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Comments from Norway on the WEEE recast

With reference to the Commission's proposal for a recast of the Directive 2002/96/EC on Waste Electrical and Electronic Equipment (WEEE) of 3 December 2008, Norway is pleased to give comments on the proposal.

Overview of the Norwegian take-back system

At the ENV WG meeting at 19 May 2009, the Commission asked for an overview of the Norwegian take-back system for WEEE. We will therefore use the opportunity to give a description of our system. Attached you will also find a flow chart regarding the Norwegian take-back system for WEEE.

Norway initiated an extended producer responsibility for electrical and electronic equipment (EEE) already in 1999. The system has been a success and most of the WEEE generated is today collected and given an environmentally sound treatment. From 1999 to 2008 the collection rate of WEEE in Norway increased from less than 40 000 tonnes to 148 000 tonnes. This is about 31 kg per capita.

The scope of the Norwegian regulation is wider than the scope of the WEEE-directive. EEE is in the Norwegian regulation defined as *'products and components that depend on an electrical current or electromagnetic field in order to function correctly, as well as equipment for the generation, transfer, distribution and measures of these currents and fields, including the components necessary for the cooling, heating, protection, etc., of the electrical or electronic components'*. EEE permanently installed in means of transportation are exempted from the scope. Since the scope is clear, it has been little discussion about what is included or not. It has thus been a predictable structure which the producers appreciate.

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When the WEEE directive was implemented in 2005, Norway made some initial changes to the regulation in order to improve the national system. The reason for this was to collect more WEEE, have similar framework for all the take-back systems, and to reduce the number of free-riders.

The take-back systems are obliged to have an approval from the Norwegian Pollution Control Authority (SFT). The approval is based on a certification scheme described in the regulation. Every importer and producer of EEE is obliged to be a member of or establish themselves an approved take-back system. There are today four take-back companies in Norway.

The Norwegian producer register (the WEEE Register) was established in 2006. The register is given more tasks than what flows from the directive, especially regarding free-riders. The WEEE Register is owned by SFT and run by a consulting company. The Register is a neutral organization in relation to the competing take-back companies. The tasks of the WEEE Register are:

- Collect data from The Directorate of Customs and Excise. This is to identify domestic producers and importers which do not fulfil their obligations and inform these actors about their duties (free-riders).
- Collect and collocate data from the take-back companies on; collected and treated amounts of WEEE and their members' domestic production of EEE etc.
- Calculate the amounts of EEE placed on the Norwegian market
- Provide information on the legislation to producers and importers of EEE, and inform them about which take-back companies that are approved to handle the EE-equipment in question.

The producer register provide information about the Norwegian legislation to free-riders. If they do not fulfil the obligation to establish or register as a member of a take-back system, SFT follows up by instructing them to become a member.

More about the Norwegian take-back system for WEEE:

- State of Environment Norway: <http://www.environment.no/Tema/Avfall/Avfall-og-gjenvinning/Returordninger/EE-avfall/>
- The WEEE Register: <http://www.eeregisteret.no/ShowHTML.aspx?file=English.htmEE-registeret>

Comments to some specific items of the recast

Scope (article 2)

Norway supports a clarification of the scope, but does not agree that the Commission's proposal of narrowing the scope is beneficial. Norway proposes that all products classified as EEE in article 3 a) are included in the scope.

There have been a number of discussions regarding the scope of the WEEE directive, and Norway agrees that a clearer scope will make the directive more effective. However, the proposed scope still makes exemptions that have to be clarified. Additionally, MS still have the opportunity to have a wider scope than the directive. Having exemptions in the scope will not make the regulation harmonised, and will thus lead to discussions and not make the directive more effective.

The main purpose of the WEEE directive is to secure the reuse, recycling and other forms of recovery of such wastes. This in order to reduce the final disposal of WEEE and contribute to the efficient use of resources. The Commission's proposal of narrowing the scope is not beneficial for the purpose of the directive.

Norway does not support the proposal of having a specified list of all the products in the product groups. Since the range of EEE changes fast, the list of products has to be changed frequently and this will be an extra administrative cost.

Since the scope of the Norwegian regulation includes all EEE, a clarification of the scope has not been necessary. This means less administrative burden for the authorities and a more predictable structure for the producers. And most important, all EEE are environmentally sound treated.

Definitions (art. 3 (j), (p))

Norway does not support the Commission's suggestions for a new definition of producer' as a person that places EEE on the Community market, and 'making available on the market' as making available at the Community market. Norway proposes the following corrections of the proposed definitions:

- (j) (i) manufactures... within the territory of a Member State,*
- (iii) is established within the Community and places... market of a Member State.*
- (p) "making available on the market" means... on the market of a Member State...*

The Commission's proposal will weaken the current national legislations on WEEE, as it would not be possible for MS to enforce their legislation upon foreign companies outside national territory. In Norway, as in several other MS, there are only a few national producers of EEE. The Norwegian market mainly consists of imported products, and a large share of these products are imported from other MS. Enforcing compliance with the requirements of the WEEE directive will be a great challenge since the authorities have no jurisdiction on most producers. As a consequence it will be easier for producers to be free-riders, which already constitutes a challenge and expense in many MS.

The Norwegian producer register successfully identifies free-riders by comparing the list of EEE importers with the name of members in approved take-back companies.

EEE importers not listed by the take-back companies are free-riders. Due to the work of the producer register the number of free-riders has decreased significantly, and free-riders are no longer a major challenge and an extra expense for the other producers. This comparison will not be possible if the producers are defined as proposed by the Commission. Norway also finds it hard to see that any other countries' registers or system to identify free-riders will benefit from the proposed changes. Instead they will lose the ability to reduce this problem.

Since Norway has a well functioning take-back system, we are concerned about the consequences of the Commission's proposal. The producers will have to pay fees in one MS, while the waste is generated in another MS. The consequence might be that one MS incur expenses handling the WEEE, without getting refunds from the producers.

The Commission's proposal therefore raises some questions:

- How can MS ensure that producers finance the collection, treatment, recovery and environmentally sound disposal of WEEE when the producers are foreign companies?
- How can MS be sure how much EEE is set on the national market?
- The WEEE directive is a minimum directive. Which countries legislation is a producer going to comply with?

Collection rate (Article 7)

Norway welcomes the proposal to raise the collection rate. The present target is too low. We also support the proposal of differentiating the collection rate amongst the MS depending on the amount of products placed on the market.

We will emphasise the importance of an easy and understandable calculation of the collection rate. This has to be looked upon in connection with the Commission's proposal of new definition of "placed on the market" and the changes in reporting in article 16. Match our comments to these articles.

Shipments of WEEE (article 10) and minimum monitoring requirements for shipments of WEEE (annex I)

Norway welcomes the proposals of control and monitoring of shipments of WEEE.

We will make the opportunity to inform the Commission that the Norwegian Pollution Control Authorities (SFT) has made a new guide for exporters of used goods called '*A guide for exporters of used goods*'. This guide is in English and distinguishes between what is classified as goods and what is classified as waste and therefore illegal to export to developing countries. It may help exporters of used goods to differentiate between high and poor quality used goods which are usually classified as waste. The guide is published on SFT's internet page:

<http://www.sft.no/Publikasjoner/Publikasjoner/2009/Juni/A-guide-for-exporters-of-used-goods/>

Registration, information and reporting (article 16)

Norway finds the proposed changes in registration, information and reporting requirements to be unclear.

It is important to point out that the national producer registers have been active for three years. The establishment of the registers have been costly both in relation to money and resources. Norway is concerned that successful work on producer registers may be lost, and that the new procedures will weaken today's systems.

Looking at the Commission's proposal of defining producer and the changes in article 16, the procedure for the registration is unclear and seems complicated. The producer registers are intended to collect information about EEE placed on the EU market in addition to information on EEE placed on the MS market (if the producer chooses to register in that producer register). How is this meant to work?

The Commission's proposal needs to be clarified when it comes to what country the producer is going to register. Should this be a choice of the producer? The proposal is also unclear in relation to how the data is going to be collected from the producers. Will it be possible for a producer to get reliable and detailed information about the products they sell throughout the production chain?

Norway finds it positive that the proposal for the revised directive opens up for exchange of data. However, this raises some questions as well. Import and export data from producers are going to be exchanged between MS. Will producers allow the registers to give sensitive data to other countries registers? How will the authorities' duty to keep data from public access and professional secrecy be secured? In Norway, as well as in many other countries, the producer registers are owned and/or run by the authorities who have to follow rules regarding professional secrecy.

In the case of establishing a procedure for exchanging data, we would like to point out the importance of these procedures being established and agreed upon in TAC as soon as possible after the adoption of the directive.

Yours sincerely,



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The Norwegian take-back system for WEEE



