

Environmental Audit Committee
Enquiry into e-waste and the circular economy
Written evidence submitted by Recolight Ltd

1 Executive Summary

This submission draws attention to the scale of WEEE non-compliance through online marketplaces. It also asks that amendments to the WEEE legislation tackle this in a way that does not discriminate against producers that do not sell through online marketplaces. It points out that the Simplified Compliance Model, proposed by Amazon, could result in the transfer of still more market power and control to online marketplaces, and recommends ways in which this could be avoided.

2 About Recolight

Recolight is a producer-owned, not-for-profit WEEE Producer Compliance scheme. It has over 190 producer members, mainly drawn from the lighting industry. Recolight has been instrumental in drawing attention to the scale of WEEE non-compliance through online marketplaces in the UK.

3 The scale of non-compliance

Recolight first investigated and published the scale of WEEE non-compliance in 2017¹. This survey of a leading online marketplace showed:

- 76% of the first 120 items in a search for “LED lightbulb” were freeriders.
- 81% of those freeriders were companies based in China or Hong Kong.
- Furthermore, 71% of those freeriders had product available for next day delivery – the non-compliant stock was already held in a UK based warehouse.
- Virtually all items listed were multi-packs of LED bulbs, with large numbers of recent English language reviews, implying large numbers of sales.

A subsequent survey in 2019² covered the UK and nine EU member states. This showed that, rather than improving, the UK non-compliance rate had increased to 78%, and that similar, or higher levels of non-compliance were prevalent in all other countries investigated.

4 The need for urgent action

For many producers, WEEE charges have increased significantly during 2020, as a result of the costs of treatment of plastics containing WEEE. At the same time, the Covid-19 crisis has significantly accelerated the shift towards online purchases.

These two factors give producers that evade WEEE compliance, and online marketplaces which facilitate that evasion, further significant competitive advantage. That is adding further pressure on legitimate operators, risking business failures and job losses.

If the current timetable for the WEEE regulations to be updated is maintained, the situation will not improve until 2024³. That may be too late for many producers.

5 The risks inherent in the Simplified Compliance Model proposed by Amazon

¹ <https://www.recolight.co.uk/survey-of-online-retailerfulfilment-house/>

² <https://www.recolight.co.uk/disturbing-eu-wide-scale-of-weee-non-compliance-through-online-marketplaces/>

³ Assumes new regulations come into force in 2023, and impose a WEEE collection target on online marketplaces in 2024.

Amazon have made proposals for what they call a “Simplified Compliance Model”. In essence, the proposal is that online marketplaces are required to report all the EEE sold through their site, to the Producer Compliance Scheme of which they are a member. It is pleasing that Amazon have taken the initiative, and superficially, their proposal looks good.

However, if implemented unamended, the proposal would give online marketplaces still more market power. That is because it would reduce both WEEE costs and WEEE administration for those producers selling exclusively through Amazon. In short, producers would be commercially incentivised to move all their sales to online marketplaces.

To prevent this risk and to make the proposed system fairer, there are several essential changes that are necessary:

- 5.1 An online marketplace that is reporting EEE from producers selling via their site, should be charged standard Agency registration fees per producer whose EEE is reported. For example, the EA currently charges £30/small producer/year and three other charge bands (up to £750). UK producers incur these charges, so producers selling through online marketplaces should incur the same charges⁴. **Producers should incur the same charges, whether they sell exclusively via an online marketplace, or whether they sell via other channels.**
- 5.2 The Amazon proposal suggests that producers selling via online marketplaces should be allowed to use estimated (or protocol) weights. The WEEE regulations do not allow this approach: UK producers must use actual weights, not estimates. Accurate weights are essential to calculate the UK’s collection and recycling performance. To treat producers selling through online marketplaces differently would not be right. **Producers should be required to use actual weights, not protocol weights, whether they sell exclusively via an online marketplace, or whether they sell via other channels.**
- 5.3 When the legislation is brought in, it should be drafted in such a way that online marketplaces receive a target in the year in which the legislation changes. We should not wait another year, for EEE that is illegally placed on the market to be converted into WEEE targets. There are various ways in which this might be achieved. **Online marketplaces should not be given yet another year in which they can facilitate freeriding.**
- 5.4 Online marketplaces should be required to monitor when sellers move from small to large (over 5 tonnes), and their agency registration fees should be adjusted accordingly. This is what happens for UK registered producers that are members of Producer Compliance Schemes. **Producers should incur the same charges, whether they sell exclusively via an online marketplace, or whether they sell via other channels**
- 5.5 Sellers through online marketplaces must provide the same information that UK sellers provide as a part of their WEEE compliance process (eg name of company director, signed quarterly declarations etc etc). **Producers selling through online marketplaces should not be able to avoid the necessary red tape with which UK registered producers must comply.**

⁴ It could be argued, with some justification, that agency charges per producer are generally too high, and that agencies should instead recover their charges via a higher annual Producer Compliance Scheme fee. We would support that approach, but it should not distract from the clear position that

- 5.6 An online marketplace must exempt a producer that is already WEEE registered in the UK, from paying the marketplace WEEE charges. **Online marketplaces must be prevented from applying their WEEE charges to producers that are already compliant.**

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