EucoLight
European Association of lighting
WEEE compliance schemes

Position Paper

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Commission Implementing regulation establishing a common methodology for the calculation of the weight of electrical and electronic equipment (EEE) placed on the market in each Member State and a common methodology for the calculation of the quantity of waste electrical and electronic equipment (WEEE) generated by weight in each Member State *(hereinafter: "the Implementing Regulation")*

Background:

According to Article 7(1) of the Directive 2012/19/EU on Waste Electrical and Electronic Equipment *(hereinafter the on "WEEE recast Directive"),* Member States will have two ways to demonstrate compliance with the new minimum collection rate from 2019 onwards. They can either collect "65% of the average weight of EEE Placed on the Market *(hereinafter "POM")* in the three preceding years in the Member State concerned", or collect "85% of WEEE generated on the territory of that Member State". Article 7(5) of the WEEE recast Directive requests the Commission to establish common methodologies for both the calculation of the "weight of EEE POM" and of the "quantity of WEEE generated in each Member State".

The United Nations University (UNU) supported the Commission as consultant in developing the methodologies. They also created the UNU – keys, intended be used to harmonise the domestic production, import and export statistics needed for the POM calculation in the various EU Member States.

Major issues for the lighting sector:

EucoLight, the European association of Lighting WEEE compliance schemes, has reviewed the Draft Implementing Regulation released early December 2016.

It herewith praises the efforts of the Commission to establish common methodologies for the sake of harmonised implementation of the collection targets of WEEE in the Member States.

However, this process contains a major shortcomings for the lighting sector implying that EucoLight cannot support the draft Implementing Regulation. The rationale is the following: the EEE lamp data used in the calculation tool are materially incorrect, and this calculation tool has not been provided as part of the consultation process.

EucoLight AISBL
Transparency Register number: 239813917190-50
Diamant Building, Bd A. Reyers, 80, B-1030 Brussels
Tel: + 32 487 344 876
www.EucoLight.org
marc.guiraud@eucolight.org

EucoLight encourages the Commission and the Member States to **address the following issues** at the time of the finalisation and adoption of the Implementing Regulation. **Failing so, the Draft Implementation Regulation and the calculation tool cannot be supported. The issues that need to be addressed are:**

1. **Solving the issue of inaccurate statistics in the UNU model, which is the basis of the pre-populated data included in the calculation tool supporting the Draft Implementing Regulation.**

EucoLight has alerted the Commission on several occasions since mid-2015 about serious issues with the statistical data used in the Study on collection rates of waste electrical and electronic equipment (WEEE) (2014) and pre-populated in the calculation tool supporting the Draft Implementing Regulation. This is a matter of deep concern for our sector.

EucoLight reviewed the statistical data for lamps placed on the market in a number of Member States and has demonstrated that there is a **considerable discrepancy** between the UNU statistics (based on PRODCOM codes and Combined Nomenclature codes- CN codes) pre-populated in the calculation tool and the actual data recorded in those Member States.

In some countries we observed that data from UNU statistics are a multiple (e.g. 2 fold increase) compared to the data collected and reported in Member States. EucoLight members contribute to and have confidence that the data recorded in those Member States is correct, and also that the data contained within the calculation tool is incorrect. This information has been shared with the European Commission.

In those Member States which do not have information available from National Registers, the use of statistics from PRODCOM codes and Combined Nomenclature codes-CN codes (in order to calculate EEE POM) is not reliable. PRODCOM data are proven to be not accurate for lamps EEE put on the market according to a comparison done in some Member States with the information provided by National Registers. Furthermore, no CN Codes existed for LED lamps.

Moreover, how is it possible to know if those PRODCOM codes and CN codes used to make the calculation do actually provide matched information with EEE under the scope of the WEEE Directive and if no other *non EEE-related products* have been declared under those codes? (i.e. incandescent lamps could have been wrongly declared in a PRODCOM for a WEEE lamp).

The pre-population of the UNU statistics – unchanged in the calculation tool- without a clear warning or disclaimer in the Implementing Regulation would be highly detrimental, as it creates legal uncertainty for producers of EEE and their compliance schemes. This would be particularly the case if the Member States who choose to use the WEEE generated methodology do not correct the data. **If this were to happen, producer and compliance scheme targets in some Member States would be far too high, and probably unachievable, leading to cost and compliance risks.**

Following the EucoLight request to the Commission, this problem has been acknowledged in the "Note of the authors" of the Study on collection rates of waste electrical and electronic equipment (WEEE) (2014), worked by United Nations University (UNU), which serves as background documentation for the Implementing Regulation:

> *"The data on the quantities of EEE placed on the market in each Member State (POM data) used in the electronic tool developed in the context of this study for the calculation of the quantity of WEEE generated (WG) is based on calculations made on the basis of the "apparent consumption methodology ", as described in this report. This data is used for*

the purposes of the study and does not necessarily reflect EEE/WEEE data made public by the Member States or industry associations. The data used in the tool may be subject to changes and updates by Member States on the basis of National Register data, sound available data and the expertise of relevant stakeholders.

The calculation of the quantity of WEEE Generated made in the context of the study is based on the initial allocation of individual UNU -KEYs to collection categories. Results might slightly differ when allocating UNU - KEY 0501 to Small Equipment collection category and when changing lifetime profiles for specific products such as LED lamps as agreed during the stakeholder consultation carried out after the completion of this study and the release of this report".

Nevertheless, the study is not the legislation itself and the problem needs to be addressed in the Implementing Regulation through appropriate wording. A further **clarification** in the legislation would be sufficient to solve the issue. It is indeed **essential to inform Members States in the text of the implementing Regulation** that the EEE data for previous years provided in the calculation tool must be confirmed by each Member State prior to using the tool. This is necessary to remove financial uncertainty and risk for producers and compliance schemes.

To this end, we propose the following **solution**

*Inclusion of the following wording in the **preamble** of the Implementing Regulation in indent number (7):*

*"(7) For the calculation of the total quantity of WEEE generated in a given year in the territory of a Member State, it is important that Member States use a common methodology, that takes into account data on the quantity of EEE placed on the market of each Member State in the past, data on the lifespans of different EEE, according to its type, the level of saturation of the national market and the differing life-cycles of EEE in the Member States. A WEEE calculation tool based on this methodology should be available for use by Member States and pre-populated with the necessary data to allow its direct application. **Member States should confirm the adequacy of the information pre-populated in the calculation tool and if necessary, to be given** the possibility to update the data used in the tool on EEE placed on the market for past years and/or lifespan data, based on relevant data**, included National Register data according to article 16(2)c**, and evidence to support such updates.*

2. **Solving technical issues in the UNU – Keys classification in the calculation model which supports the Draft Implementing Regulation.**

At earlier stages, EucoLight has drawn the attention of the Commission to important technical issues for lighting associated with the electronic tool for the calculation of the quantity of WEEE generated developed by the UNU. It is important to verify that these points have now been solved in the final version submitted for vote by the Member States.

- **Change of wording of specific UNU-Keys** and change of allocation of UNU-Keys: Some UNU-Keys included in the calculation tool were poorly defined and not correctly aligned with the legally applicable EEE categories contained in WEEE Recast Directive. The Commission responded to our request, and the Commission in previous drafts of the Implementation act regulation adjusted the definitions, to better align with the Directive. In particular, we seek confirmation that the following changes are now accurately reflected in the final version of the calculation tool which supports the Draft Implementing Regulation:

***Initial* proposal of UNU KEYS**	***Corrected* UNU KEYS**
0501: Lamps (e.g. pocket, Christmas, excl. LED & incandescent)	0501: Small lighting equipment ~~Lamps~~ (~~e.g. pocket, Christmas,~~ excl. LED & incandescent)
0505: LED lamps (incl. retrofits LED lamps and household luminaires)	0505: LED lamps (incl. retrofits LED lamps ~~and household LED luminaires~~)
0506: Household luminaires (incl. household incandescent fittings)	0506: Household luminaires (incl. household incandescent fittings & household LED luminaires)

- **Change of lifetime** profiles for the LED lamps in the calculation tool. Originally established in 4 years and now adjusted to 10 years.
- **Flexibility of the tool:** Possibility of Member States to change the EEE data in the WEEE Generated methodology model if Member State believes that the data is not accurate and has access to more reliable information, according to intend 7 and Annex II point 4 of the Draft of Implementing Regulation.

Initial talks with the European Commission, and previous drafts of the Implementation Regulation gave indication that the above issues were corrected, but since the calculation tool is not included in the public consultation, EucoLight is not able to check that these changes have been finally included and corrected in the calculation tool. We have no reason to believe that this would not be the case, but we ask you, as Member of the TAC, to check if these issues are in the final version of the calculation tool presented to you for voting.

Conclusion:

EucoLight recommends that above proposed changes be implemented and calls on the Commission to make the calculation tool available for public consultation.

About EucoLight:

EucoLight is The European association of collection and recycling organisations for WEEE lamps and lighting. On behalf of its 19 members, EucoLight engages with everything related to the WEEE Directive, legislations and standards affecting the collection and recycling of WEEE lighting.

EucoLight is the voice of European WEEE compliance schemes specialised in managing the collection and recycling of WEEE lighting; working to make the circular economy a reality for lighting products.

Founded mid-2015, EucoLight has quickly embarked into constructive dialogue with relevant stakeholders to provide expertise in the field of management and treatment of WEEE lighting and to promote the positive role of Extended Producer Responsibility schemes on the environment and society.

For more information, visit the EucoLight website www.eucolight.org, follow EucoLight on Twitter @EucoLight or contact the Secretary General, Marc Guiraud (marc.guiraud@eucolight.org).