

## **PROPOSAL FOR METHODOLOGY FOR THE CALCULATION AND THE ADMINISTRATION OF THE WEEE COMPLIANCE FEE**

### **Background**

The new WEEE regulations make provision for the Secretary of State to allow schemes to achieve compliance with their targets by paying a fee instead of providing evidence of actual WEEE collection and treatment. The provision is subject to approval, and does not specify how any fee should be determined.

Schemes and other stakeholders are invited to make proposals for a fee to the SoS by the end of September in any compliance year. The SoS may then approve only one methodology and will announce the decision by the middle of February following the end of the compliance year.

BIS has recently released some more detailed guidance on their expectations for proposals.

This document sets out proposals for the methodology for the calculation and provision of the administration for the WEEE Compliance Fee following discussions with WEEE compliance schemes operated by Budgetpack, Dataserv, Electrolink, DHL, Transform, Valpak, Veolia, WEEECOMPLY and WEEELINK.

It should be noted that this proposal is both complimentary and additional to that submitted by Dataserv, DHL, Transform, Valpak and Veolia. However it incorporates some details that were suggested by the other schemes.

### **Tasks**

#### **1 - Proposed methodology for the calculation of the fee.**

Tasks identified:

1. t2e operates an independent contract reconciliation centre for aligning surplus collection contracts with shortfalls prior to 31 January 2015. This will include the allocation of evidence and transfer of funds if/as necessary.
2. t2e uses the information gleaned from this process as the basis for calculating the evidence fee.
3. An escalator is added to the evidence fee which reflects both the failure of WEEE schemes to contract sufficient evidence and the number of WEEE streams in which they have failed to comply to create the total WEEE Compliance Fee.
4. An administrative fee and VAT is added to the WEEE Compliance Fee is added to the total.
5. The WEEE Compliance Fee is distributed pro rata for the WEEE Contracts that had been offered for reconciliation and not reallocated.
6. Any surplus funds would be sent to the Distributor Takeback Scheme.

The advantages of this approach are:

1. It introduces a transparent price/range of prices for each WEEE category against which schemes can benchmark their performance and producers and AATFs can benchmark the performance of and payments by schemes.
2. It minimises the requirement for third party auditing, non-compliance and the use of the compliance fee,
3. It maximises the opportunities for schemes to comply.
4. It penalises those that have failed to set up or sub-contract sufficient contracts to comply based on prices that have been contracted between two willing parties.
5. It rewards those that are carrying out the aims of the Regulation by increasing the recycling of WEEE but maintains a limit on perceived excess rewards.
6. It provides through the Distributor Takeback Scheme additional funds that could be used to finance local authority *or other suitable projects* that increase the recycling of WEEE.

## **2 - Proposed methodology for the administration of the fee.**

Describe how the overhead costs of calculating, setting up and administering the compliance fee mechanism and disbursement of funds will be met. This should include contingencies for a situation of minimal or zero uptake amongst PCSs;

Costs would be covered by:

1. An annual participation fee payable on 31 January by all B2C WEEE Compliance Schemes who wish to use or input or access the data compiled for the Compliance Fee or on submission of the participation agreement whichever is earlier.
2. Compliance Fee administrator charges, which would only be charged to those that use it, if the compliance fee is required.

The tasks identified subject to the methodology are as follows:

1. Ask compliance schemes to complete a compliance fee participation agreement.
2. Operate contract reconciliation centre.
3. Receive compliance fee requests.
4. Issue request for information to compliance schemes.
5. Follow-up request for information.
6. Analyse information provided by compliance schemes.
7. Publish compliance fee.
8. Calculate escalator.
9. Issue compliance fee invoices.
10. Receive funds for compliance fees.
11. Issue compliance fee certificates.
12. Notify Agencies of compliance fee certificates issued.
13. Distribute funds received less administration fee to DTS.

### Ask compliance schemes to complete a compliance fee participation agreement.

All WEEE compliance schemes will be requested to sign a participation agreement with The Environment Exchange (t2e) regardless of whether they wish to use the compliance fee route or not. This is to allow t2e to take the widest sample possible of costs for the recycling of WEEE. Additionally this will allow them access to the final fee once it is calculated.

The agreement will state that the WEEE compliance schemes will for the purposes of transferring/sub-contracting contracts or developing and paying the compliance fee will abide by the Rules of t2e. Key rules will be the abiding by the terms of any contract created, submission of accurate information, permitting t2e to investigate the accuracy of that information, as necessary, accepting the WEEE Compliance Fee as calculated by t2e and prompt payment when requested in exchange t2e will deal with the WEEE compliance scheme fairly, professionally and confidentially ensuring that the scheme is in a position to comply by 31 March in the relevant year. In addition key contact details can be obtained at the same time. A draft of the participation agreement can be provided.

This document would be e-mailed to scheme as soon as it is confirmed that t2e has been appointed to administer the WEEE compliance fee. Once signed, this agreement would be binding for subsequent years.

Detailed tasks:

Drafting rules and participation agreements	5 days
Distributing rules, participation agreements and invoices	1 day
Receiving, recording and filing participation requests	1 day
Following up participation agreements	2 days

### Receive compliance fee requests.

WEEE Compliance Schemes issue a request to t2e for a compliance fee stating the quantity requirement in tonnes or kilogrammes in each category in which they have a

shortfall and their total obligation in that category. This information would need to be supplied to t2e within 7 working days of 31 January or when t2e is appointed as the administrator of the WEEE Compliance Fee whichever is the later date. This information could be validated with the Agencies.

Detailed tasks:

Receiving, recording and filing compliance fee requests 1 day

Issue request for information to compliance schemes.

On receipt of one of more requests for compliance fees t2e will ask from all participant compliance schemes for the high, low and average prices per tonne for the collection of WEEE in all categories that has been arranged by that compliance scheme and the quantity in tonnes and kilogrammes collected.

The reason:

1. for requesting all categories is to preserve the confidentiality of the requester.
2. why it is only the price per tonne for the contracts that the scheme has arranged is that any costs that have been sub-contracted to another scheme to carry out will be submitted by the sub-contracted scheme.

This would be requested within 7 days of the final date for compliance fee requests to be submitted. In the event that no fee is requested all schemes, the Agencies and BIS would be informed that no compliance fee would be needed for that year.

Detailed tasks:

Issuing requests for information to WEEE Compliance Schemes 1 day

Follow-up request for information.

In the event that a scheme had failed to respond within the allocated 7 days the scheme would be given a further 3 days to provide that information. In the event that it failed to produce that information it would both be ineligible to apply for a compliance fee and to any information distributed to other schemes about the WEEE Compliance Fee.

Detailed tasks:

Follow up requests for information 2 days

Analyse information provided by compliance schemes.

t2e would analyse the information provided by the WEEE Compliance Schemes on a spreadsheet using the methodology agreed by the Compliance Schemes to produce an average price per tonne for collecting evidence in each of the WEEE categories throughout the UK. This information would then be verified against information requested from AATFs and the average price by category of transferring contracts through the reconciliation centre. This would be completed within 14 days of the final due date of when information would be received by t2e.

Detailed tasks:

Receiving, recording and filing evidence cost information requests 2 days

Analyse information using methodology provided 2 days

Issuing requests for information to WEEE AATFs 1 day

Validate Information provided by WEEE Compliance Schemes against that sourced from AATFs and other sources 1 day

Publish evidence fee.

All those WEEE compliance schemes that have contributed to the calculation of the WEEE Compliance Fee will be notified of the evidence fee that has been calculated for all categories and how it has been calculated. This information could be more widely distributed as wished by e-mail, social media or a website if wished.

Detailed tasks:

Publish evidence fee. 1 day

Calculate escalator.

t2e would calculate the escalator for each WEEE Compliance Fee according to the following methodology:

1. Start with evidence fee for each category.
2. Calculate percentage shortfall from total obligation in each category.
3. Multiply shortfall percentage by evidence fee in the relevant category.
4. Calculate number of streams in which shortfalls occurs.
5. Multiply sub-paragraph 3 by 4 to reach total escalator.
6. In future years this could also include an escalator to reflect the number of years in which the Scheme had a shortfall in any particular category.

Detailed tasks:

Calculate escalator. 1 day

Issue compliance fee invoices.

t2e would issue Compliance Fee invoices to the relevant schemes which would show:

- The total evidence needed in each category.
- The price of that evidence
- The VAT on that evidence
- t2e's administrative fee
- VAT on t2e's administrative fee
- The escalator applied to that evidence
- The date payment required

t2e would act as an Agent for the purposes of collecting VAT, which would provide the maximum flexibility for the distribution of funds. The Settlement Date for t2e receiving cleared funds for these invoices would be 3 working days after the date of issue of these invoices.

Detailed tasks:

Calculate component parts of the Compliance Fee Invoice 1 day

Enter Component parts into single invoice 2 days

Distribute invoices as appropriate. 1 day

Receive funds for compliance fees.

As part of the participation agreement t2e would encourage all WEEE Compliance Schemes to set up Direct Debit facilities with t2e so that t2e could call the appropriate funds to arrive by the Settlement Date. Otherwise WEEE Schemes would be asked to arrange that funds are deposited into a bank account where, less the administration fees which would be deducted on final distribution of the funds, they would be ring fenced from t2e funds.

Detailed tasks:

Set up bank account to receive funds

Record receipt of funds

Issue compliance fee certificates.

Within 24 hours of receipt of cleared funds t2e would issue certificates to the relevant schemes stating the total quantity in tonnes and kilogrammes of each category on which a compliance fee had been paid.

Detailed tasks:

Issue Compliance Fee Certificates as necessary

Notify Agencies of compliance fee certificates issued.

The Agencies will be notified by 31 March of the total in tonnes and kilogrammes in each category of Compliance Fees that had been paid for by each scheme. No financial information would be supplied to the Agencies.

Detailed tasks:

Confirm to the Agencies information as necessary

**2 - Proposed methodology for the dispersal of funds**

It is proposed that all funds should be distributed electronically through on-line banking after the deduction of administration fees and VAT charged on those fees to:

1. those that had offered contracts that had collected a surplus to their needs. The total sum that would be allocated to each category per tonne would be the total evidence shortfall submitted by the WEEE Schemes in tonnes as appropriate multiplied by the evidence fee price per tonne as appropriate divided by the total surplus made available to be transferred through the reconciliation centre plus VAT as appropriate. In categories where kilogrammes are appropriate the calculation would be done in the same way per kilogramme.

Example calculation:

Total WEEE Compliance Fees requested in Category 1: 120 tonnes

Evidence Fee Calculated for Category 1: £10.00

Total of surplus contracts offered to reconciliation centre: 400 tonnes

Calculation:

Total funds for distribution:  $120 \times £10.00 = £1,200.00$

Distributed evidence fee per reconciliation tonne:  $£1,200.00/400 = £3.00$

To which VAT would be added. The fees would be distributed in response to a self-billing VAT invoice issued on behalf of the recipient by t2e.

2. the Distributer Takeback Scheme (DTS) or wherever else as decided/instructed.

Internally these would be tracked from moment of receipt to moment of dispatch through a cashbook database established for the WEEE account.

Provide evidence of the suitability of the proposed operator that will administer the Compliance Fee Process;

t2e will administer the Compliance Fee process. t2e has provided the UK's marketplace for Packaging Recovery Notes since 1998. A marketplace provides transaction, settlement (payment), dispute resolution and information services. In 2013, 1,006,642 tonnes of PRNs were settled through t2e in a total of 1,564 transactions with a total value of £22,083,862.20 to a total of 96 sellers. 31% of participants have Direct Debit facilities. 97% of those transactions were complete within 3 days of the agreed Settlement Date as required within the rules of t2e.

Each order placed on t2e is given a unique number as is each transaction once two orders match. Notifications are sent to all those who place orders confirming the price and volume and date of expiry of that order and on transaction this is confirmed to both counter-parties stating the quantity transacted the transaction price the trading fees and all relevant VAT as well as the Settlement Date.

All orders and transactions are recorded on a database through which they are processed in an auditable process from the moment of transaction to settlement, reconciliation with the bank accounts, delivery and final completion. All recipients of funds are notified not only of the funds that they will receive but also to which bank account it is transmitted.

All funds once received are placed into ring-fenced accounts until they are distributed. This settlement process is very similar to that proposed for the WEEE Compliance Fee.

### **3 - Proposed timetable for implementation and operation**

#### Show a clear process for staffing the proposals;

t2e has 10 employees 3 of which are employed on the PRN market, one in IT development and 2 in settlements. One of the PRN team will be deployed full time to this task throughout the period 16 February to 31 March otherwise these tasks will be allocated according to expertise concurrently with their normal daily tasks. A breakdown of their deployment to tasks is shown in the attached spreadsheet.

#### Show a clear process for developing and implementing the IT systems;

The IT developer will be re-allocated from other tasks as required.

#### Have appropriate contingency plans in place.

In the event that further employees are required to complete the tasks t2e will initially look to providing them from within its current employees and if necessary contract in further employees.

For IT t2e would use a 3<sup>rd</sup> party who currently provides network, hardware and software support. This 3<sup>rd</sup> party contractor is also responsible for providing an alternate location and recovery in the event of a disaster to either the office or the hard or software.

In the event of bank failure, t2e already has in place agreements which ring fence funds in the event of bank failure and if there is an IT failure then the bank can and has in the past authorised both collections and payments.

### **4 – Experience of proposer and proposed operator**

As a minimum, proposals should cover the following key areas. Proposers and proposed operators should demonstrate:

#### A proven track record of financial probity combined with practical experience of working in a regulatory environment,

As stated earlier t2e has been in operation for 16 years and relies on its financial probity and confidentiality to sustain its credibility with its 453 participants, some of whom run WEEE as well as PRN Compliance Schemes.

#### A clear strategy for identifying and effectively mitigating risks arising as a result of any conflicts of interest

t2e does not identify any conflicts of interest between its operation of the PRN marketplace and its administration of the WEEE Compliance Fee. Although there are companies that operate in both fields they are two completely different systems and should any dispute arise in one it would be dealt with separately in the other.

#### Experience of setting up systems to allow data to be submitted and processed effectively

See 5. Although it would be feasible to set up an online submission procedure and is a facility available for those who wish to enter orders interactively onto the t2e marketplace, it is recommended that initially data is provided manually on spreadsheets and transferred by t2e until the effectiveness of the methodology is validated and the cost of establishing an on-line facility justified. The lack of ability to submit data on-line should not increase the time for compliance schemes solely for the Compliance Fee administrator and this has been factored into the time available.

#### Experience of developing robust proposals for Government

While t2e has not been directly involved in developing proposals for Government, Angus Macpherson, its Managing Director, has been involved with the development of the PRN system since its inception in 1997 and has contributed to the development of other

Producer Responsibility regimes as well as the ROC scheme and was a founder member of the Emissions Trading Group.

## **5 - IT systems**

As a minimum, proposals should cover the following key areas. Proposals should demonstrate:

### Appropriate IT systems

t2e has developed and maintains its own bespoke databases to deliver marketplaces for PRNs, Recovered Paper and historically WEEE Recovery Notes. It has the in-house capability to both develop new marketplaces and create appropriate software to administrate the WEEE Compliance Fee. Nevertheless at this stage it recommends that little development is needed on grounds of both cost and time availability and would propose to convert the system developed for its settlement process for its PRN marketplace to administer the finances of the WEEE Compliance Fee and a relatively unsophisticated spreadsheet to calculate the evidence and administration fees, VAT and the proposed escalator.

### Appropriate IT backup systems

IT back-up has been described earlier in 3.

### Appropriate IT support

As described in 3.

### Cost of Operation of the administration of the WEEE Compliance Fee administration

It is anticipated that there are fixed and variables elements of operating the administration of the WEEE Compliance Fee. The fixed element is split into three parts:

1. Setting up the WEEE Compliance Fee administration – a one-off cost.
2. Identify if the WEEE Compliance Fee is required.
3. Compiling and analysing the WEEE Compliance Fee – for consistency this will need to remain the same regardless of the number of WEEE Compliance Schemes that require to use the service.

While the variable element depends on the number of WEEE Compliance Schemes that require the service and the number of destinations to which the funds will be distributed.

Estimated fixed costs are as follows:

- Phase 1:      £7,250 – This could increase depending on the need for any IT development
- Phase 2:      £250
- Phase 3:      £3,500 – This could increase depending on the complexity of the calculation and the willingness of the WEEE Compliance Schemes and AATFs to assist

Estimated variable costs are as follows:

- £1,250 –      This could increase depending on the complexity of the distribution of funds and any disputes raised by WEEE Compliance Schemes of the funds invoiced.

These costs do not include the costs of setting up and operating the WEEE Contracts Reconciliation Centre.