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REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL

on the exercise of the power to adopt delegated acts conferred on the Commission pursuant to Directive 2012/19/EU on waste electrical and electronic equipment (WEEE)

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1. INTRODUCTION

Directive 2012/19/EU of the European Parliament and of the Council of 4 July 2012 on waste electrical and electronic equipment([1]) (the WEEE Directive) lays down rules on the management of WEEE with a view to contributing to sustainable production and consumption by, as a first priority, the prevention of WEEE and, in addition, by the re-use, recycling and other forms of recovery of such waste so as to reduce the disposal of waste and to contribute to the efficient use of resources and the retrieval of valuable secondary raw materials.

The WEEE Directive empowers the Commission to adopt delegated acts, as referred to in Article 20, with a view to:

- laying down any transitional adjustments in order to address difficulties faced by Member States in adhering to the WEEE collection rates set out in the Directive, as provided for in Article 7(4);
- the possible amendment of Annex VII on selective treatment requirements, to introduce other treatment technologies, as provided for in Article 8(4);
- laying down criteria for the assessment of equivalent conditions for the treatment of WEEE taking place outside of the EU, as provided for in Article 10(3);
- the adaptation of Article 16(5) and Annexes IV, VII, VIII and IX to scientific and technical progress, as provided for in its Article 19.

2. LEGAL BASIS

The present report is required under Article 20(2) of the WEEE Directive. Under this article, the Commission has the power to adopt delegated acts for a period of five years from 13 August 2012. The Commission is also required to prepare a report in respect of delegated powers, at the latest 9 months before the end of the five-year period. In accordance with Article 20(2), the delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such an extension not later than three months before the end of each period.

[1] *OJ L 197, 24.7.2012, p. 38.*

3. EXERCISE OF THE DELEGATION

During the period covered by this report, the Commission did not make use of any delegated powers for the reasons explained below.

3.1. Transitional adjustments in order to address difficulties faced by Member States in adhering to the collection rates set out in the Directive, Article 7(4)

Article 7(1) of the WEEE Directive introduces a minimum annual collection rate of 45 %, to apply from 2016, of the average weight of electrical and electronic equipment (EEE) placed on the market in each Member State in the three preceding years. As a second step, from 2019, a collection rate of 65 % of the average weight of EEE placed on the market in each Member State in the three preceding years applies, or alternatively 85 % of the quantity of WEEE generated by weight in a Member State every year. Article 7(3) provides for the possibility for some Member States([2]) to derogate from this requirement. The Czech Republic, Latvia, Poland, Romania, Slovakia and Slovenia have made use of this derogation.

Furthermore, Article 7(4) of the WEEE Directive creates the possibility for transitional arrangements to address difficulties faced by a Member State in meeting these collection rates. To assess issues that might arise for Member States in meeting the collection targets, the Commission requested the services of independent consultants who reviewed the relevant statistical data, literature and technical information and held consultations, including a workshop with major stakeholders (Member States, industry associations, extended producer responsibility (EPR) compliance systems, NGOs and independent experts) ([3]).

The research showed that a key problem faced by Member States is the high rate of collection that is unaccounted for in WEEE collection statistics, particularly if collection occurs outside the framework of EPR compliance systems or if WEEE is not handled by authorised WEEE recyclers. This is amplified by limited enforcement and monitoring capabilities in Member States. The large and varied group of actors involved in various WEEE management activities, still limited public awareness and inadequate collection infrastructure were also identified as barriers to reaching the targets.

The analysis concluded that while the collection target for 2019 is ambitious, it is feasible if Member States make additional efforts to gradually tackle the difficulties identified. This is illustrated by the progress made by some Member States that have already achieved high collection rates.

On this basis, the Commission concludes that there was no justification, in the form of specific circumstances, which would have required the adoption of a delegated act with transitional adjustments to address difficulties faced by Member States in adhering to the collection rates set out in the WEEE Directive.

The Commission will provide support and guidance to the Member States to help them address possible difficulties in reaching their targets through a targeted initiative on compliance promotion. This is being initiated in parallel to this report, with a focus on the key requirements of the WEEE Directive.

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[2] *Bulgaria, the Czech Republic, Latvia, Lithuania, Hungary, Malta, Poland, Romania, Slovenia and Slovakia.*

[3] *'Study on collection rates on WEEE':* http://ec.europa.eu/environment/waste/weee/events_weee_en.htm.

3.2. Amendment of Annex VII, Article 8(4)

Annex VII refers to the selective treatment for WEEE materials and components.

Article 8(4) of the WEEE Directive empowers the Commission to amend Annex VII in order to introduce other treatment technologies that ensure at least the same level of protection for human health and the environment.

During the period covered by this report, the Commission did not receive any information which would have supported amending Annex VII.

The deadline for the transposition of the Directive was 14 February 2014; however, most Member States transposed it with some delay and in practice 2016 is the first year of implementation in all 28 Member States. Against this background, an amendment of Annex VII has so far not been deemed necessary, and no related delegated acts have been adopted.

3.3. Criteria for the assessment of equivalent conditions for the treatment of WEEE taking place outside the EU, Article 10(3)

According to Article 10(2) of the WEEE Directive, WEEE exported from the EU will only count towards the fulfilment of obligations and targets set out in Article 11 of the Directive if, in compliance with Regulations (EC) No 1013/2006 and (EC) No 1418/2007 on shipments of waste, the exporter can prove that the treatment took place in conditions that are equivalent to the requirements of this Directive. Article 10(3) of the Directive requires the Commission, not later than 14 February 2014, to adopt delegated acts laying down detailed rules, supplementing those in Article 10(2), in particular concerning the criteria for assessing equivalent conditions for the treatment of WEEE outside the EU.

To prepare for such delegated acts, the Commission carried out a study ([4]) aimed at identifying and comparing potential options for assessing and documenting equivalent treatment conditions, and at providing recommendations on the best possible policy option(s). The study included a stakeholder consultation.

Furthermore, and in connection with the requirement in Article 8(5) of the Directive on proper treatment, the Commission asked the European standardisation organisations to develop European standards for the treatment of WEEE, including recovery, recycling and preparation for re-use, reflecting the state of the art ([5]). These standards are expected to assist the relevant operators in the EU in complying with the WEEE Directive and operators outside the EU in proving that the treatment of WEEE takes place in conditions equivalent to those applied in the EU. These standards are under development by CENELEC and are expected to be finalised by end of 2017.

On the basis of the analysis carried out, and taking into consideration the ongoing work on the development of European standards for the treatment of WEEE, the Commission carried out consultations with the expert group for delegated acts under the Directive, of which the Council and Parliament were notified. As a result of the consultations it was considered necessary to await finalisation of the standards for WEEE treatment, given the link between the standards and the definition of criteria for the assessment of equivalent conditions for the treatment of WEEE exported from the EU.

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[4] *Study on 'Equivalent conditions for waste electrical and electronic equipment (WEEE) recycling operations taking place outside the European Union'* *http://ec.europa.eu/environment/waste/weee/pdf/Final%20report_E%20C%20S.pdf*

[5] *Mandate M/518:* *http://ec.europa.eu/environment/waste/weee/pdf/m518%20EN.pdf*

Therefore, during the period covered by this report, the Commission was not in a position to adopt delegated acts under Article 10(3), although in the context of the EU environmental, raw materials and circular economy policies, this remains a priority.

3.4. Adaptation of Article 16(5) and Annexes IV, VII, VIII and IX to scientific and technical progress, Article 19

Article 16(5) of the WEEE Directive refers to the Member States' obligation on reporting. Annex IV refers to a non-exhaustive list of EEE that falls within the EEE categories; Annex VII refers to the selective treatment for material and components of WEEE; Annex VIII specifies the technical requirements for sites for storage and treatment of WEEE and Annex IX presents the symbol for marking EEE.

During the period covered by this report, no opportunity presented itself for the adaptation of Article 16(5) and the above-mentioned Annexes to scientific and technical progress and the Commission did not adopt any relevant delegated acts, although this remains a possibility.

As part of the Circular Economy Package, the Commission has proposed ([6]) to amend Article 16(5), so as to simplify the reporting obligations of Member States and improve the quality of data.

4. CONCLUSION

Over the past five years, the Commission has not exercised the delegated powers conferred to it under Directive 2012/19/EU for the reasons described in this report. It may do so in the future, for the reasons given.

The Commission invites the European Parliament and the Council to take note of this report.

[6] *Proposal for a Directive of the European Parliament and of the Council amending Directives 2000/53/EC on end-of-life vehicles, 2006/66/EC on batteries and accumulators and waste batteries and accumulators, and 2012/19/EU on waste electrical and electronic equipment (COM(2015) 593 final).*