

25/08/2020

## **Advocacy Briefing Document**

### **Quality Standards for Treatment of WEEE**

#### **Context**

In 2019, the European Commission assigned the consultancies Dr Brüning Engineering and Umweltbundesamt Austria to conduct a study on quality standards for the treatment of WEEE with two main objectives.

1. to assist the European Commission in view of a possible preparation of an Implementing Act laying down requirements for the quality treatment of WEEE in the EU complementing those in the WEEE Directive, or any other policy option to be identified;
2. to assist the European Commission in the preparation of a Delegated Act laying down the criteria for the assessment of equivalent conditions for the treatment of WEEE outside the European Union based on a re-assessment of the options identified in a previous study conducted in 2013<sup>1</sup>, considering any relevant developments at international level and experiences in European Member States regarding assessment of equivalent treatment conditions of WEEE outside the EU.

As part of the study, the standards developed under Mandate M518, which include the standard series CENELEC EN 50625 "Collection, logistics & treatment requirement for WEEE" and the standard CENELEC EN 50614 "Requirements for the preparing for re-use of WEEE", have been examined by the consultants to check if they adequately address the WEEE Directive requirements, which basis (legal text of the WEEE Directive or other legislation) CENELEC standards M518 are derived from and if particular issues are properly addressed by these standards.

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<sup>1</sup> Study on "[Equivalent conditions for WEEE recycling operations taking place outside the European Union](#)", 2013.

The methodological approach adopted by the consultants was divided in six tasks<sup>2</sup> which included several analyses of the European Standards for the treatment of WEEE, an overview of the situation and experience of some Member States, and the running of a final stakeholder workshop on 15 May 2020. Based on their analysis, the consultants provided different options and further recommendations to the European Commission for the preparation of the Acts.

## Options and recommendations

- (i) Option 0 – requiring no further legal EU wide minimum treatment requirements for WEEE (business as usual);
- (ii) Option 1 – legally requiring, in substance, compliance with the CENELEC standards;
- (iii) Option 2 – laying down specific/selected additional minimum treatment requirements for WEEE in the European WEEE legislation.

Based on an assessment of the advantages and disadvantages of Option 1 and 2, the consultants proposed an approach based on Option 2 which makes a compilation of key requirements in the legislation and derived acts (e.g. basic process requirements, target and limit values related to depollution and emission prevention and basic obligations related to monitoring of WEEE materials until final recycling/disposal and related to determining the recycling/recovery rates) with some elements of the CENELEC standards for application of specific technical issues.

This conclusion in favour of an option that would be based for some elements on horizontal requirements and for others, more technical, on chosen CENELEC standards is not shared by the majority of the stakeholders participating in the final workshop. Important elements of argumentation were provided by CENELEC TC111x/WG 6 which had made a thorough technical analysis. APPLiA and WEEE Forum are strongly supportive of CENELEC's position on a doubtless preference for Option 1.

## CENELEC analysis and technical considerations

CENELEC TC111x/WG6 concluded that Option 1 would be a much better representation of the reality of the WEEE treatment process. Rationale:

- Option 1 is the most adequate option to ensure a level-playing field across the EU for Member States and WEEE treatment operators, avoiding that some WEEE remains treated by sub-standard, i.e. less efficient and less environmentally sound operators;
- It will encourage investment and foster innovation through an effective and quick implementation of standards. Indeed, as Option 1 concerns compliance with CENELEC standards only, updates of EN documents and TS documents occurring respectively after 5 and 3 years are regularly made, ensuring that changes in recycling process follow the same speed that EEE-technology evolution;

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<sup>2</sup> Cfr. Annexes p. 4.

- Option 2 will bring a complex, uncertain, confusing, and long legislative process and legal assessment which will inevitably slow down any innovative process for environmentally sound practices in some areas such as recycling. If this should happen, it will appear to sanction the on-going low-quality operations whose administration continues to gain unfair competitive advantage and allow the EU to lose out on secondary raw materials, hindering the achievement of a circular economy<sup>3</sup>;
- Contrary to the consultants' judgement, Option 1 does ensure a transparent and democratic process of standardisation making;
- It should be made clear that the standards under development under M518 do not specify any conformity verification method and each conformity assessment covers in principle all activities carried out by a specific entity (1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup> party) to demonstrate that processes and/or services, meet the specified requirements;
- Standards under M518 are not exclusive and do address all WEEE categories. In addition, requirements of these standards interlink with each other and cannot be seen as individual standards or even as individual requirements;
- Option 1 does not automatically imply mandatory external certification, nor does it imply to follow the auditing procedures set by the WEEELABEX Organisation (which is an accredited certification organisation, yet only one among others).

APPLiA, WEEE Forum and EERA all sent letters of support for this analysis and statement provided by CENELEC for the preferred Option 1.

### **Next steps and advocacy strategy**

With the study reaching its finalisation by 30 July 2020, the European Commission will further assess the next steps regarding which option to follow in the elaboration of the Implementing and Delegated Acts where standards will play an important role.

It is expected for Member States to meet at the Technical Adaption Committee (TAC) in the third trimester of 2020. Until then, it is important to advocate our preference for Option 1 and the rationale towards the Member States who will have a role to play in influencing the final outcomes of the European Commission's initiative.

Until a clear timeline has been established on the next steps for the European Commission, a collaboration between APPLiA and WEEE Forum has been launched to better engage in effective and efficient actions towards the European Commission and through our respective national networks. In parallel, CENELEC is actively working on its side to better assess the direction which the European Commission may take (e.g. which option will be finally chosen?) as well as to better understand the use of the study in the elaboration of the Acts, the issues around conformity assessment and what support CENELEC might provide at what stage.

Effective and efficient actions concern (i) building alliances with like-minded stakeholders and associations, (ii) reaching out to stakeholders that seem to have concerns, (iii) possibly liaison

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<sup>3</sup> CENELEC letter, p. 6

with the Commission's legal service to understand how Option 1 can be translated into effective legislative instruments/requirements, (iv) possibly do a webinar in the third trimester of 2020 to illustrate why Option 1 is the preferred approach.

## ANNEXES

### 1. Disadvantages and advantages presented by the consultants on both options, 1 and 2.

Option 1 a	Option 1 b	Option 2
<ul style="list-style-type: none"> <li>- Not all concerned stakeholders may have the resources to participate in a time-consuming standardization process → Risk of not adequately taking into account the experience of less resourceful stakeholders.</li> <li>- Transparency requirements are not at the same level than for rule – making at EU level (including in 'administrative' implementing decisions supported by Comitology).</li> </ul>	<ul style="list-style-type: none"> <li>- Audit costs may be prohibitive for small companies as audit costs do not correlate directly with the amounts of waste processed</li> <li>+ Costs for compliance checking would have to be borne by the producers of EEE and not by the taxpayers (as in case of additional detailed provisions in EU WEEE legislation) (Costs for implementing administrative and technical requirements are considered equal in both options)</li> </ul>	<ul style="list-style-type: none"> <li>+ The approach allows for introducing additional elements, which are currently not part of the CENELEC standards</li> <li>+ Referring to the CENELEC standards only when it comes to specific technical issues allows for not overloading legislation with formulas etc.</li> <li>- Language issues and issues of free access to law would remain for particular technical details specified in (additional) standards.</li> <li>+ To lay down key requirements in the legislation in a condensed way, may be supportive for clarity for enforcement authorities and environmental inspections, and thus strengthen enforcement of the provisions and contribute to harmonized permitting conditions.</li> </ul>
<ul style="list-style-type: none"> <li>- Especially when a limited number of treatment facilities are operated in a Member State, it might be a challenge to ensure that the necessary expertise is provided at competent authorities and inspectorates.</li> <li>- May lead to less WEEE treatment facilities in some areas as implementing such requirements may not be feasible for all WEEE treatment facilities currently operating → longer transport distances possible</li> </ul>		<ul style="list-style-type: none"> <li>- Especially when a limited number of treatment facilities are operated in a Member State, it might be a challenge to ensure that the necessary expertise is provided at competent authorities and inspectorates.</li> </ul>

### 2. Methodological approach adopted by the consultants divided in 6 tasks

Task 1 – Analysis of the European Standards for the treatment of WEEE (CENELEC Standards) in relation to the requirements for the WEEE Directive 2021/19/EU

Task 2 – Analysis of the situation and experience as regards the implementation of the WEEE treatment requirements in all Member States and the relevant practices applied

Task 3 – Analysis of different options for implementing the requirements for treatment of WEEE in economic environmental and social terms

Task 4 – Analysis of the options for the assessment of equivalent conditions for WEEE recycling operations taking place outside the European Union

Task 5 – Organisation of seminars in 6 Member States (GR, DE, NL, CZ, SE, ES) for a closer look into national practices, experiences and challenges related to WEEE treatment

Task 6 – Final workshop