

Waste electrical and electronic equipment (WEEE). Recast

2008/0241(COD) - 11/08/2011 - Commission communication on Council's position

The Commission accepted in full, in part or in principle 55 of the 86 amendments adopted by the European Parliament in its first reading. 30 of these 55 amendments are already reflected, at least in part, in the common position.

The Commission accepted amendments, either fully or in principle or in part, which would clarify the context of the proposal or further improve it in line with the objectives set. These include, in particular, the deletion of the link to the scope of the Directive on restrictions of hazardous substances in electrical and electronic equipment (RoHS), to base the collection target on WEEE generated under certain conditions, and to oblige distributors to put in place appropriate collection and awareness schemes for very small WEEE.

The Commission rejected amendments which would alter the nature of the proposal, such as amendments which could lower the level of environmental and human health protection or lead to an unnecessary increase of administrative burdens. It also rejected amendments that go beyond the scope of the recast procedure.

A series of amendments were accepted in full, in part or in principle by the Commission but **not incorporated in the Council's position**. They include significant elements of the text concerning definitions, the collection target, measures to increase awareness and collection, and the adaptation of Comitology provisions to the entry into force of the Treaty on the Functioning of the European Union.

The Commission expressed serious reservations about the Council's position at first reading:

Open scope: the Council proposes that the scope shall in the future, starting six years after entry into force, include all "Large equipment" and "Small equipment". The scope is not limited to a list of closed categories as currently the case, but "open" to any new equipment fulfilling the definitions of the Directive. The Commission considers that equipment falling into the scope of the Directive currently should not be excluded in the future, and that extensions of the scope should be undertaken only if the benefits exceed the costs. As a matter of principle, an assessment in line with the guidelines for impact assessments is needed in order to ensure that these conditions are met.

Definition of categories of WEEE: the Council replaces the current ten categories in the Annex of the Directive by a new set of five categories. The Commission can accept a change of the definition of these categories of WEEE, if it does not lead to a change of ambition level for recycling/recovery, and does not create unnecessary administrative burdens.

Extension of scope to include photovoltaic panels: the Council proposes to extend the scope of the Directive from the date of entry into force to include photovoltaic panels. The Commission has carried out a study to assess the impacts of inclusion under the scope of the WEEE Directive. This study and the comments from stakeholders following it can be used for further consideration on the potential inclusion of photovoltaic panels in the scope of WEEE.

National approach to producer obligations: the Council applies a definition of producer that builds on the concept of national markets. The Commission still considers that a European approach to the producer obligations should be agreed. This applies especially to the obligations of cross-border distance sellers.

Collection target: the Council requires Member States to achieve the collection target of 65% of electrical and electronic equipment placed on the market eight years after entry into force of the Directive. Compared to the Commission proposal, this implies a delay of about four years. For eight Member States, two years of additional flexibility are foreseen. The Commission considers that transitional arrangements to take account of specific national circumstances, as already included in the Commission proposal, can be further elaborated in the text. The Commission cannot accept to delay the year the collection target needs to be achieved. It can agree to the Council's intention to treat mercury containing fluorescent lamps as priority products for separate collection, for which a dedicated collection target could be established in the future.

Development of standards: the Council requires that the Commission shall develop minimum standards for the treatment of WEEE on the basis of Article 27 of Directive 2008/98/EC. The Commission does in principle see benefits in establishing standards for the treatment of WEEE, and is currently supporting a project developing such standards to be used on a voluntary basis. However, the Commission considers that the new text on standards can be in conflict with those parts of the text not subject to the recast procedure.

Adaptations related to the Treaty on the Functioning of the European Union and other issues: the Council foresees implementing acts for Articles 7, 16, 23 and Annex VI. The Commission considers that these should be delegated acts in line with the Commission proposal. The Council has deleted the reference to a correlation table of transposition, which the Commission considers necessary in order to monitor the transposition of the Directive.

In conclusion, the Commission considers that not all changes introduced by the Council are consistent with the objectives of the Commission's proposal, in particular with regard to resource-efficiency, the need to recover secondary raw materials, and the need to reduce unnecessary administrative burdens. Therefore, **the Commission can not accept the Council's position in its entirety.**