment or other WEEE categories that are not delivered by collection points and are part of a formal take-back system, then it is taken for granted that this is part of the informal collection. If these volumes are accounted for in the officially reported, collected and recycled volumes, then they are:

1. Not accounted and paid for by the take-back systems i.e. the producers;
2. Almost certainly not de-polluted, hence illegally treated, and;
3. Contribute to the un-level playing field that EERA strongly opposes.

These volumes should not be considered legal and/or controlled WEEE volumes – i.e. they form part of the “informal collections/recycling” category at 34%. Adding informally collected volumes for statistical purposes undermines the existence and growth potential of the proper WEEE treatment industry. EERA surveys carried out by the United Nations University and SOFIES in 2016 and 2017 estimated that only 23% of Cooling and Freezing units generated is reported as collected in EU and only 19% of LHHA generated is reported as collected in EU.

**The following excerpts are further examples as to why substantiated estimates conflict with the important aims of the WEEE Directive:**

Directive 2012/19/EU of the European Parliament and of the Council of 4<sup>th</sup> July 2012 on waste electrical and electronic equipment (WEEE) (recast)

*Opening Paragraph No. 11:*

***“...to optimise re-use and recovery through product design, the whole life cycle of the product should be taken into account.”***

*Opening Paragraph No. 14:*

***“Separate collection is a precondition for ensuring specific treatment and recycling of WEEE”***

*Opening Paragraph No. 15:*

***“Data included in the impact assessment carried out by the Commission in 2008 show that 65% of the EEE placed on the market was already separately collected then, but more than half of this was potentially the object of improper treatment and illegal exports, and, even when properly treated, this was not reported. This leads to losses of valuable secondary raw materials, environmental degradation, and provision of inconsistent data. To avoid this, it is necessary to set an ambitious collection target and to ensure that WEEE collected is treated in an environmentally sound way and is correctly reported***

*Opening Paragraph No. 16:*

***“...a methodology for calculating collection rates based on WEEE generated should be developed in the near future.***



Opening Paragraph No. 17:

***"Specific treatment for WEEE is indispensable in order to avoid the dispersion of pollutants in recycled material or the waste stream."***

Opening Paragraph No. 19:

***"...geared to protecting the environment and human health and preserving raw materials and shall aim at recycling valuable resources contained in EEE with a view to ensuring a better supply of commodities within the Union."***

Opening Paragraph No. 21:

***"Ensuring proper preparation for re-use, recycling and recovery of WEEE is important for sound resource management and will optimise supply of resources."***

### **Why were substantiated estimates introduced instead of time-limited, lower and realistic collection, re-use, recycling and recovery targets for Member States?**

Substantiated estimates continue to be used by advanced economy member states such as the UK, Portugal, Spain and Greece, which incidentally negate many objectives of the WEEE Directive. WEEE 2 (2012) differentiated between WEEE 1 (2009) in the area of collection targets but still it allowed for an easy way out for Member States who did not develop systems for the collection and treatment. There was no time limited deadline set for the development of such systems. EERA members see this as seriously undermining the establishment and expansion of proper treatment facilities. It is a failure of enforcement agencies that Member States revert to manipulating national statistics by way of a rough estimation.

EERA asks why some Producer Responsibility Initiatives collaborate with Member State authorities using substantiated estimates to meet their targets. Are they not neglecting their responsibilities under Annex 7 of the WEEE Directive necessitating selective treatment including the de-pollution of WEEE and the removal of prescribed hazardous materials? Why do authorised and accredited WEEE treatment facilities **alone** have to deal with enforcement issues around the removal of POPs, batteries and other substances when informal treatment facilities do not have to account for these? Is it only because formal treatment facilities are treating separately collected WEEE, making them the only source of this activity and information?

Substantiated estimates are an approximation generated by scientific research data collected from a select few informal treatment operators on **pre-announced visits**. Some Member States continue to use old data as the initial research is not reproduced on a continuous basis.

### **Recommendations:**

- Proper treatment needs to be at the forefront of the WEEE Directive. Mandatory standards need to be introduced throughout Europe by way of an implementing act.



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- Member States should be restricted in the continued use of substantiated estimates and a definitive timeline set out for them to be eliminated.
  - Member States that continue to use substantiated estimates must be required to reduce the volumes of informally treated WEEE by say 20% year on year.
  - Where substantiated estimates are used, a control system should be introduced to guarantee the reliability of reports.
  - Proper treatment facilities need assurances that they will be the sole provider of national collection and recovery statistics from 2022 onwards.

**In conclusion, EERA asks the question:**

Is it the case that national statistics outweigh the aspirations of the founders of the WEEE Directive, individuals and associations like EERA? It is those who supported this Directive, putting in place a producer and treatment industry-led practice, that are now in danger of losing necessary investment and enthusiasm through Member State use of substantiated estimates.