EucoLight & LightingEurope Joint Position Paper on Eco modulation of fees in Waste Framework Directive (EU) 2018/851 of 30 May 2018 amending Directive 2008/98/EC on waste

Introduction

As the two EU wide trade associations with unique insight into the lighting industry, Lighting Europe and Eucolight have prepared this position paper to consider how modulated fees might be applied to lamps and to luminaires.

We offer our expertise as a contribution to the European Commission's guidelines on the modulation of financial contributions (Eco modulation of fees) to be adopted following the Waste Framework Directive (EU) 2018/851 which amends Directive 2008/98/EC on waste (Art. 8.5).

Our position in a nutshell

Enforcing the current waste management fees system on all actors and all products on the EU market today is still challenging in the case of lighting – 76% of lighting products available for sale online did not comply with their WEEE obligations in a 2018 exercise conducted by a EucoLight member. We recommend that authorities focus more efforts on ensuring compliance with the current regulatory requirements to ensure all market actors comply with their WEEE obligations before adding an additional level of complexity.

The proposed Eco modulation of fees measure aims to incentivise producers to increase durability, reparability, re-usability and recyclability of products and to move towards a circular economy and resource efficiency in the design of products. Modulated fees could be regarded as being effective if they are likely to influence producer behaviour (new products being developed) or consumer behaviour (products purchased).

For lighting products, LightingEurope and EucoLight conclude that the eco-modulation of WEEE charges will not be effective at driving change. We present our reasoning for the 2 main categories of lighting products, lamps and luminaires, in the Annex 1 and 2 respectively.

We therefore recommend that the decision to eco-modulate fees should be taken for each product group separately, based on the particular features of that product group. Fees should only be eco-modulated where it is clearly demonstrated that the above-listed objectives are not already achieved by other regulatory requirements and policies.

In the case of lighting products, we believe that the modulation of producer obligations under the WEEE directive would not meet the requirements of article 8a of the Waste Directive. This is both because fee modulation would breach the need to ensure that fees do not exceed the necessary costs for waste management, and also because the recyclability and durability requirements of article 8a would lead to conflicting fee modulation.

An adequate framework with common, harmonised criteria at the EU level, is essential to ensure a framework that is easy to understand, apply and enforce across the EU, instead of the same producers encountering a mix of distinct regimes and eco-modulation schemes in different member states. This would not only become very burdensome for producers but could also result in conflicting criteria. The experience in France has shown that a national scope for this measure does not incentivise producers of electrical and electronic equipment from the lighting sector.

Annex 1 - Application of modulated fees within the context of the WEEE directive to category 3 lamps

Paragraph 4b of article 8a of the Waste Directive states that producer obligations should be modulated, where possible, taking into account the durability, reparability, re-usability and recyclability of products, and the presence of hazardous substances. Given that virtually all lamps, regardless of technology, are currently neither repairable nor re-usable, the key requirements from this paragraph are *durability*, *recyclability*, and the *presence of hazardous substances*. Each of these is considered in the rationale below.

Market transformation driven by consumer demands and by EU Ecodesign and RoHS legislation are driving a rapid shift from mercury containing lamps to LED retrofit lamps far more effectively than could possibly be achieved by fee modulation.

We recommend there is no modulation of fees for lamps and that this position is adopted EU wide.

Gas discharge lamps (GDL) contain mercury, a hazardous substance, whereas LED retrofit lamps do not. In addition, LED retrofit lamps generally have a longer lifetime than GDL, making them more durable. The most obvious way in which fees might be modulated might therefore be to apply a discount (bonus) to LED retrofit lamps, or a surcharge (malus) to GDL.

However, this approach, targeting mercury containing lamps, would both be ineffective, and would not comply with the requirements of article 8a, for a number of reasons:

1. In most cases, all lamps – both LED and GDL are treated together, in the same processing plant. As a result, treatment costs are the same. They are also transported together in the same container, and so transport costs are the same. Accordingly, to apply differential fees would breach the requirement of paragraph 4c of article 8a, which requires that producer responsibility costs do not exceed the costs that are necessary to manage the waste in a cost-effective way;
2. Although they contain mercury, recycling of GDL produces material recovery rates in excess of 90%, with only a small proportion of residual waste. Conversely, material recovery rates for LED retrofit lamps are typically around 50%. As a result, GDL are considerably more recyclable than LED retrofit lamps. Therefore, to comply with the

recyclability requirement of paragraph 4b would imply applying a surcharge (malus) to LED retrofit lamps, and a discount (bonus) to GDL.

Irrespective of any modulation of fees there is a major technology transformation taking place in the lighting industry, as end users move from GDL to LED technologies. The pace of this change is being driven by a number of factors including:

1. Eco-design requirements that set higher energy efficiency requirements to lighting products. For example, one of the leading fluorescent tube formats (T8) will be banned by 1 September 2023 by the upcoming Ecodesign Regulation on light sources.
2. RoHS requirements that are progressively eliminating those products containing mercury. These mean that an increasing proportion of GDL and less energy efficient light sources will be removed from the market.
3. Desire amongst end users – both businesses and consumers, for more energy efficient lighting products, and lighting products that are more versatile.

The combination of the above factors is driving reductions of GDL placed on the market of typically 20% per annum, and concomitant increases in LED retrofit lamps put on the market. We consider that modulation of fees would have a negligible impact compared to these powerful, market transformations currently taking place.

In a survey of EucoLight, the participants have reported that they have implemented, on occasions, a form of modulated fees (for example for commercial reasons, to attract new participants). Experience has shown that they have not led to any changes in producer behaviour regarding product design or portfolio.

Our recommendation: we recommend that no eco-modulation of fees for lamps is set by policy makers and that the approach outlined in this paper is applied on an EU wide basis. To adopt Member State specific fee modulation requirements, would add to producer administration costs and have virtually no effect on producer behaviour.

Annex 2 - Application of modulated fees within the context of the WEEE directive to category 4 & 5 luminaires

We conclude that the modulation of WEEE fees for luminaires will not be effective in changing the behaviour of the producer or the customer and would instead lead to a significant administrative burden for producers, schemes and authorities in charge of enforcing the new system.

In the lighting sector, there is a tremendous variety of portfolios, with different products destined for different applications, in both the professional and the household sectors and choices are driven by customer expectations and a number of existing requirements. The majority of the luminaires market is business-to-business and decisions on the right luminaire are driven by a number of factors as part of a lighting design process. For public spaces in particular, decisions on the right luminaire are subject to public procurement rules that already contain a number of ‘green’ elements. Standards set out operating requirements for different applications and EU rules set out minimum efficiency and performance requirements. Eco-modulated fees for such luminaires will therefore not have an additional impact on customer and producer behaviour, as environmental requirements are already captured within product specifications.

From an administrative and enforcement perspective, managing variable fees for all these product models and applications would lead to an enormous administrative burden for producers, for schemes and for public authorities. The complexity of the system would

mean that producers are more likely to make a mistake and the authorities would need to invest a significant amount of resources to ensure a level playing field.

We have evaluated 2 possible criteria for modulating fees for luminaires and have found that each is considered not being fully appropriate for different reasons:

1. Traditional luminaires (those with no LED light source) vs LED luminaires
2. Fully integrated LED luminaires vs those with an end-user replaceable module

1. **Traditional luminaires vs LED luminaires**

Fees could be modulated to favour LED over less durable or energy efficient technologies.

However, there is already a strong market pressure for this transition, resulting in a rapid move from traditional luminaires to LED luminaires. Currently, on average, above [1]80% of luminaires placed on the market are LED luminaires. The market pressure is a result of:

a. Energy saving opportunities for end users
b. Reduced availability of traditional lamps as a result of the phase out of conventional technologies under other pieces of EU legislation (ecodesign, RoHS)
c. Greater capabilities for variation and control of colour temperature
d. Ability to add further functionality such as LiFi, localised GPS etc.

As a result, most of the luminaires now placed on the market are already LED or anyway compatible with LEDs. This means that higher fees applicable to traditional luminaires would be largely unused, resulting in no impact on producer or customer behaviour and moreover could have a negative impact on the financing of the waste collection and recycling system in the longer term.

2. **Fully integrated LED luminaires vs those with an end-user replaceable module**

Fees could be modulated to reward luminaires with an end-user replaceable module, however:

a. This requirement is already sufficiently addressed by the new ecodesign rules for lighting, which require luminaires to have a removable light source and control gear and further require producers to communicate this information to the customer (e.g. with a pictogram).
b. This would have a negative impact on durable products that are not replaceable for good reasons (e.g. safety reasons or to ensure optimal performance in specific conditions e.g. under water or in hard-to-reach places)

[1] ZVEI data on products placed on the market in 2018.

About EucoLight

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. On behalf of its 20 members, EucoLight engages with everything related to the WEEE Directive, legislations and standards affecting the collection and recycling of WEEE lighting. EucoLight members collect and recycle, in aggregate, 79 % of the lamps waste collected in the 19 countries in which they operate. 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).

About LightingEurope

LightingEurope is the voice of the lighting industry, based in Brussels and representing 33 companies and national associations. Together these members account for over 1,000 European companies, a majority of which are small or medium-sized. They represent a total European workforce of over 100,000 people and an annual turnover exceeding 20 billion euro. LightingEurope is committed to promoting efficient lighting that benefits human comfort, safety and well-being, and the environment. LightingEurope advocates a positive business and regulatory environment to foster fair competition and growth for the European lighting industry. More information is available at www.lightingeurope.org. For more information, please contact Elena Scaroni, Policy Director (elena.scaroni@lightingeurope.org)