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Subject: Feedback on "Study on Quality Standards for the Treatment of WEEE"

Dear Mrs. Lorz, Mrs. Edou, Mrs. Tesar, Mrs. Wolf,

EERA, the European Electronics Recyclers Association, has taken note of the four books (background documents) that constitute the study on quality standards for the treatment of waste electrical and electronic equipment (WEEE). We endorse the importance of this study and appreciate the invitation to respond. At an earlier stage, we expressed that the sequence of a final workshop prior to the feedback period was our clear preference. We understand that the study should not be further delayed.

EERA strongly supports **Option One** over the other options presented in BD III "Options for EU WEEE treatment requirements". For many years EERA has expressed the view that it is of great importance that the European Commission adopt an Implementing Regulation, in accordance with the provisions laid down in article 8(5) of the Directive, to make compliance with and certification to the EN 50625 and EN 501614, covering the collection, logistics, preparation for reuse and treatment of WEEE, mandatory in Europe. This is the best way forward to create a level playing field across the EU.

EERA is a non-profit organisation that represents the interests of the 30 major recycling companies who are treating WEEE in Europe. The EERA members recycle \pm 2.500.000 tonnes of WEEE annually at more than 100 locations in 22 European countries. EERA members are pre-processors and end processors.

EERA fully endorse the excellent analysis conducted by CENELEC TC 111X WG6 in its Annexes I and II.



Attached our feedback on BD III in Annex I.

We would like to thank you in advance for your consideration of our comments and we remain at your disposal in case you have further questions.

Best regards,

A handwritten signature in black ink, appearing to read 'Kurt Kyck', with a checkmark at the end.

Kurt Kyck
President of EERA



Annex I

EERA strongly supports **Option One** over the other options presented in the Study on Quality Standards for the Treatment of WEEE - Book III.

The rationale for this conclusion is that in our opinion, the difficulties set out in Chapter 4.2 are not evident and can be counteracted or refuted as follows:

1 Democratic law-making process and transparency

Less resourceful stakeholders who may not have had the time, experience or funding to be able to participate directly with the development of the Standards, were certainly able to contribute through the lengthy public consultation process in each Member State. A lack of direct participation does not mean that no comments were made via organisations such as ourselves, or many other European industry associations.

The risk portrayed for Option One is also equally applicable to Option Two should the same less advantaged stakeholders be unable to directly participate in the development of the legislation proposed, thus negating this disadvantage.

EERA worked in collaboration with the WEEE Forum during the initial formation of the WEEELABEX Standards and is represented on the CENELEC working groups (WG6 and WG7). We were (and still are) able to provide unrestricted comments during the development process, which we believe provides for an unbiased, transparent and democratic system for all stakeholders.

2 Free access to law

We recognize that commercial arrangements can be made between CEN/CENELC (Guide 28) and all National Standardization Committees that would allow for the EN 50625 series and EN 50614 Standards to be made freely available.

We also recognize that other precedents set by the European Commission for harmonised standards could provide all National Standardization Committees with funding for the translation of the Standards.

3 Enforcement activities

We concur that there is a big deficit in the enforcement activities in different Member States. This has led to an unlevel playing field and the continued leakage of WEEE to less efficient and environmentally sound management operators.

The mandatory requirement for all collection and logistics operators, preparing for re-use operators and treatment operators, as set out in Option One, would provide for a

substantive improvement to the condition, route, handling and treatment of the WEEE arriving at these stakeholders.

In our pan-European experience, Member States do not have sufficient well-developed and coherent requirements in place, and lack experienced and knowledgeable officers to carry out the specialist assessments needed to meet either the requirements in the Standards or in the proposed legislation set out in Option Two.

The Standards do not set down any methodology for how the verification may be achieved. This may be through certification by third-party auditors and by second-party auditors and self-declarations.

Stricter national requirements must be already considered under the criteria set down in the Standards and be applicable to all operators within that country regardless of the verification process. There is no evidence that additional costs would be needed as it could also be considered that enforcement agencies need to spend less time at facilities that meet the requirements in the Standards and so have more time to follow-up on those actors who are not part of the legitimate system.

The point regarding the exclusion from scope of certain types of appliances/equipment is inaccurate. Operators may not have the specialist plant or knowledge for example to treat ammonia refrigerators or air-conditioning units or commercial equipment so for their certifications, these are excluded as the activities cannot be verified by the auditors. So-called loopholes are not permitted under the WEEELABEX certification scheme as the Standards require that all untreated WEEE is transferred to other operators working in accordance with the Standards, so any so-called exclusions are verified in this way.

4 Collection and logistics

Given that the majority of all collection points are owned by Municipal Authorities or private organisations, with many historic and complex management contracts in place with waste operators in some cases restricting better practises, it is not surprising to EERA that this area is one of the under performing ones in respect of the requirements in the WEEE Directive.

The stakeholders involved in the development of TS 50625-4 were fully aware of the challenges that the implementation of the criteria would bring to collection sites and the logistics operators, and have provided for good practice (e.g. better / more appropriate containers and packaging etc.) and better environmental management within that document. Certification would raise the level of understanding at those WEEE reception points as well as improve the conditions of the WEEE received and handled for onward transportation to the legitimate preparing for re-use facilities and recyclers.

EERA do not dispute the fact that this is an area that needs improvement and enforcement, however this argument against Option One is equally applicable to Option Two as without implementation it is considered unlikely that anything will change.

5 Costs

As mentioned above, the Standards do not set down any methodology for how the verification may be achieved. This may be through certification by third-party auditors and by second-party auditors and self-declarations.

The costs set down in this section for either external auditing or for inspection and assessment by environmental agency officers are equally applicable to Option One and Option Two, except that if Option One is made mandatory, then the verification costs will be borne by the producers of EEE and not the taxpayer. Option One decreases the burden on the taxpayer.

If Option One is implemented, then environmental agency officers would be able to decrease inspection time at certified facilities and spend more valuable time following up illegal and/ or low-quality practices and thus reduce the leakage in the WEEE system.

If there is a mandatory requirement for certification then without doubt, alternatives to the WEEELABEX Organisation and other existing certification bodies will become more appealing as the market increases. This will provide for a competitive environment.

6 Possible market distortions

Option One does not imply having to follow the auditing procedures devised by the WEEELABEX Organization. EERA is aware that the WEEELABEX Organisation requires the batch test to be observed by at least one approved auditor, however the standard has no such observation requirement but only requires that the batch is validated, and evidence made available (i.e. photos, weights, treatment process, outputs, mass-balance) to whoever is verifying the organisation. Other certification bodies will have their own methodologies and second-party auditors may have contract clauses requiring different evidence etc.

EERA recognises that some WEEE treatment facilities may not be able to bring their operations up to the Standards, but this would also be the case if Option Two was enforced as the assumption can only be that the practises at those facilities was of low-quality. The counterargument to this is that legitimate and well managed recyclers have invested considerable funds and time to ensuring they meet the requirements, and would be encouraged to expand and invest further if they do not have to compete with unlawful or low-quality operations.

The ongoing work of all stakeholders involved with the Standards ensures that they continue to be 'fit for purpose' so they stay 'up to date' and aligned with state-of-the-art technology and WEEE stream compositions.

EERA also recognises that the revision of the Standards can take place in a relative short term compared to the anticipated long revision and updating needed to EU legislation and also the implementation time for those changes in each Member State, as set out in Option Two.

Delays can impact safe working practises as well as the inability to provide recycling solutions for new equipment designs and material makeups being placed on the market. Delays will also hinder any investment and improvement plans of recyclers.

7 Know-how of Auditors and Inspectors

The advantages of Option One is clearly stated in this section. Auditors may be working under the remit of a certification body, or under the remit of a producer system or industry body or be an internal auditor working to ensure self-certification of the organisation, but they should all be highly qualified and experienced as this is a basic necessity for ensuring that the criteria in the Standard is being met or for verifying a facility against the new legislation set out in Option Two. In-depth technical and procedural knowledge is required, which includes detailed understanding of the many different manual processes, types of treatment plants and operations as well as legitimate (and illegitimate) routes for fractions, especially the hazardous ones.

Should Option Two be implemented then this anticipates the environmental agency officers will be able to take on this role in certain areas / Member States. Inspection by environmental agency officers in the field of WEEE is not considered by EERA to be a reality across Europe as in general, these officers are untrained, underbudgeted and understaffed and lack this very specialist experience and knowledge.

Unlike environmental agency officers, auditors are not restricted to working in only one Member State or in one preparing for re-use or treatment sector, and this is another advantage of Option One over Option Two.

8 Certification Market

The Standards do not set down any methodology for how the verification may be achieved. This may be through certification by third-party auditors and by second-party auditors and self-declarations. Furthermore, the Standards require no accreditation of certification bodies and this requirement in any industry is not advocated by the European Commission. EERA understands that there are several certification bodies currently providing verification to the EN 50625 series (the WEEELABEX Organisation are only one of these), and at least one to the EN 50614 Standard.

The size of the marketplace for WEEE certification is currently limited in comparison for example to the market for ISO 14001:2015. If Option One is implemented, other

certification bodies may find the market more appealing as it increases the business potential. This will provide for a competitive environment.

9 International activities in the recycling industry

The statement in this section is considered only to be relevant to the export of whole/untreated WEEE and not that of dismantled components or fractions.

It may be of interest to overseas clients of EU certified recyclers (such as those situated in the USA) wishing to import whole WEEE or components to them as the certification or verification of meeting of Standards or legislation will no doubt assist with the import controls. It is though neither an argument for or against either Option One or Option Two and should not give more weight therefore to the Option Two arguments.

Further points:

Option Zero – EERA considers that this option would continue to present an unlevel playing field without any improvements in the WEEE collection and treatment system or meet the European Commission’s objectives for the Circular Economy.

The WEEE Directive has been subject to different interpretations across Europe, especially in the area of inspection and monitoring (Article 23). This has resulted in some Member States making the Standards compulsory, driving WEEE outside to other less-stringent operators in neighbouring countries who have little or no inspections or enforcement pressures. Recyclers compliant with the criteria in the Standard have invested heavily in new plant, technology and time, and therefore have increased costs, which effects their competitiveness against non-compliant recyclers.

Option Two – if this is implemented then EERA expects that any legal text will require more research, public consultation and revisions. Given the time and cost already spent by stakeholders during the initial WEEELABEX project from 2009 to 2011 and the following CENELEC activities in 2011 to 2020, then it is further considered that the new implementing law will take an equal amount of time and cost before it can be brought into force across Europe and actioned in each Member State by all relevant parties.

This means consequently that Option Zero will remain in place for the foreseeable future. EERA strongly feels that this sanctions the on-going low-quality operations whose administration continues to gain unfair competitive advantage over legitimate and compliant operators and accepts that the EU will lose secondary raw materials, hindering the achievement of a circular economy.



Option One therefore presents the opportunity for a quicker implementation, the creation of a genuinely level playing field for Member States and WEEE treatment operators for collection, logistics, preparing for Re-use and treatment of WEEE.

EERA advocates that this option should be agreed in order to encourage investment and job creation in the industry and to ensure proper and equivalent treatment of WEEE across Europe.