

Legal recommendation on WEEE data collection, registry and traceability

WEEE and EEE traceability is a crucial condition for setting a sound e-waste management system. It allows not only to monitor the compliance of the stakeholders involved in the e-waste system both on national scale and from abroad, but also – from a legislative and financial perspective – to set performances' targets and long terms effective policies.

The WEEE Directive¹ sets recommendations to ensure EEE and WEEE flows traceability and reporting methodologies. Particularly, the establishment of a registry of EEE and WEEE flows on national scale is considered the best tool for this purpose. According to the Directive, Member States are requested to draw up a registry of EEE producers² and WEEE collection information annually, including substantiated estimates, quantities, categories of EEE put on the market and WEEE collected through all routes, even reused, recycled and recovered appliances. The report also has to contain exported e-waste.

Establishment of a register of producers

The register:

- Should be on-line, easy to access and user-friendly;
- Should allow users to report all the relevant information regarding EEE PoM (put on the market) - a legislative example of information to be put in the registry is contained in Annex X of the WEEE Directive 2012/19/EU and reported in figure 1;
- Should possibly include links to other national registers to facilitate in case registrations in different countries. In this respect, a joint effort of harmonization should be put in place on international level (a legislative example of criteria for used EEE shipments is contained in Annex VI of the WEEE Directive 2012/19/EU and reported in figure 2).
- Should include a section to report volumes of WEEE separately collected, in accordance to the EPR principle;
- Should allow producers to register both via an individual registration and via compliance schemes

Entities in charge of hosting and managing the register can vary in their juridical status depending on the member state. Here are some examples:

- A public entity specifically established for this purpose, like the Society for the Environment under the Italian Chamber of Commerce in Italy;
- A public-private entity like the Foundation Elektro-Altgeraete Register (EAR) in Germany;
- A private entity like producers, as the WEEECycle in Ireland;

Entities in charge of providing high-level guidelines on the status and contents of the registry can equally vary depending on the member state. Here are some examples:

¹ 2012/19/EU

² Included producers supplying EEE by means of distance communication or their authorized representatives in the country they are selling to.

- A public entity specifically dedicated to monitoring activities on e-waste management systems, like the Italian Committee of Vigilance and Control, an inter-ministerial body chaired by the Ministry of the Environment;
- A private entity like a PRO.

Figure 1 - Example of information to be put in the registry by producers or their authorized representative - Annex X of Directive 2012/19/EU

INFORMATION FOR REGISTRATION AND REPORTING REFERRED TO IN ARTICLE 16
<p>A. Information to be submitted upon registration:</p> <ol style="list-style-type: none"> 1. Name and address of the producer or of the authorised representative where appointed under Article 17 (postal code and location, street name and number, country, telephone and fax number, e-mail, as well as a contact person). In the case of an authorised representative as defined in Article 17, also the contact details of the producer that is represented. 2. National identification code of the producer, including European tax number or national tax number of the producer. 3. Category of EEE set out in Annex I or III, as appropriate. 4. Type of EEE (household or other than household equipment). 5. Brand name of EEE. 6. Information on how the producer meets its responsibilities: individual or collective scheme, including information on financial guarantee. 7. Selling technique used (e.g. distance selling). 8. Declaration stating that the information provided is true. <p>B. Information to be submitted for reporting:</p> <ol style="list-style-type: none"> 1. National identification code of the producer. 2. Reporting period. 3. Category of EEE set out in Annex I or III, as appropriate. 4. Quantity of EEE placed on the national market, by weight. 5. Quantity, by weight, of waste of EEE separately collected, recycled (including prepared for re-use), recovered and disposed of within the Member State or shipped within or outside the Union. <p><i>Note:</i> information set out in points 4 and 5 must be given by category.</p>

(Ref. <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2012:197:0038:0071:en:PDF>)

Figure 2 - Criteria for used EEE shipments to avoid WEEE dumping - Annex VI of Directive 2012/19/EU

MINIMUM REQUIREMENTS FOR SHIPMENTS

1. In order to distinguish between EEE and WEEE, where the holder of the object claims that he intends to ship or is shipping used EEE and not WEEE, Member States shall require the holder to have available the following to substantiate this claim:
 - (a) a copy of the invoice and contract relating to the sale and/or transfer of ownership of the EEE which states that the equipment is destined for direct re-use and that it is fully functional;
 - (b) evidence of evaluation or testing in the form of a copy of the records (certificate of testing, proof of functionality) on every item within the consignment and a protocol containing all record information according to point 3;
 - (c) a declaration made by the holder who arranges the transport of the EEE that none of the material or equipment within the consignment is waste as defined by Article 3(1) of Directive 2008/98/EC; and
 - (d) appropriate protection against damage during transportation, loading and unloading in particular through sufficient packaging and appropriate stacking of the load.
2. By way of derogation, point 1(a) and (b) and point 3 do not apply where it is documented by conclusive proof that the shipment is taking place in the framework of a business-to-business transfer agreement and that:
 - (a) the EEE is sent back to the producer or a third party acting on his behalf as defective for repair under warranty with the intention of re-use; or
 - (b) the used EEE for professional use is sent to the producer or a third party acting on his behalf or a third-party facility in countries to which Decision C(2001)107/Final of the OECD Council concerning the revision of Decision C(92)39/Final on control of transboundary movements of wastes destined for recovery operations applies, for refurbishment or repair under a valid contract with the intention of re-use; or
 - (c) the defective used EEE for professional use, such as medical devices or their parts, is sent to the producer or a third party acting on his behalf for root cause analysis under a valid contract, in cases where such an analysis can only be conducted by the producer or third parties acting on his behalf.
3. In order to demonstrate that the items being shipped constitute used EEE rather than WEEE, Member States shall require the following steps for testing and record keeping for used EEE to be carried out:

Step 1: Testing

(a) Functionality shall be tested and the presence of hazardous substances shall be evaluated. The tests to be conducted depend on the kind of EEE. For most of the used EEE a functionality test of the key functions is sufficient.

(b) Results of evaluation and testing shall be recorded.

Step 2: Record

(a) The record shall be fixed securely but not permanently on either the EEE itself (if not packed) or on the packaging so it can be read without unpacking the equipment.

(b) The record shall contain the following information:

— name of item (name of the equipment if listed in Annex II or Annex IV, as appropriate, and category set out in Annex I or Annex III, as appropriate),

— identification number of the item (type No) where applicable,

— year of production (if available),

— name and address of the company responsible for evidence of functionality,

— result of tests as described in step 1 (including date of the functionality test),

— kind of tests performed.

4. In addition to the documentation requested in points 1, 2 and 3, every load (e.g. shipping container, lorry) of used EEE shall be accompanied by:

(a) a relevant transport document, e.g. CMR or waybill;

(b) a declaration by the liable person on its responsibility.

5. In the absence of proof that an object is used EEE and not WEEE through the appropriate documentation required in points 1, 2, 3 and 4 and of appropriate protection against damage during transportation, loading and unloading in particular through sufficient packaging and appropriate stacking of the load, which are the obligations of the holder who arranges the transport, Member State authorities shall consider that an item is WEEE and presume that the load comprises an illegal shipment. In these circumstances the load will be dealt with in accordance with Articles 24 and 25 of Regulation (EC) No 1013/2006.

(Ref. <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2012:197:0038:0071:en:PDF>)

Reporting and data provision methodologies

- The potential contribution of EEE retailers

EEE retailers can be involved in the process of EEE and WEEE flows assessment. In countries like Italy and France they are recalled to take part in the e-waste management supply chain. In this case they apply a principle called 'one-to-one' or 'one-to-zero'³, according to which they are requested to

³ Depending on the typology of appliances and the profile of retailer.

collect WEEE returned to the shop by the consumer, and then ensure the proper management of the same by contacting a certified service provider or a compliance scheme.

In accomplishing this task, retailers keep accounting records that show WEEE transiting in their shops. Thus, the role of retailers should be recognized as a good contribution to rebuild the flows of EEE and WEEE transiting in a country or into a specific geographic buffer.

To further monitor the contribution of retailers to e-waste management, additional schemes can be established. An example is represented by the Italian case, where EEE retailers managing WEEE are requested to register to the national registry of environmental managers, hosted at the Ministry of Environment. This approved to be a good way to strengthen the activities of control and monitoring in the field of e-waste management.

- The potential contribution of the social and secondary economy sector

Operators belonging to the so called 'third sector', or 'social and solidarity economy' sector (SSE) can also contribute to record flows of used EEE and WEEE transiting into a country or a specific geographic buffer. In this case they report the volumes of WEEE and UEEE they received from households, the amount of those actually refurbished and re-PoM (put on the market) and finally those returned to the e-waste management system as not recoverable. They record this flows via an internal accountability and via communications to a compliance scheme they are under agreement with, as is the case in France.

- The potential contribution of municipalities

Municipalities should keep accounting records of waste collected and eventually treated and/or disposed of. Thus, another channel to monitor at least WEEE flows – a proxy figure of WEEE generated and WEEE collected- is represented by municipal statistics.

Municipalities can then have different reporting methodologies and different streams to report. In Europe WEEE streams are mostly recorded as separate item, but sometimes – due to the low volumes of WEEE generated/collected on the total rate of households waste – this are recorded by local authorities within an aggregated item which put together quantitatively 'minor' streams.

The option of recording WEEE flows via municipal statistics is feasible just where local authorities manage the separate collection.