



Environmental Protection Agency submission to the
Department of the Environment, Community & Local
Government in relation to WEEE & Batteries aspects of the
Producer Responsibility Initiative review report

August 2014

EPA Comments and Observations on PRI Review Final Report – WEEE and Batteries Chapters

July 2014

The EPA welcomes the opportunity to comment on the final report on the PRI Review and as requested we are forwarding here our comments on the WEEE and Batteries Chapters only in order to meet the deadline of the 05 August. Our comments are divided into general comments, specific clarifications and minor edits. Some of the general comments have been made before in the context of our submission to the DECLG on the PRI Review on 11 October 2012. The publication of the WEEE II Regulations (SI149 of 2014), transposing Directive 2012/19/EU, have addressed many of our comments made in 2012. We have re-stated them here only where they have not been addressed or would seem to be contradicted by non-factual statements in the report.

WEEE Chapter

General Comments:

1. Producer Responsibility Initiative (PRI) schemes are multi-stakeholder systems with complimentary roles for registration bodies, compliance schemes, waste collectors, waste processors, brokers and regulatory authorities and have operated most effectively where all parties are clear about their roles and responsibilities and more importantly work collectively to achieve the objective of the PRI. In the report Section 5.14.5.3, page 283, a proposal is made that “joint inspections between the enforcement authorities and the compliance schemes should be examined”; however, the EPA contends that the line between enforcement on the one hand and the distinct remit of the compliance schemes (awareness, logistics, etc.) should not be blurred.
2. The EPA supports the recommendation (Section 5.14.14, page 319) that B2B producers should be given the option to join a compliance scheme, on condition that the scheme is designed to take account of characteristics of B2B WEEE, compared to B2C.
3. The EPA supports the recommendation that both self-compliers and PROs must contribute to the achievement of the desired environmental outcomes equally and effectively. However whereas page iv states *Enforcement activities should not only focus*

on outward signs of compliance (e.g. signage and notices) but on key drivers to meet the desired environmental outcomes (e.g. quantities taken back and recycled), EPA sees that public and business awareness is a key driver in attaining the required targets and environmental outcomes and that signage, notices are therefore very important elements of compliance.

4. Section 5.14.4.3, page 277, Recommendations to increase WEEE collections through extended opening hours at Civic Amenity Sites, are contrary to the current percentage ratio of WEEE collections happening at Civic Amenity Sites -v- retailer sites (Section 5.11.3, page 233). As part of our PRI submission, EPA suggested that co-collections of PRI materials funded by producers could be considered for Civic Amenity Sites as part of special collection days, which might assist to some extent in addressing the resource and funding shortfall of LA's.

Specific Clarifications:

1. Section 5.2, page 201, there is a statement "In 2012 41% of producers were B2B self-compliers, 50% were B2C and 9% were non-compliant". The source is quoted as WRS 12.10.12. However, it is not clear on what basis non-compliance was determined, does it refer to producers with a registration pending or not registered status?
2. Section 5.7, page 204, the functions listed for the WEEE Register include "Track and report non-compliance and notify the relevant LA or EPA". It should be clarified that the non-compliance referred to relates to producer issues only i.e. WEEE Register is not responsible for tracking and reporting on non-compliance in general.
3. Section 5.7, page 206, with respect to the statement "The number of inspections being carried out by WRS takes into account the inspections being undertaken by the PROs". The rationale for such a relationship between two separate inspection regimes has not been made clear. The statement "In addition, WRS carry out audits following specific requests from the EPA and the PROs" is not clear as to why such request may be made.
4. Figure 5.6, page 209, the interrelationship showing treatment operators obtaining permits from EPA does not acknowledge the fact that some WEEE treatment operators are permitted by local authorities and not by EPA. The same comment is made in relation to Figure 5.15, page 229.
5. Section 5.8.7.4, Regarding the awareness survey conducted by WEEE Ireland, it is unclear if the increase of awareness from 24% to 84% is in relation to WEEE Ireland and its activities or in relation to the WEEE take-back, collection and/or recycling awareness?

6. Section 5.11.1, page 231, the heading should read “Quantity of EEE...”, instead of “Quantity of WEEE...”
7. Section 5.12.5.1, page 242. In the paragraph commencing with “Under the above definitions...” there is a statement that “items for reuse can move from civic amenity sites to reuse organisations like any other product”. i.e. without waste regulation because it is for direct reuse and therefore not a waste activity. However, by virtue of the fact that the item was deposited at a civic amenity site then it was a waste, since it was discarded by the holder. The statement above is at risk of causing confusion and may lead to enforcement difficulties due to interpretation of direct reuse, or spurious claims of direct reuse.
8. Section 5.13, page 250. We believe it is incorrect to say that the WEEE Monitoring Group was established as a subgroup of the Environmental Enforcement Network/NIECE. Our understanding is that it arose from the WEEE Task Force.
9. Table 5.25, page 274. Reference to civic amenity sites needing planning, should also include a reference to the need for appropriate waste permit or license from the regulatory authority.
10. Section 5.14.5.2, page 280. In the first paragraph, reference is made to statistics being collected by local authorities, EPA and An Garda Síochána. While An Garda Síochána has collated and analysed some statistics relating to metal theft incidents in general, the EPA has not compiled statistics relating specifically to WEEE leakage and to the knowledge of the EPA, neither have the local authorities. In the second paragraph on that page, the statement referring to the scale of WEEE leakage being evident during the retailer trial, does not take account of the possibility that some retailers in the trial may have been using the civic amenity sites prior to the trial.
11. Section 5.14.5.3, page 282. In the first bullet point, it is not clear what it meant by “harden targets by securing metal around construction sites”.
12. Section 5.14.5.3, page 283. Where reference is made to the need for security at retail outlets and CAS to be reviewed and upgraded, it would be useful if the project team proposed how this might be implemented in practice, including financing.
13. Section 5.14.5.3, page 285, there is a proposal for PROs to engage in legal action against operators who are found in possession of stolen goods. The project team has not elaborated on whether this would be undertaken as civil or criminal proceedings, or whether the remit of the PROs is proposed to be altered to accommodate the proposal. A body which does not have enforcement and prosecution powers could only initiate

civil proceedings. However the proposal from the project team appears to be for criminal proceedings.

14. Section 5.14.7.1, page 288, reference is made to both reuse and preparation for reuse, in the context of WEEE deposited at CAS or retailer collection point i.e. where a householder has discarded the item. However, the term “reuse” cannot be used in the context of items that are waste. The project team should make this distinction more clearly in the report.
15. Section 5.14.7.1, page 290. The statement at the end of the first paragraph “As PROs are producer- funded organisations, these producers may see second hand goods sold in Ireland as competition to their products” does not acknowledge that there are different market segments for those consumers buying second hand refurbished goods as opposed to new products, and therefore the competition argument is not necessarily supported.
16. Section 5.14.7.3, page 292. It is the view of the EPA that the legislation proposed with reference to reuse standards is not necessary and that the standard of reuse will be sufficiently addressed in the criteria for approving preparation for reuse of WEEE organisations being developed by a working group formed by WEEE Register Society.

Minor edits:

Page xxix: Amend diagram as “batteries” is not visible

Page iii: Correct reference to DECLG (two references to DELCG)

Consistency required with the reference to OEE regarding enforcement (E.g. Page 98/146). In general PRI team coordinates enforcement of WEEE/Batteries. Page 142 Please amend Agency to EPA

Pages 201 202, SI 14 of 2014-bracket needs to moved

Page 203, reference should be made to NIECE not EEN

General Comments:

The proposal to for a single brand across the two PROs for the collection of batteries nationwide (see Section 6.14.5.3, page 368) is supported by the EPA. The same proposal has not been presented for WEEE. However, it is the opinion of the EPA that there would be merit in a single brand to promote WEEE take back, particularly for the purpose of optimising preparation for reuse of WEEE.

Specific Clarifications

1. Section 6.5, page 330. In the second bullet point, there is a statement that retailers can limit any one consumer to 5kgs of battery returns at any one time. The 5kg threshold does not appear in the regulations and its basis has not been outlined by the project team.
2. Section 6.7, page 332: the functions listed for the WEEE Register include “Track and report non-compliance and notify the relevant EPA”. It should be clarified that the non-compliance referred to relates to producer issues only i.e. WEEE Register is not responsible for tracking and reporting on non-compliance in general.
3. Figure 6.3, page 334: the interrelationship showing treatment contractors obtaining permits from EPA does not acknowledge the fact that some battery treatment operators are permitted by local authorities and not by EPA. The figure does not include the requirement for retailers who choose not to use an approved contractor to report to the EPA annually (by 28 February) as per regulation 23(6) of S.I. 283 of 2014
4. 6.13 Enforcement, page 351: The EPA has taken two successful prosecutions under the Battery Regulations (one in 2011 and a second one, in 2012, which was a joint one with charges brought under the WEEE Regulations also). (see: <http://www.epa.ie/pubs/reports/waste/weee/Enforcement%20update%20July%202013.pdf>).