



Department
for Business
Innovation & Skills

Department for Business, Innovation
and Skills,

1 Victoria Street,

London, SW1H 0ET

Date: 12 February 2016

Re: Feedback on the JTA proposal for a WEEE compliance fee.

Please find attached feedback on your proposal for the WEEE compliance fee. I hope you find the feedback below useful and it helps you to strengthen future proposals.

Yours sincerely

BIS WEEE Team

Feedback

BIS measured each proposal against the published evaluation criteria and award a score for each of the five broad areas in line with the following descriptors:

0 - Unacceptable - Nil or inadequate response. Fails to demonstrate an ability to meet the requirement

1 - Poor - Response is partially relevant and poor. The response addresses some elements of the requirement but contains insufficient/limited detail or explanation to demonstrate how the requirement will be fulfilled

2 - Acceptable - Response is relevant and acceptable. The response demonstrates a broad understanding of the requirement but may lack details on how the requirement will be fulfilled in certain areas

3 - Good - Response is relevant and good. The response demonstrates a good understanding of the requirement and provides sufficient details on how the requirement will be fulfilled

4 - Excellent - Response is relevant and excellent overall. The response is comprehensive, unambiguous and demonstrates a thorough understanding of the requirement and provides details of how the requirement will be met in full.

The mark for each question was multiplied by the relevant weighting and all weighted marks added together to give a final score. Out of a maximum score of 72 marks, your proposal scored 60.

1 - Proposed methodology for the calculation of the fee.

Weighting 5 = 20 marks available

Your score (0-4) – 3

Your weighted score (x5) - 15

The 2013 WEEE regulations have been introduced to address a serious failing in the old system, where large economic rents could be gained from over collection by PCSs selling their excess evidence to PCSs who had not met their collection obligations.

The panel agreed that the proposal does clearly and thoroughly set out a methodology for calculation of a compliance fee which encourages schemes to take reasonable steps to meet their collection target. The fee is based on an estimate of the marginal cost of collection combined with an escalator. Some responses to the consultation were concerned that the escalator did not increase quickly enough and would not sufficiently incentivise collection over payment of the fee.

Evidence and information suggests the market is in a period of transition, in which a rebalancing of WEEE collections to more closely match individual PCS collection targets is taking place. This process

is ongoing as many PCSs hold long-term contracts with local authorities to collect their WEEE. As a result, previous over-collectors are still likely to be in a position to over-collect.

The panel recognised that setting the escalator based on a PCS's own percentage shortfall results in a higher compliance fee paid by a smaller PCS than a larger PCS where the actual tonnage shortfall was the same. For example, a 1,000 tonne shortfall would be a bigger percentage and therefore a high cost for a PCS with say a 2,000 tonne target than a PCS with a 50,000 tonne target

The panel felt applying an escalator based on a percentage of a PCS's own target as opposed to the national target ensures that any fee is not unduly punitive for large obligation PCSs during this period of adjustment.

Overall, the panel agreed that the methodology was well developed and justified, also demonstrating consideration of a range of alternatives. Reasonable clarity has been provided to justify the selection of the proposed methodology. However, the panel had some small concerns about the specifics of the methodology, and also made a general observation that the proposal did not maximise the opportunity to further improve their current approved methodology or build on suggestions arising from the independent evaluation.

Specific concerns raised by the panel included:

- A lack of clear rationale for the new administrative fee being applied to only those with 10% shortfall and above.
- Concern that the administrative fee disproportionately affects smaller shortfalls and this might have greater effect on smaller schemes.
- Although the panel broadly agreed with the exclusion of overhead costs e.g. human resources and office rent in the calculation of the incremental cost of WEEE collection (and therefore calculation of the baseline compliance fee), the panel observed that there may be some small incremental overhead costs (e.g. staffing) associated with increased WEEE collection, particularly where significant shortfalls in WEEE collections occur.

Some consultation respondents were concerned that only PCSs wanting to use the fee were required to submit data. The panel believe that this is adequately addressed by independent audit of the submitted data. The audit also addresses concerns from the panel that PCSs who have no need to use the fee may have perverse incentives to submit high cost data should submission have been necessary.

The panel agreed that the proposal met the requirement to be stream specific.

In a change from the previous year's proposal, there is no guaranteed zero-fee for LDA. This change was welcomed by the panel. This element of the proposal takes into account significant changes to prices paid for light iron over the past year. It was also acknowledged that the proposed methodology would be applied equally to all streams in the same way and if any streams had a net value this would form part of the calculation methodology.

The methodology sets out a provision for streams which data submitted shows a net-revenue (rather than a net cost) for a zero fee to apply. It also sets out a provision for the scenario in which none of those schemes in shortfall of any given stream have any cost data to submit due to zero collections.

A clear economic analysis on the 2016 proposal, carried out by an independent economic consultancy, has been provided to support the methodology. The panel felt that this analysis demonstrated a good understanding of the policy context.

The panel noted that much of the stakeholder consultation used to support the 2015 proposal was derived from the previous stakeholder consultation for the 2014 proposal. The proposal could have been improved by reviewing this aspect.

2 - Proposed administration of the fee.

Weighting 3 = 12 marks available

Your score (0-4) – 3

Your weighted score (x3) - 9

The proposal clearly addresses how the overhead costs of calculating, setting up and administering the compliance fee mechanism and disbursement of funds will be met. The proposal also includes sound contingencies for a situation of minimal or zero up take amongst PCSs by stating that any costs not met through the fee would be met by JTAC.

The panel noted the positive action of reviewing the current methodology and its implementation. The panel would have liked to have seen a summary of the findings and a link through to the changes for the 2016 proposal. Good that the previous year's mechanism has been reviewed though the results have not been made explicit. A good mechanism for PCSs to submit information is described and there is a sound rationale for addressing anomalies.

Clear and appropriate governance arrangements have been described in the proposal and this gave the panel a good level of assurance that commercial confidentiality will be maintained.

The environment agencies are satisfied that the proposal does not place additional burden on them and they were also content with the mechanism for ensuring they receive necessary evidence that an appropriate compliance fee has been paid by PCSs. This process is the same as used for the previous period.

Competition law is adequately addressed in the annex and the panel is satisfied that the contingency plans appear appropriate.

3 - Proposed methodology for the dispersal of funds

Weighting 4 = 16 marks available

Your score (0-4) – 3

Your weighted score (x4) - 12

The proposal clearly describes how the compliance fee fund will be utilised and monies disbursed. In case of low uptake and minimal levels of funds being available the proposal states they will either work with DTS or enter discussions with BIS on what to do.

An appropriate validation process has been described that shows how the funds have contributed to higher levels of collection, recycling and re-use of WEEE and/or wider obligations in the WEEE Directive.

The governance arrangements for the receipt and disbursement of any compliance fees paid have been clearly set out and satisfactory evidence has been provided of the suitability of the proposed operator.

4 - Proposed timetable for implementation and operation

Weighting 3 = 12 marks available

Your score (0-4) – 4

Your weighted score (x3) - 12

The panel agreed that the proposal provides an excellent plan that clearly shows staffing and IT proposals, a clear understanding of project dependencies and is designed utilising sound project management principles. Contingencies are described and appear sound.

5 – Experience of proposer and proposed operator

Weighting 2 = 8 marks available

Your score (0-4) – 4

Your weighted score (x2) – 8

A good track record of financial probity combined with practical experience of working in a regulatory environment is shown in the proposal for both the proposer and the administrator.

The proposal demonstrates a clear understanding of risk and the proposal shows a clear strategy for managing risk and taking appropriate mitigating action.

The proposer has extensive experience of working with government. Mazars has limited experience in this particular context, however the panel felt good evidence (and therefore reassurance) was given through excellent examples of broader experience.

6 - IT systems

Weighting 1 = 4 marks available

Your score (0-4) – 4

Your weighted score (x1) – 4

Information provided in the proposal shows there is a robust IT system with appropriate support using an ISO control system to protect data. This gives the panel a good level of reassurance that commercially sensitive data will be secure.