

OUTCOME OF PUBLIC CONSULTATION

PRIOR TO MAKING OF THE

WASTE MANAGEMENT (BATTERIES AND ACCUMULATORS) REGULATIONS
2008 (S.I. No 268 of 2008)

Submissions were received from: -

Boots
 BWG (Spar / Mace)
 Catering Equipment Association
 Competition Authority
 Department of Agriculture, Fisheries and Food
 Department of An Taoiseach
 Department of Defence
 Department of Enterprise Trade and Employment
 Department of Health and Children
 ENVA
 EPA
 EUROBAT
 GP Batteries (UK) Ltd
 Home Retail Group
 IBEC
 ICT Ireland
 Irish Jewellers Association
 Irish Waste Management Association (IWMA)
 ISME
 KMK Metals Recycling Ltd
 Proctor and Gamble
 Retail Ireland
 RGDATA
 The Recycling Village
 WEEE Ireland

A summary of submissions received in respect of key issues and specific articles in the draft Regulations published for public consultation are set out hereunder.

Welcome and Support for the Directive

Comments	Sector
Supports the aim of the Government to ensure the environmentally sound management of waste	Representative Body
Supports the principle aim of the Battery Directive and implementing Regulations, to provide for the environmentally sound management of waste batteries.	Representative Body
Supportive of policies that promote recycling of waste	Representative Body
Welcomes the publication of the draft regulations for the transposition and implementation of the EU Directives on Batteries and Accumulators and Waste Batteries and Accumulators (206/66/EC) and the associated public consultation process.	Representative Body

Supports the objectives of these Directives and will co-operate with the Department of the Environment, Heritage and Local Government to devise a workable set of regulations and to ensure their successful implementation.	
The proposals contained in the Draft Waste Management (Batteries and Accumulators) Regulations 2008 are generally welcomed	Representative Body
Supports the process to facilitate the collection, treatment, recovery and disposal of waste batteries and accumulators in an environmentally sound manner.	Waste Management Operator
Welcomes the publication of draft regulations at this early stage	Representative Body

Economic Instruments

Comments	Sector
The Directive has stated (Article 21) that “ <i>economic instruments, such as differential tax rates</i> ”, can be used, however the Regulations have not referred to such incentives to transpose the objectives of the Directive. Suggested that in the case of the small/medium sized distributor (the corner shop, jeweller etc.) that such incentives are put in place.	Waste Management Operator

Synergies with WEEE Systems

Comments	Sector
Supports for the regulations as they allow existing WEEE structures to meet battery reporting requirements, but also provide for new structures to be established.	Representative Body
These draft Regulations considered to be the first stage in an on-going consultation process to achieve compliance at reasonable cost to industry.	Representative Body
That the WEEE registrar be appointed to handle all matters relating to the Battery Directive, as they have the knowledge, staff and reporting facilities and several years of experience.	Representative Body
<p>The obligation for producers to register under Article 17 of the draft Battery regulations should be aligned with the similar registration obligation under the Waste Electrical and Electronic Equipment (WEEE) regulations.</p> <p>The aim is to minimise administrative costs, meet national ‘better regulation’ objectives and achieve synergies. WEEE Register is familiar with the collective schemes while scrupulously and demonstrably independent of them.</p> <p>WEEE Register is responsible for the successful confidential collation of data under the WEEE regulations via the ‘black box’ arrangement. It is recommended that the ‘black box’ infrastructure, appropriately modified, be used to collect data required under the Battery regulations.</p> <p>In a similar spirit we suggest that the one registration with WEEE Register cover the producer obligation to register under both the Battery and WEEE regulations for producers liable under both sets of regulations. There is a very large overlap between producers under</p>	Representative Body

<p>both regulations. Battery only producers would of course have to register for the first time.</p> <p>It would also greatly simplify the obligations under Article 21 of retailers who are distributors but not producers to ensure that their producers are registered.</p>	
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Market Issues

Comments	Sector
Some obligations placed on producer require further guidance from Europe. In particular, industry has concerns regarding the implementation of labelling and removability requirements.	Representative Body
Regulations must not impose additional requirements on Irish operators and place them at a disadvantage to similar operations in other member states. The draft Regulations should provide for the implementation at a future date of European guidance on issues such as labelling and removability. Industry will continue to engage on this issue at European level and will support further consultation with the Department and relevant agencies.	Representative Body
While the Directive provides for the application of de minimis rules to small producers under certain circumstances, the draft Regulations make no such provisions. The Irish regulations should exercise this option in recognition of the disproportionate impact on smaller producers.	Representative Body
All traders of portable batteries should be registered in some form or other and certificates should show whether they are retailer, distributor or producer and such certificates should be visible in all trading outlets. Outlets to be required to buy batteries only from licensed producers.	Representative Body
Where batteries are imported into the State from outside of the EU, and require Customs Clearance, the importer, as well as having to supply his VAT Number and TAN number for Customs Clearance, will also be required to supply his Registration Number under the Battery WEEE Regulations. Otherwise the import will not be permitted.	Representative Body
Where batteries are imported into the State from within the EU, as there is no customs clearance involved, it will be the responsibility of the transport company involved in the movement of the consignment, to ensure that both the shipper and the importer are correctly registered under the WEEE regulations, in the exporting and importing countries	Representative Body
Distributors who supply the retail trade should be licensed and be required to recycle like batteries from retailers free of charge and arrange storage in their distribution warehouse. Their staff and vehicles would automatically be licensed to carry batteries in either direction.	Representative Body

Article 3 – Interpretation of Regulations

Comments	Sector
Definition of “placing on the market” incorrect as related to “placing on the market in THE member state and not the AN EU member state”	Battery Manufacturer
Confirmation is requested whether it is planned to adopt the same definition for <i>placing on the market</i> as for WEEE i.e. as long it arrived	Representative Body

in the EU by 26/9/2008 it will be considered as placed on the market, or will there be a different interpretation	
Feedback from Battery Producers shows they already find the definitions – Portable, Industrial and Automotive confusing due to the dual use nature of many batteries. Better definition, clear categorisation and additional written guidance from the Department following consultation with the industry is required.	Representative Body
Any premises where industrial batteries or, as appropriate, accumulators are used is defined as a collection point, the effect of which is that producers will have to possibly organise, and certainly finance, the reverse logistics to fetch any industrial battery at the industrial end user premise and deliver it to a recycling facility and substantially exceeds the obligations placed on producers of industrial batteries by the Directive.	Representative Body
Remove where possible any restrictions on the number of collection points. To meet the collection targets of the directive a flexible system of collection points must be achieved.	Waste Management Operator

Article 4 – Scope

Comments	Sector
There should be alignment between the WEEE and Batteries Directives where electrical equipment that is out of scope of the WEEE directive and contains batteries is also out of scope for registration under the batteries regulations, as it is not the electrical components, but rather the finished article that is put on the market and if containing batteries, it should be registered as the end article under both WEEE and batteries legislation.	Representative Body

Article 5 – Prohibition of Specified Hazardous Substances

Comments	Sector
The prohibition on distributors from distributing non-compliant batteries exceeds the requirements of the Directive. If non-compliant batteries have already been placed on the market by 26 September 2008, distributors should be able to distribute them i.e. provide them to an end-user.	Producer
Article 5 defines the maximum thresholds allowable for Cadmium and Mercury. However, heavy metal thresholds relating to motor vehicles and their components are already covered under the Fourth Schedule of the End of Life Regulation. In order to avoid conflicting regulations, it is recommended that motor vehicle batteries should be removed from this Article, and instead continued to be covered under the end of life regulation.	Representative Body
Guidance is needed in advance of the implementation date regarding the interpretation of 'placed on the market'. Written confirmation that battery stock imported or manufactured in Europe prior to the implementation date is not subject to the material prohibitions, is required to be circulated among the industry.	Representative Body

Article 6 – Exemptions

Comments	Sector
<p>The exemption from the prohibition applicable for:</p> <p>(a) emergency and alarm systems, including emergency lighting;</p> <p>(b) medical equipment;</p> <p>(c) cordless power tools.</p> <p>is applicable only to batteries and accumulators containing greater than 0.002% cadmium, not for batteries containing greater than 0.0005% mercury. The draft does not reflect this difference.</p>	Producer

Article 7 – Duty to Inform the Agency

Comments	Sector
That records of certification and laboratory testing are maintained	State Body
That the EPA may request the manner and timeframe of any information that is to be submitted	State Body

Article 8 – Functions of the Board

Comments	Sector
<p>The power to recall non-compliant batteries from end users is excessive. Recall from end-users should be exclusively reserved for serious safety matters. We would not wish to see the mechanism of recall from end-users being devalued by its use for other less serious matters.</p>	Producer
<p>The board of the EPA has been sanctioned to decide on what batteries will be allowed to be sold in the market place. This will be an onerous task for the approval of the mainstream batteries in the market place, not even considering the smaller producers.</p> <p>According to a survey conducted by the UK Partnership Group, WRAP (Waste & Resources Action Programme), there are <u>at least 695 brands</u> of batteries in the current UK market place. This number, we would expect would be similar in Ireland.</p> <p>We would therefore like some assurance that the board will be able to cope with the validation of all these brands. Our experience in the WEEE and waste battery market has taught us that there are considerable amounts of counter-fit and black-market batteries being used in the market place.</p> <p>The restriction or delay in the validation of battery brands may cause an issue with the rules of free trade (as stipulated in Article 26 of the Directive) and force the smaller battery produce into the black-market. The ambitious targets set out in the Regulations, will require a strategic approach to the branding and documentation of batteries throughout the market place.</p>	Waste Management Operator

Article 9 – Procedure in Relation to Directions of the Board

Comments	Sector
The provision to allow a direction to be issued before the relevant person has had an opportunity to submit his or her views seems	Producer

<p>unnecessary. A non-compliant battery or accumulator does not present an immediate life-threatening safety risk and there should be no need for immediate action. Also, the publication of a direction in the national press could be extremely damaging to the reputation of the person involved and should not be done until that person has had the opportunity to comment.</p> <p>The adoption of such measures undermines and dilutes the effectiveness of the process for withdrawal and recall of products on serious safety grounds.</p> <p>Press announcements and immediate action should be exclusively reserved for safety concerns.</p> <p>The requirement for the person to whom a direction has been issued to publish an announcement in national newspapers is excessive.</p> <p>The environmental cost alone of printing half or full pages in three publications is contrary to the objective of the regulations i.e. to reduce the environmental impact of these products.</p>	
<p>Requires that the EPA publish any 'directions' issued by it in at least 3 national newspapers in addition to delivering the direction to the person. 'Direction' is not defined in the regulation and can be inferred from Article 8 to refer to either a prohibition or a withdrawal.</p> <p>However, with no definition it is possible for the EPA to publish any so called direction.</p>	Representative Body
<p>The size of the notice is excessive (1 full page of a tabloid) as per 9 (6) (b).</p>	Representative Body

Article 10 – Appeals Against Directions of the Board

Comments	Sector
None	

Article 11 - Injunctions

Comments	Sector
None	

Article 12 – Establishment of a Registration Body

Comments	Sector
<p>Whereas the Regulations do not specify who will run the registration system its operation by the WEEE Register Society and Blackbox would be welcomed as it should simplify the administration of the system.</p> <p>Concerns that the annual fees for the WEEE Register Society will increase. As the number of companies falling under the scope of the WEEE directive has exceeded expectations, the annual fees should at this stage be</p>	Representative Body

reducing. A system, which has low and decreasing costs associated with it, will encourage greater compliance across all industry; increasing costs will have the opposite effect.	
A registration body should have as part of its committee of management representatives from the industry and those staff interacting with Producers should include person or persons with technical knowledge and qualifications relating to the Battery Industry. Any decisions made by the Registration body regarding categorisation, scope and other technical issues should be made in consultation with the industry and ongoing written guidance circulated to Producers and approved bodies regarding same.	Representative Body
The draft Regulations, will allow the Minister to approve the establishment of a registration body and to specify the powers vested in it. It is not clear from the draft Regulations what kind of registration body (or bodies) would be established, how accountable it/they would be and to whom. Concerned by the absence of provisions guaranteeing that the body will make its decisions in an independent, transparent, nondiscriminatory and proportionate fashion. Such provisions are especially necessary if the Registration Body is to emanate from industry, as, typically, such a body has more incentive and potential to discriminate against new entrants to the market. Procedures to appeal against the decisions of the registration body should be considered.	State Body

Article 13 – Grant or Refusal of Approval

Comments	Sector
None	

Article 14 – Review and Revocation of Approval

Comments	Sector
Procedures to appeal against the decisions of the registration body should be considered as an industry based Registration Body would have more incentive and potential to discriminate against new entrants to the market.	State Body
<p>The conditions allowing the Minister to –</p> <ul style="list-style-type: none"> • review an approval granted or issue a revised approval, • vary any condition attaching to the approval or attach any additional conditions that are considered appropriate <p>have the potential to increase the costs of providing waste management services.</p> <p>To ensure that any such additional costs are minimised and proportionate to the policy objective, it is suggested that any such proposal be subjected to a regulatory impact analysis. Such an analysis should involve a public consultation that goes beyond merely consulting the body whose approval is being reviewed. Any interested party should be able to respond to the consultation.</p>	State Body

Article 15 – Functions of the Registration Body

Comments	Sector
None	

Article 16 – Powers of the Registration Body

Comments	Sector
There is no mechanism that will enable us to have knowledge of the amount of waste batteries that arise from batteries placed on the market by us.	Producer
Similar provisions in the WEEE regulations, to prohibit the disclosure of any information which might disclose the market share or quantity of waste attributed to any individual producer other than to the individual producer concerned, has been used by some WEEE compliance schemes to refuse disclosure to a producer the tonnage of waste recycled as a result of the funding provided by the producer to the scheme. Most producers actively pursue CSR initiatives including reporting their environmental efforts such as the tonnage of WEEE recycled as a result of funding provided. As such, the third party referred to in this article should not be prohibited from sharing a producer's market share or quantity of waste collected to any persons if mandated to do so by the individual producer. Concerns over confidentiality in other Member states have not resulted in producers being denied useful data for CSR and Environmental Reporting purposes.	Representative Body
<p>Welcomes the safeguards proposed to protect the commercial sensitivity of the information gathered by the Registration Body, as these are key in determining firms' strategy to compete in the market place.</p> <p>To ensure compliance with the prohibition, adequate penalties may need to be introduced in the case of 'transgressing' individuals employed by (or managing or directing) the body(ies) concerned.</p>	State Body
The Register is granted wide powers including the power to approve or reject applications of registration but does not specifically call out that the register has the power to prevent distance sellers registering who are not established in the Republic of Ireland. Given that the Register intends to exercise such powers, it would be appreciated if clarification on whether the Regulation requires the Register to admit Distance Sellers, who are not legally established within ROI and who are established within the EU, to the register. Any rules which would result in a Distance Sellers establishing a shell companies and/or other forms of legal establishments within the ROI would be a barrier to free trade, would disadvantage the people of Ireland, and would inadvertently create 'free riders'.	Representative Body
Producers of batteries that do not have a business address in the state but wish to register in Ireland as a Producer and take on full Producer responsibility should be allowed to do so.	Representative Body
<p>Ensure that additional costs should not be imposed for registration purposes. Those companies who are registered for WEEE should get the registration for free.</p> <p>Would also ask DEHLG to ensure that the battery registration number is the same as the current WEEE registration for companies.</p>	Representative Body

<p>Minimal or no registration fees should be charged to smaller Producers. The current level of registration fees charged to Producers of WEEE per year by the WEEE Register Society begins at €250.00.</p> <p>Do not wish to see a <i>de minimus</i> threshold for battery Producer registration and agrees with a requirement for all Producers to register; this amount is unreasonable for Producers importing limited amounts of EEE/batteries - perhaps only one product line - and encourages non compliance among smaller Producers.</p> <p>Believes reducing fee thresholds encourages more registrations and urges the thresholds for registration fees for both EEE and battery Producers be set at lower levels than currently applicable for EEE.</p>	Representative Body
<p>If the existing Registration body for WEEE is to be involved with Battery registration Producers of both types of products should not have to pay double the rate of fees and relevant discounts should be applied.</p> <p>Producers of WEEE renewed their registration with the WEEE Register Society on or before 31st January 2007. Those Producers who also have a battery obligation should not be required to pay registration fees for battery registration in July/August 2008 and pay registration fees again for WEEE in January 2009.</p>	Representative Body
<p>That “waste attributable” be replaced by “waste batteries attributable”.</p>	State Body

Article 17 – Obligation of Producers to Register with the Registration Body

Comments	Sector
<p>Producers responsibility should lie with those who originate batteries and accumulators on the Irish market.</p>	Representative Body
<p>Welcome for the obligation on trade show organisers to ensure that exhibitors meet their distributor / producer obligations.</p> <p>Ideally there would also be a provision in these Regulations that a stand could be closed down if the company exhibiting is non-compliant.</p>	State Body
<p>The transfer of the producer responsibility to organisers of tradeshows / exhibitions where batteries are being distributed by unregistered producers is unreasonable as</p> <p>a. Trade shows and trade show organisers are in the business of promoting their industry and generating additional economic activity. It is envisaged that additional measures such as those proposed in the Regulations, will create additional costs from a management and resource perspective and would discourage trade show participation and increase the costs associated with them to the organisers.</p> <p>b. It is the remit of the Environmental Protection Agency (EPA) to monitor the companies whose products fall under the Batteries Directive and therefore should not pass on the obligation to the organisers of trade fairs, who may not have the resources to carry out this process and cannot ultimately control exhibitors’ legislative obligations. Exhibitors could potentially supply misleading information,</p>	Representative Body

<p>with the result that the trade show organiser could be prosecuted. (Not the exhibitor).</p> <p>c. By transferring the producer obligation to the organiser of a trade show, this provision goes against the principle of Producer Responsibility which has always been the cornerstone of previous legislation, such as; WEEE (where it is absolutely clear who the producer is). This introduces a grey area into the legislation, which is open to exploitation.</p> <p>d. This provision could potentially allow a producer who is attempting to evade their responsibilities to intentionally pass on their responsibility to trade show organisers. (By supplying false information to the trade show organiser).</p>	
<p>Draft Regulations extend obligations beyond those groups as identified by the Directive, in particular, the role of all economic players in the area of enforcement. For example, the draft regulations require event organisers to ensure they only deal with registered companies only.</p>	<p>Representative Body</p>
<p>The focus of the Regulations on the establishing a registration body is procedural based and omits any reference to the promotion of industry based bodies to establish an independent registration body. We feel that in order to promote a transparent and fair system and to fulfil all the objective of the Regulations/Directive, industry based knowledge should be promoted and the producers and market suppliers should be encouraged to establish their own independent registered body or compliance scheme. This would service to further regulate the producers and create a "cradle-to-grave" responsibility and promote the internal regulation of battery use and technological improvement.</p>	<p>Waste Management Operator</p>
<p>There is an obligation for battery producers to display their registration number on invoices etc. Producers of 'eee' have a similar requirement. Suggested that producers of 'eee' and batteries be exempt from this requirement providing they display their 'eee' registration number.</p>	<p>Producer</p>
<p>Suggested that producers be prohibited from displaying their registration number unless they are validly registered (i.e. they have a registration number and a Certificate of Registration as per Article 19(2) as retailers will be misled by an unregistered producer displaying a registration number.</p>	<p>State Body</p>
<p>Article 17 requires producers to display their registration number on every invoice, credit note, dispatch or delivery docket issued. Suggested that the one registration number be used to register a producer under both sets of regulations. Existing producers under the WEEE regulations would thus be able to use their existing WEEE registration number and avoid the need to print new versions of their invoices, credit notes, dispatch or delivery dockets.</p>	<p>Representative Body</p>
<p>The same Registration number for Producers of WEEE and/or batteries should be used however thought must be given on how to ensure Producers of WEEE do not 'free ride' using this system if they have not fulfilled their battery compliance obligations.</p>	<p>Representative Body</p>
<p>Ensure that additional costs should not be imposed for registration purposes. Those companies who are registered for WEEE should get the registration for free.</p> <p>Would also ask DEHLG to ensure that the battery registration number is the same as the current WEEE registration for companies.</p>	<p>Representative Body</p>

That registration involves a simple reporting solution i.e. quarterly, rather than the monthly reporting requirements which are currently imposed for WEEE.	Representative Body
Welcome for the requirement that couriers/logistics companies should ensure that producer they are transporting batteries for is validly registered, this has been an issue for WEEE enforcement, particularly of distance sellers based abroad who are not validly registered as producers, and are using Irish companies to deliver their product to householders.	State Body
While understanding that the goal of the requirement on hauliers to ensure that producers are registered is to be able to catch so-called <i>free riders</i> and companies operating from abroad; it will, however, also place additional burden on compliant producers. Would like to have some clarification on how the process will work and ensure that the burden for businesses is reduced to the minimum. For example, perhaps the battery registration number could be included on the shipment documentation.	Representative Body
Any person (Haulier, Courier) who transports goods including batteries or accumulators must ensure that the producer or manufacturer who is offering goods for market is a registered company in compliance with the regulations. This makes these companies, (Hauliers, couriers), responsible for the goods transported, which they have no hand in the production or manufacture of and is a bureaucratic burden on these companies (Hauliers, couriers), Placing this responsibility on these companies, (Hauliers, couriers), could open them up to liabilities further down the line and are therefore unjustified and should be dropped immediately.	Representative Body
Hauliers should not have responsibility to check if the goods they are carrying are from a registered producer. The concern is that regulatory compliance and enforcement is being pushed away from producers.	Representative Body
The Regulations refer to a date of 14 July 2008 for producers to “apply for registration”; whereas Art. 17.1 refers to a date of 1 August 2008. The relevance of the difference is not clear and should be clarified or amended. The dates by which producers have to register and also display the registration number on commercial documents are ambiguous. In consequence it is not at all clear how much time producers will have from the time of receiving their registration number to printing it on their commercial documents. We ask the Government ensure that adequate time is made available to producers to comply with this requirement.	Producer
Harmonising Producer registration requirements with other European Members States is required.	Representative Body

Article 18 – Application for Registration or Renewal of Registration

Comments	Sector
The requirement for estimates of projected average life is unclear. The life of a battery is heavily dependent on the way it is used. Do not see the benefit of collecting this information – capacity data and labelling is more relevant and will be mandatory from September 2009. Could “projected average life” be taken to mean shelf life?	Producer
Would have considerable difficulty in providing data on the	Producer

substantiated estimates of the projected life of batteries that we sold during 2007.	
<p>Providing “substantiated estimates of the projected average life of the batteries” is not a simple matter. As can be seen around 40% of the batteries purchased are discarded by consumers within 2 years, the remaining 60% take up to 15 years to appear in the waste stream. Reasons for this profile are multiple and include:</p> <ul style="list-style-type: none"> • Appliance in which the battery is used. Batteries in low power drain appliances such as clocks and door bells last several years, whereas in high drain appliances such as electronic games and cameras they last for a shorter period. • Consumer portable power requirements. Some consumers are heavy users of portable power and replace their batteries more frequently compared to others. <p>The hoarding effect. Studies in several parts of Europe have shown that consumers are reluctant to discard used batteries immediately but prefer to hoard them in the home pending a clearout at some future date.</p> <p>In view of these variables it is very difficult for the battery producer to know or estimate the average life of the batteries he places on the market. Consequently the data received by the Government would not be reliable for the purposes it has in mind. We would therefore ask the Government to reconsider asking for this information in favour of investigating some other way of getting the data it requires for the intended purpose.</p>	Producer
Article 18 requires that at the time of registration producers submit data on the number of batteries placed on the market in the year prior to registration and substantiated estimates of the projected average life of the batteries in each of the categories. Several economic stakeholders have attempted to collate such data in respect of 2006 and 2007 and have encountered major difficulties in arriving at substantiated estimates of the projected average life of the batteries in question. This is a separate problem from that caused by the fact that the categories of battery have not yet been defined by the European Commission. The regulations should allow for the fact that there may be genuine difficulties in deriving this information because IT systems are not configured to collate this information. A producer’s registration should not be invalid if the information cannot be provided, particularly in the first year of operation of the regulations.	Representative Body
Support for the provision enabling an approved collective scheme to submit an application for registration on behalf of a producer.	Representative Body
Trade associations should be able to register Producers on a group basis without negating the requirements for individual reporting etc.	Representative Body

Article 19 – Certification of Producers

Comments	Sector
If certification of Producers is to depend on evidence of self compliance or membership of an approved compliance scheme the application and approval system for compliance schemes will need to be determined prior to July 2008.	Representative Body

Article 20 – Distance Sellers

Comments	Sector
Support for a level playing field for both types of retail format (i.e. distance sales (e.g.. on line retailing, telesales and mailorder) and conventional ‘bricks and mortar’ operations) regarding their obligations under the Battery regulations as set out at Article 20 and 21.	Representative Body
Further details on how distance communication obligations will be policed are required. Developments at European level should also be considered.	Representative Body
Would appreciate some clarification as of the opinion that business should not have to report batteries sold abroad.	Representative Body

Article 21 – Distributor Responsibility

Comments	Sector
The establishment of a registration body for producers and the requirement upon retailers to ensure that all batteries they sell are sourced from registered and compliant producers should provide for accountability and efficiency in terms of the prevention of disposal or incineration of batteries and accumulators in landfill.	Representative Body
Clarification is needed as to whether customers can return <i>any</i> battery to a distributor or whether there is a restriction according to the type sold by the distributor.	Retailer
Additional clarification of the term ‘equivalent’ is requested to remove any possible doubt that there is an obligation to accept batteries other than of a type sold by the distributor. This is particularly significant in situations involving a product incorporating a battery that cannot be readily removed. A distributor should only be obliged to accept such a product if he sells equivalent products and not merely equivalent batteries.	Representative Body
The takeback obligation should only apply to members of the public in their capacity as private citizens and should expressly exclude individuals acting in the course of their trade or profession. This is of particular relevance where commercial volumes of batteries are involved.	Representative Body
A limit on the amount of batteries an end user can bring back to any retail outlet at one time is requested by some Retailers. A limit relating to the <i>“equivalent type and applicable quantities sold”</i> is suggested.	Representative Body
While having no issue with the requirement for retailers to take back waste batteries, doubt that retail take-back alone will be sufficient to meet the collection target of 25% by 2012 and 40% by 2016. Retailer’s own research suggests that consumers require convenient disposal, preferably by means of doorstep collection linked to the collection of normal domestic waste. Batteries are seen by consumers as being small and insignificant with little recycling value so they will continue to dispose of them in normal waste unless the alternative is equally convenient. Retail take-back will not be the option of choice because many consumers buy batteries for stock so there is no connection between purchase and disposal. The expression “equivalent type” should be defined. Assume this to	Retailer

<p>mean no more than portable, industrial or automotive but would not expect a distributor to be able to decline to take back a certain type of obscure portable battery because they didn't stock that type.</p>	
<p>No objection in principle to the distributor responsibility imposed on them by the draft regulations. Acknowledge that the take-back obligation on a retailer under the draft regulations applies only to batteries or accumulators that are of an <i>equivalent type</i> as the batteries supplied by him or her.</p> <p>Concerned, however, that disproportionate obligations will be placed on retailers if they are required to take back the "own-brand" batteries of other retailers.</p> <p>As the draft regulations currently read, an individual retailer would not be able to return "own-brand" waste batteries of other retailers to the distribution centre (e.g. a cash and carry) or supplier from which he or she purchases batteries.</p>	<p>Representative Body</p>
<p>It is extremely unfair that any person can deposit waste batteries and/or accumulators at the premises of any retailer without being obligated to purchase any product or products from the retailer concerned.</p> <p>Retailers should only have to accept waste on a one to one basis if a corresponding purchase of that product was made, similar to what exists with the WEEE Regulations.</p> <p>Suggested that the regulations be amended to take account of the following:</p> <ul style="list-style-type: none"> • The retailer should only have to accept back the type and brand of batteries that it stocks and sells and/or, • Retailers may refuse to accept back batteries that carry the brand of another retailer and in respect of which they cannot return to the producer. 	<p>Representative Body</p>
<p>Health and safety concerns in relation to shop receptors due to the fact that the consumer will see opportunities to dispose of product that may be leaking resulting in health and safety issue or become a food hygiene issue.</p> <p>Retailers in the food business have to work with regulations set down by the Food Safety Authority. Therefore the placement of battery receptors needs to be carefully thought out.</p>	<p>Retailer</p>
<p>Clarification should also be provided to the effect that there is no obligation to accept leaking or otherwise contaminated batteries from the public. This is significant because of retailers' obligations to employees and customers under health and safety and other legislation. It is also significant because of food retailers' obligations under food hygiene regulations.</p>	<p>Representative Body</p>
<p>Producers / Retailers have asked for consideration to be given to the condition of batteries being taken back in store and associated health and safety risks if batteries are damaged or contaminated in any way. Retailers have also raised concerns relating to collection of waste batteries in a food environment.</p>	<p>Representative Body</p>
<p>Discussion with the Food Safety Authority of Ireland (FSAI) is</p>	<p>Representative</p>

requested to ensure that they are aware of what is envisaged. The FSAI need to be asked to ensure that the Health Service Executive's Environmental Health Officers (who provide an enforcement service for the FSAI under a contract of service) adopt a consistent approach to this issue nationally.	Body
There appears to be some text missing from article 21(4)(b).	Retailer
Obligations of catalogue retailers to notify customers of battery disposal arrangements should be clarified. Will there be a requirement to notify customers both in store, and in catalogues	Retailer
The requirement to display notices for all products sold electronically will be very difficult for these companies and could prevent certain products being sold on the Irish market. Suggested that either the Regulations apply only to stand alone batteries or that certain information is made available once on the website, rather than for each product which has a battery incorporated.	Representative Body
Clarification on how the take-back elements would appreciate will apply, in practice, to those distance sellers located outside the State would be appreciated	Representative Body
Customer should be defined as the final end-user customer (please see suggested changes below). Otherwise, there will be unnecessary and very costly changes required for IT systems which serve distributor and retail customers.	Representative Body
Regulations should specify that all points of sale (of batteries etc.) must provide appropriate facilities for the collection of waste batteries, conveniently located within their stores.	Waste Management Operator
Insertion of "or, as appropriate" at the end of article 21(3)(a)	State Body

Article 22 – Disposal of Waste Batteries by Distributors

Comments	Sector
In the case of small retail outlets who cannot bulk store batteries due to space restrictions, they should be allowed through agreement be allowed to bulk them with a local CAS. The onus should be on the retailer to deliver them.	Representative Body
Agree fully with the Government's thinking in requiring retailers who sell batteries to provide a return service to their customers for waste batteries. A critical point to keep in mind in this regard is the mechanism by which the collected batteries are going to be retrieved by producer compliance schemes in an efficient and economical way. Art. 7 of the Directive, its overarching objective, requires Member States to have "regard for the environmental impact of transport" when taking "necessary measures to maximise the separate collection of waste batteries". We would therefore ask the Government to consider a de minimus in this regard and also the possibility for large retailers to use their reverse logistics systems to consolidate collected batteries in their stores at distribution centres. Producer compliance schemes could then pick-up collected batteries from these consolidation points. These two initiatives would help the Government to meet the Directive's overarching objective.	Producer
Products containing batteries and which have been returned by consumers as faulty or under warranty might be deemed or seen by distributors as falling under the prohibition on the transfer to any person waste of portable. The regulation needs to specify that products containing batteries which were returned by consumers may	Representative Body

freely be returned to the producer by the distributor.	
More information is needed regarding the date <u>28 March 2009</u> . What is the situation regarding distributors disposing batteries free of charge at CA sites after this date? Provided Distributors are registered with a central Distributor database they should be allowed use all Civic Amenity Sites for battery disposal free of charge.	Representative Body
Distributors must not be allowed transfer waste batteries to any person or persons other than the exceptions named in 22(1) (a)(i) or a CA site / designated collection point being serviced by approved bodies (collective compliance schemes). The paragraph following 22(4)(c) should be removed.	Representative Body
Query whether 'distribution centre' needs to be defined.	State Body
It would be useful to provide the trading name (if applicable) and the correspondence address if different from the registered office address (as this is sometimes a solicitor's office) and also a name and e-mail address for the principal contact for the report.	State Body

Article 23 – Financing the Take Back of Waste Batteries

Comments	Sector
There are two sub-articles with the reference 23(7)(a); it is presumed the second should be 23(7)(b).	Producers
The purpose of interim targets and the consequence of not meeting these targets should be clarified.	Representative Body
Interim collection target of 20% by 2010 is excessively challenging. See little point in setting targets that are almost certainly unachievable. We support the general concept of interim targets but would suggest a 10% target by 2010. We have no issue with 35% by 2014.	Producer
The draft Regulations contain additional collection targets to those contained in the Directive. These are not necessary. The ultimate goal is to reach those targets as detailed in the Directive and this is best achieved through on-going monitoring and contact between relevant parties.	Representative Body
The 20% target in 2010 is not a requirement from the directive. DEHLG is urged to reconsider this target, as it believes that it is unachievable. A target of 10 % or 15% by 2010 proposed as it would be considered to be more realistic.	Representative Body
Advise that the Government not include mandatory collection targets in addition to those noted in the Directive. Fully supports the Government's aim of making sure that the Directive's targets are met. Also agree that the Government needs to closely monitor progress towards the targets in order to take any corrective actions, if there is a need to do so, in advance of the 2012 deadline. Convinced that the monitoring and correction action objectives can be met without the use of a regulatory instrument by requiring producer compliance schemes to make annual reports to the Government on their performance. After all the Directive allows 4 years for the first target to be met and the Government would be well placed to require producer compliance schemes and other stakeholders to increase the collection effort if that were found to be necessary in experience.	Producer
Another reason why mandatory interim targets may not be helpful is that they may act as a disincentive to reaching the 2012 target in advance. Recommendation is therefore not to have interim targets	

noted in the regulations.	
The calculation of targets in respect industrial and automotive batteries based on sales is not viable as some batteries may have a lifespan of up to 15 years.	Representative Body
That proposed targets in respect of automotive / industrial batteries be reduced to read as follows – 26 September 2010, 75% 26 September 2012, 80% 26 September 2014, 85% 26 September 2016, 95%	Representative Body
The targets for automotive and industrial battery collection in the draft regulations differ from those in Directive <ul style="list-style-type: none"> o What reasons are given for placing such high targets on the automotive and industrial battery sector, significantly exceeding EU targets? o What background research and consultation was done before setting these targets in the draft regulations? o What evidence is there to show these targets are achievable? o What penalties will be applied and to whom if these targets are not met? 	Representative Body
The registration body is empowered to refuse registration when a producer has not achieved the collection and recycling/recovery targets laid down in Articles 23(7) and 28. These Articles contain earlier additional national targets in excess of those in the Directive. The first of these national targets is in 2010. Support for the objective of maximising the collection and recycling/recovery of batteries. In the final analysis this is dependent on consumer behaviour. Strongly recommended that the additional national targets for batteries at Articles 23(7) be used for monitoring purposes only and not be made a condition of registration. It would be unreasonable to penalise economic stakeholders where they are doing all in their power to facilitate collection and recycling/recovery but consumers are just not returning batteries in sufficient numbers.	Representative Body
Noted that Article 23(2) mirrors the provisions of the Directive when it prohibits producers or distributors from displaying the costs of the environmentally sound management of waste batteries.	Representative Body
Request that the Regulations allow for visible environmental management cost within the supply chain in order to allow for transparency within the system.	Representative Body
Whereas economic operators will facilitate the collection, transport, treatment and recycling of the batteries and accumulators as long as there is an excess value in the material over their costs of recovery; it would be prudent to ensure producers have the responsibility for meeting the relevant targets should material values (i.e. lead) fall below the costs of collection, transport and treatment of batteries. Thus producers would have to make up the difference in such a scenario.	Waste Management Operator
Why ban the disclosure of the collection and recycling fee in the supply chain as the directive only prohibits its display an end user as it is a useful instrument to show compliance with the directive.	Battery Manufacturer
The Directive and draft Regulations clearly states the no visible fee may be displayed to the end-user. Further clarification from the Department with regard to the displaying of visible fee at other stages	Representative Body

within the supply chain would be welcome and help address concerns raised among some producers.	
The introduction of visible fees for batteries at any point in the distribution chain should be resisted as they are difficult to administer and could result in customer resistance to a battery scheme.	Representative Body
Display of environmental management costs (EMC) must be allowed throughout the supply chain from Producers to Distributors.	Representative Body
Retailers are required to ensure that members of the public can return waste batteries and/or accumulators, provided they are a type provided by him or her. This will cause huge difficulties with regard to administration, traceability and the cost of transporting and storing additional product. Retailers are prohibited from charging for take back of products thereby increasing the actual cost per unit of their stock price. These costs will have to be passed on to the consumer. With electrical goods under the WEEE Directive, companies could at least charge the environment management costs to help alleviate the additional costs. A policy that allows producers and retailers to recoup an element of the cost should be facilitated.	Representative Body
Should be able to show a recycling charge on an invoice between producer and retailer, just not between retailer and consumer.	Representative Body
The Directive (Art. 16.4) prohibits “the costs of collection, treatment and recycling” from being shown to “end-users at the time of sale of new portable batteries and accumulators”. Art. 23.2 of the draft regulations goes beyond the Directive by preventing producers from recovering these costs from their retail customers in a manner agreeable to both parties. This places an unnecessary restriction on normal custom and practice within the commercial market. The Government is, therefore, asked to remove this restriction and allow producers and retailers to agree amongst themselves the method by which producers recover their additional costs from the distribution chain. This would not disturb the Directives requirement not to make visible this element of the price at the time of purchase to the end-user.	Producer
Portable batteries should be classified and charged according to their EC Customs Tariff Numbers.	Representative Body
Button cells should be exempt from charges as the annual importation is less than 4 tons of a total market for portable batteries of at least 8,000 tons. Silver oxide batteries are already being recycled and have done so for about 15 years. Alternatively, if button cells MUST be included in the scheme then a charge of 1c per button cell would bring in about €40,000. This money would be more than enough to pay for recycling all watch batteries and include a useful amount for publicity and collection costs also.	Representative Body
As there is already a recycling process in existence for a number of years, button cells should be exempt from charges as the annual importation is only approx 4 tonnes of a total market of at least 8,000 tonnes.	Representative Body
Recommended a financing system per unit of battery placed on the market based on substantiated EMCs according to battery type and chemistry (dependent on categorisation decisions), with the agreement of industry sectors, which can be shown through out the supply chain with the exclusion of the end user transaction.	Representative Body
Draft Regulations do not provide detailed information on an industry	Representative

commitment to a national public awareness campaign. Further clarification is required.	Body
Any public information campaign to be financed by Producers participating in approved compliance schemes should be managed by the appropriate scheme in consultation with stakeholders including regulatory bodies.	Representative Body
Under the regulations producers are expected to comply with requests from any local authority which requires the producers to collect batteries or accumulators from their community sites within 5 days. The time frame for compliance is too short, given the cost to business of use of company vehicles at short notice to transport waste, or paying companies to collect and dispose of it. There should be a schedule from notification to collection based on a period that is acceptable to both parties.	Representative Body
Five working days is not a suitable time frame for arranging uplift of waste batteries from CA sites, other collection points or applicable end users. 30 days is the recommended timeframe	Representative Body
Compliance schemes should not be required to pay costs to Local Authorities for environmentally sound management and other costs relating to waste batteries. Extending the time frame for uplift as mentioned above will negate this requirement.	Representative Body
Consideration to the increasing rate of rechargeable batteries being placed on the market along with the increase in life span of newer battery products when setting targets and calculating collection rates.	Representative Body
Where a Producer is not a member of an approved body (compliance scheme) and self complies with the Regulations the Producer in question must be required to have a financial bond in place to cover liability for waste battery collection and recovery relating to proportionate market share of his or her products.	Representative Body
Self compliant Producers must also be required to provide collection and recycling of batteries from around the country and not limited to any one area, they must also be required to meet the targets applicable to their battery type based on the amount placed on the market and the applicable recycling rate. They must also be required to fund public information campaigns where applicable.	Representative Body
For portable batteries, the directive requires in article 8(1) that <i>“Member States ensure that appropriate collection points are in place [with] accessible collection points in their vicinity”</i> . The directive further states in article 16(1)(a) that <i>“Member States ensure that producers finance any net costs arising from the collection treatment and recycling of all waste portable batteries collected in accordance with article 8 (...)”</i> . Clearly this financing obligation does not start at the consumer’s home.	Representative Body
There is an obligation to collect (at the industrial end-user location), within 5 days. This is not in line with the collection milk routes operated by logistical waste haulers and collectors. Requiring such a short time span would make these milk routes much less dense and increase transportation costs significantly. Furthermore, in the case of industrial batteries, the replacement of a used battery by a new one can happen several months after the order for the replacement battery has been placed.	Representative Body
It is not stated to whom the producer needs to demonstrate to; if transferring in whole or in part the business to another person, to	State Body

whom the business is being transferred to is competent / in agreement to meet the all producer obligations.	
It would be useful to provide the trading name (if applicable) and the correspondence address if different from the registered office address (as this is sometimes a solicitor's office) and also a name and e-mail address for the principal contact for the report.	State Body

Article 24 – Alternative Financing Arrangements

Comments	Sector
Producers and users of industrial and automotive batteries and accumulators may conclude agreements stipulating financing arrangements. From the wording of these articles, Member States can either choose to leave industrial end users and producers enter into contractual agreements to allocate obligations and ensuing costs between themselves, or can decide on an appropriate collection point network structure and density.	Representative Body
That end users taking on producer obligations be inform of those obligations in writing.	State Body
In order to assistance in enforcement, suggested that endusers availing of alternative financial arrangements be obliged to supply information to the producer on how they met their obligations under Articles 27 and 28 and make records available to the producer so that the producer can satisfy requirements of Article 29	State Body

Article 25 – Collection of Waste Batteries

Comments	Sector
<p>The Directive (Article 13) promotes collection schemes achieving a high collection rate by setting up different types of collection schemes and financial arrangements that are appropriate for the different battery and accumulator types. The Regulations concentrates on the regulator process and a “one-fits-all” approach for collection. We strongly urge that the Batteries Working Group set up a forum to create a more creative approach and are not governed by one process. Due to current lack of monetary value on the recovery of primary batteries, and the “pay-off” fashion of the collection of batteries, feared that the collection process will suffer. The suggested use of collection points at schools and local shops are not adequate and an invasive education programme needs to be launched. In accordance with the objectives of the Directive, such an education programme needs to be undertaken and marketed by the producer and distributors in Ireland, and not handed over to a third party.</p> <p>Research in the UK (WRAP) has proven that the use door-to-door collection methods is the most reliable method of collection of portable batteries, however high levels of contamination are also found with this method. The same survey states that of the subject population, 80% of respondents put their batteries in the black bin and 50% of the population surveyed believe that batteries in recycling schemes are sent to landfill anyway.</p> <p>The lack of motivation has to be acknowledged, and ways to education the general population have to be considered. Although the success of the implementation of the WEEE Directive in Ireland is noted, the</p>	Waste Management Operator

<p>behaviour of the general public in terms of knowledge of litter laws and compliancy towards backyard burning of waste, unfortunately demonstrates the need for aggressive education. Suggested that the treatment of waste is dealt with in a similar fashion as we deal with safety in the workplace (Safe Pass course etc).</p> <p>Also suggested that the availability of collection points be incorporated into the planning system and the collection of batteries (and other waste streams) become a condition of the planning infrastructure in a similar manner that connection to the power and wastewater treatment is considered.</p> <p>Other hubs of potential waste battery production are hospitals, hotels etc. Suggested that a critical analysis of battery producing hubs/centres is undertaken.</p> <p>The increasing use of the internet to purchase electrical good is difficult to monitor and further enforces the need for education on waste battery disposal.</p>	
<p>The collection system should be flexible and determined by the size of the retail trade carried out at the collection point.</p>	<p>Representative Body</p>
<p>In Ireland we have among the worst facilities to cater for recycling with only 86 civic amenity centres covering the whole Country. Many of these do not have the capacity to deal with the amount of recycled material anticipated. Consequently, our businesses will be at a competitive disadvantage and will be faced with additional costs because much of the recycling will have to be exported.</p> <p>There needs to be sufficient local authority funded centres for companies and consumers to utilise when disposing of the waste batteries and accumulators. Each local authority must have a selection of sites available to business and consumer to minimise the cost of collection and storage by companies.</p>	<p>Representative Body</p>
<p>Detailed procedures and provisions relating to the designation of workplaces and schools as collection points are required.</p>	<p>Representative Body</p>
<p>The designation of workplaces and schools as collection points will cause difficulties for businesses as it is currently written as they will have to register with local authorities and will have to have a waste permit, which will cause added administration burden and cost.</p>	<p>Representative Body</p>
<p>Producers who are also designated storage centres should be entitled to a rebate from their assigned recycling company for the expenditure incurred in the storage, collection, insurance and compliance with the Local Authority and general overheads thereto.</p>	<p>Representative Body</p>

Article 26 – Disposal of Waste Batteries

Comments	Sector
<p>All disposal options for batteries and accumulators, as part of Irish waste management policy, should be considered. Where necessary Ireland should exercise the provision for landfill or storage where no viable end market is available or as part of a strategy to phase out heavy metals.</p>	<p>Representative Body</p>

Article 27 – Treatment of Waste Batteries

Comments	Sector
In order to support the National Waste Report, a similar clause to that requested for and provided in the recent facility permit and collection amendment regulations would be useful. The clause in those regulations would in all likelihood cover the suggested requirement here, but in order to avoid ambiguity in relation to the management of waste batteries.	State Body

Article 28 – Recycling of Waste Batteries

Comments	Sector
Article 13 (1) of the Directive states that Member States should encourage the “ <i>development of new recycling and treatment technologies, and promote research into environmentally friendly and cost-effective recycling methods for all types of batteries and accumulators</i> ”. Felt that the Regulations have not fully transposed this objective and that funding should be made available for research into dealing with the complete recovery/recycling abilities in Ireland.	Waste Management Operator
The draft Regulations provides for participation in a community ecomanagement and audit scheme (EMAS). Similarly, recycling facilities are required to consider developing new technologies and promoting environmentally friendly options. Participation in EMAS and development of new technologies must remain voluntary. Any future Ministerial guidance should be developed in partnership with industry.	Representative Body
Query as to at what point will the batteries be removed? Who will be responsible for this – the producer, treatment facility	State Body

Article 29 – Record Keeping

Comments	Sector
Permitted & Licensed economic operators already have to report numbers collected, transport, treated and or recycled on an annual basis. The regulations should prevent excessive duplication of reporting in this regard.	Waste Management Operator
The record keeping requirements are excessive and place an unnecessary administrative burden on business. Producers should not be required to keep records of batteries placed on the market in each member state of the EU and third countries. A general provision for open ended powers to demand information at any time for any period is excessive.	Representative Body
Article 29 requires that from 26 September 2008 records are to be kept by producers by categories of batteries. As the categories have not yet been published by the European Commission significant difficulty is envisaged in meeting the commencement date and requests a deferral of one month for each month after February that the categories are not available.	Representative Body
Producers of industrial batteries are required to record the weight and/or quantities of industrial batteries placed on the market each year. It must be reminded that for this segment of batteries, the quantity placed on the market has no relationship with the waste arisings and cannot be used as a valuable piece of information to estimate collection performance.	Representative Body

<p>Welcome for the requirement for the various actors to maintain records and provide information to the EPA on request.</p> <p>In order to support the National Waste Report, a similar clause to that requested for and provided in the recent facility permit and collection amendment regulations would be useful. The clause in those regulations would in all likelihood cover the suggested requirement here, but in order to avoid ambiguity in relation to the management of waste batteries.</p> <p>A clause similar to that in article 23 of the 2007 Packaging Regulations is also requested</p>	State Body
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Article 30 – Waste Management Plans and Reports

Comments	Sector
Self compliance should be a practical option for a company, and must not contain an unnecessary administrative and reporting burden. These proposed planning and reporting requirements should be kept under review.	Representative Body
It would be useful to provide the trading name (if applicable) and the correspondence address if different from the registered office address (as this is sometimes a solicitor's office) and also a name and e-mail address for the principal contact for the plan or report.	State Body
Suggest deleting requirement to report on actual quantities placed on the market.	State Body
Reports should state the destination of the batteries, as well as who took them away and how much was recovered at each facility.	State Body

Article 31 – Obligation of Producers to Provide Information to Users of Batteries

Comments	Sector
<p>Appreciate that the timescales for battery capacity marking are set by the Directive. However, very concerned that if the test method is not defined until March 2009, there will be insufficient time for producers to have their batteries tested and to change artwork and begin production of compliant batteries in time for them to enter the market in September. Not all producers have their own test facilities, especially producers who are re-branding another manufacturers product. Some of the smaller manufacturers do not have test facilities either. Third party test facilities exist but are few and far between. Testing batteries can be time consuming, depending on the test regime.</p> <p>Urge Member States to lobby for the date of agreement of the test method to be brought forward. Also, if the agreed test was one of the existing tests from EN 60086, most manufacturers would already have test results to hand so the matter would be greatly simplified.</p> <p>Note that the draft ROI regulations give 26 September 2008 as the date for including capacity marking when it should be a year later.</p>	Producer
Each battery must be marked with details of the capacity of the battery concerned. The details of capacity are to be in accordance with a format to be issued by the European Commission. Understood that this has not yet been issued by the European Commission. It will almost certainly be impossible for battery manufacturers to meet the deadline	Representative Body

for capacity marking because there is not enough time. Batteries are imported and the supply chain is lengthy. Capacity marking will require referral to a test house for validation, thus creating a bottleneck in the test houses. An extension should be given to meet this requirement based on discussions with a wide spectrum of producer representatives as to what is realistic.	
Understand that EU definition of 'capacity' has yet to be agreed and, in the circumstances, are doubtful if the timescales for labelling compliance in March 2009 will be capable of being met.	Producer
Details pertaining to the capacity of the battery will depend on decisions made at EU level. Is an exemption on the capacity marking of batteries to be made due to the timeline involved in receiving this information and the onset of the obligation in September 2008	Representative Body
Request for exemption from labelling memory back-up batteries with a diameter greater than 32.56 mm on which there is no technical possibility for marking due to loss of electrical contact. Although these batteries have a surface which could accommodate a label with a dimension greater than to 0.5 cm X 0.5 cm an exemption is requested for the following reason. As the upper and bottom surfaces are used as contacts to deliver power, technically the marking of the crossed wheeled dustbin is not possible. Any label made of paper, plastic or printing ink applied onto the contact surface of the battery would alter the performance of the battery. Therefore only engraving of the mark on the contact area of the battery is possible while potentially reducing the effective electrical contact surface.	Representative Body
Producers have health and safety concerns for end users relating to the requirement to show how to " <i>safely remove a battery from an appliance where a battery is incorporated into the appliance concerned</i> ".	Representative Body
Suggest that DEHLG would consider realistic proposals so that is flexibility in the interpretation of article 31(1)(b) .on where and how information should be provided? – e.g. - user manual? - web site (but not at every place where batteries are sold)?	Representative Body
Further guidance is required on the exemptions to this obligation given in 31 (5) (b). Are Producers required to apply for this exemption?	Representative Body
Agrees with the inclusion of this sub-article	State Body

Article 32 – Obligation of Producers to Provide Information to the Registration Body

Comments	Sector
<p>"Reliable and comparable data on the quantities of batteries and accumulators placed on the market are necessary for monitoring whether the objectives of the Directive have been achieved" are stated by the Directive (Article 22).</p> <p>Request that a valid baseline battery recover rate be calculated and this technique (and baseline) then be used to make further calculations in accordance with the ambitious recovery targets as set out in the Regulations.</p>	Waste Management Operator

<p>Although yearly reporting is required in the draft Regulations will the reporting requirement be the same as the existing WEEE reporting on a monthly basis?</p> <p>Some Producers have requested a submission relating to quarterly, bi annual or even annual reporting while others have requested a submission that reporting happens using the same timeframe and system as WEEE reporting.</p> <p>A decision on reporting frequency made in consultation with the industry is required as early as possible in order for Producers systems to be integrated for battery reporting as mentioned above.</p> <p>Recommended a reporting system is based on <u>unit and weight</u> of batteries.</p>	<p>Representative Body</p>
<p>Concerned that information about the format of data and categories of batteries is not yet available and will be supplementary to the regulations. Collection and presentation of data is a particularly complex issue for producers who are also retailers because of the vast range of different products to be considered. Will have to develop specific I.T. reporting systems to generate the relevant data and to do that in time need to know what is required now.</p>	<p>Producer.</p>
<p>Guidance from the Minister in relation to the categories of batteries is required and should be developed quickly in partnership with industry, taking account of developments in other member states.</p>	<p>Representative Body</p>
<p>Agree that batteries need not be removable from appliances when used for the purposes of data integrity and require a permanent connection between the battery and the appliance</p>	<p>Representative Body</p>
<p>Producers must have the freedom to select what is the best way for them to service their products, i.e. street level or maintenance/professional center). Some products may need to be shipped to a maintenance center, which is not necessarily located in Ireland.</p>	<p>Representative Body</p>
<p>Producers are required to submit data on the number of batteries placed on the market in each of the categories. Categories of battery have not yet been defined by the European Commission. The regulations should allow for the fact that there may be genuine difficulties in deriving this information because IT systems are not configured to collate this information.</p>	<p>Representative Body</p>
<p>According to the battery Directive batteries placed on the market inside electrical and electronic equipment (EEE) would be subject to its provisions. In consequence these batteries will have to be taken into account in the calculation of the collection rate. Therefore battery producers would also be required to report to the Black Box (or another designated agency) the weight of batteries they placed on the market with EEE whether these batteries are removable or not by the end user of the appliance. Such batteries are likely to constitute a significant fraction of the total portable batteries placed on the Irish market and unless they are captured at the end of their life from WEEE treatment centres the realisation of the collection target could be jeopardised. Government is, therefore, asked to ensure for example that used mobile phones and computers containing batteries that may be exported from Ireland are taken into account.</p>	<p>Producer</p>

By implication the Government also needs to take into consideration whether EEE producers should report their market statistics (under the WEEE regulations) without including the weight of batteries.	
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Article 33 – Obligation of Distributors to Provide Information to Users of Batteries

Comments	Sector
Welcome the proposal for distributors of EEE and batteries to only be required to display a single sign. However, would advocate simplifying signage even further by specifying a sign for EEE distributors that combines the sign of article 33(2)(b) with the sign of article 16(12)(b)(ii) of the Waste Management (Waste Electrical and Electronic Equipment) Regulations, 2005. This should easily be possible now that the majority of vEMC values are set at €0 and sufficient space on the sign will become available.	Retailer
Query as to whether the notice under the WEEE Regulations or the notice under the Batteries Regulations take precedence and who will enforce which notices	State Body
In store notices for weee and for batteries should be amalgamated	Retailer
The size of notices should be the same for both WEEE and battery regulations. In this regard it is crucial that a 'mock up' be prepared as a feasibility test of the final version of the wording, font size and page size decided upon.	Representative Body
Signage required under the proposed Regulations duplicates requirements advertised in outlets for WEEE and Repak. IWMA suggests that provision be made for combined signage that would advertise Batteries, WEEE and Repak (with respective logos to increase visibility) to avoid duplication.	Representative Body
Point of sale can within the retail sector mean the section of a shop where goods are displayed. Enforcement of the WEEE Regulations has defined point of sale in that legislation to mean where the sales transactions take place i.e. the tills. Some retailers have multiple transaction points throughout stores and for practical space reasons may not be in a position to place a sign within 1m of all of these points. Allowing signage relating to battery recycling at the display point for the products in question may be a more realistic situation.	Representative Body
Advance notice is requested of what is required for distance sellers and catalogue retailers to comply with their obligations to communicate battery takeback arrangements. Catalogue retailers in particular have very large print runs and lengthy production lead in times.	Representative Body
Welcomes the provision obliging all distributors to provide information on return and collection systems to the enduser when supplying a new product. as it will raise awareness of business end users.	State Body
Welcome the fact that the proposed notices have titles to put the notices in context, also that it gives information to the consumer regarding take back options in layman's language.	State Body
Suggest inclusion of "also", i.e. "All household batteries can also be deposited free of charge at local authority recycling facilities."	State Body
There should be an obligation on any person advertising batteries to notify members of the public of take back arrangements	State Body

Article 34 – Exemption from Certain Requirements

Comments	Sector
Members of an approved scheme are exempt from the requirements of Article 23. However, this infers that members of an approved scheme would also be exempt from the prohibition imposed by Article 23(2) and could therefore legally display the costs of environmentally sound management of waste batteries. It is doubted that this is intended.	Producer
Concern that (as with the WEEE regulations), members will not be in a position to join compliance schemes and fulfil their obligations adequately. Whilst these regulations do not appear to distinguish between B2B and B2C as in the WEEE Regulations, it is important to have compliance schemes up and running before the legislation is implemented, and that these schemes are available to all companies at a reasonable cost.	Representative Body
Our recommendation is that the Government should not be at all prescriptive in the methods adopted by producer compliance schemes to finance their services. The option to charge for these per weight of batteries placed on the market, the front end method, or per weight of batteries collected, the back end method, or any other method they may choose, should be left to the compliance schemes to decide.	Producer

Article 35 – Application to the Minister for Approval

Comments	Sector
<p>Article 35(2)(l) of the Draft Regulations provides that a collective scheme's application for approval should be accompanied by a declaration that no producer applying for membership of the collective scheme will be discriminated against on the grounds of:</p> <p>A. "the quantity, or as appropriate, type of batteries that he or she places on the market, or, as appropriate,</p> <p>B. that the body concerned is only catering for or will only cater for –</p> <ul style="list-style-type: none"> • a maximum pre-determined share of waste arising from batteries, or, as appropriate, • waste arising from batteries from a particular geographical location • or locations in the State,". <p>While appreciative that these provisions intend to alleviate concerns about anti-competitive behaviour by members of collective schemes, the Authority is not convinced of their necessity. Reservations stem from the following:</p> <p>Competition law enforcement mechanisms are available to address anti-competitive behaviour;</p> <p>The provisions could create disincentives for providers of waste management services or the producers themselves to enter the market, and may ultimately work against the purpose of the legislation. For instance, the provisions could prevent producers willing to set up their own schemes to cater for their own products.</p>	State Body
The establishment of collective compliance schemes for batteries and accumulators is welcome but should not be restricted to existing	Representative Body

compliance schemes in order to encourage competition.	
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Article 36 – Grant or Refusal of Approval

Comments	Sector
Consideration should be given to the amount of bodies to be approved as compliance schemes due to the size of the Irish market. Due to the economies of scale required to run a cost effective scheme for both Producers and Consumers compliance scheme approval should be limited to 2 bodies.	Representative Body
A closing date for approved body application and granting of licence to operate prior to 1 st July 2008 has been requested	Representative Body
Collection responsibility should be allocated on a geographical basis similar to the existing WEEE system.	Representative Body

Article 37 – Review and Revocation of Approval

Comments	Sector
None	

Article 38 – Use of Logo Adopted by an Approved Body

Comments	Sector
None	

Article 39 – Notifications to Local Authorities and the Registration Body

Comments	Sector
Recommended that approved bodies should also be obliged to notify the EPA of instances where Certificates of Participation have been issues and/or revoked	State Body
In order to support the National Waste Report, a similar clause to that requested for and provided in the recent facility permit and collection amendment regulations would be useful. The clause in those regulations would in all likelihood cover the suggested requirement here, but in order to avoid ambiguity in relation to the management of waste batteries.	State Body

Article 40 - Enforcement

Comments	Sector
Supports the appointment of the EPA as the lead agency with enforcement responsibilities for these prohibitions, and associated exemptions. Industry recognises the important role each must play in the supply chain to ensure full enforcement. However, any such enforcement actions required from industry must take account of the practicalities of day-to-day operations and the associated administration costs. Also, industry efforts must be matched by similar enforcement efforts from the relevant agencies. Will liaise with members to identify areas of concern regarding the operation of such reporting requirements	Representative Body
The EPA should issue to the trade a confidential telephone number where illegal activities could be reported. There should be a non-compliance and general helpline.	Representative Body

<p>Although the authority responsible for the enforcement of the conditions of the Regulations, have been outlined and the offences and penalties stipulated, it is still felt that the enforcement of all the conditions will be an issue.</p> <p>The effectiveness of the scheme will greatly depend on the resources of the enforcement authority, and the relative priority given to policing the legislation for batteries alongside other legislation that the enforcement authority may have responsibility for.</p> <p>If not policed sufficiently, unscrupulous operators will continue to operate outside the law. Due to historical behaviour in the waste industry and the economic incentives, other pieces of waste legislation have not been strongly enforced.</p> <p>Urge that the sufficient resources and priority be given to this legislation to make the enforcement regime both effective and proportionate. And, the responsibility is taken by the producer/distributor, as is the essence of the Regulations.</p>	Waste Management Operator
<p>The Department of the Environment, Heritage and Local Government must take steps to ensure that all local authorities take a consistent approach to enforcement under Article 40(2), particularly in the early period when the regulations come in to force. Differing approaches makes compliance exceptionally difficult for companies operating in several local authority areas.</p>	Representative Body
<p>Reference is made to “the Agency, or as appropriate, the Authority, or, as appropriate, the relevant local authority”. Meaning of “the Authority” queried concerning the enforcement of articles 25, 26 and 43</p>	State Body
<p>Request that a provision that on reasonable demand (say 14 working days) that producers/distributors provide enforcement authorities with documents requested in writing for purposes of checking compliance, e.g. purchase/sales invoices.</p>	State Body

Article 41 – Authorised Officers

Comments	Sector
None	

Article 42 – Registration of Distributors

Comments	Sector
<p>Registration needs to be scrapped for the following reason, it is one thing to seek co-operation and that is fine however to incur a cost for retailer co-operation is a backward step. The Dept would do better to put the energy into making the Battery Regulations work by encouraging compliance in all locations where batteries are sold</p>	Retailer
<p>Any register of Distributors should be done on a national level.</p> <p>Distributors should be able to register with a central database. Distributors with multiple outlets should be able to make one registration submission listing contact details for all stores.</p> <p>Distributors registered in a central database should have access to all Civic Amenity Sites during agreed hours.</p>	Representative Body
<p>Review of the requirement that each Retailer registers with their Local</p>	Representative

<p>Authority requested. Notwithstanding the obligation on Retailers to register and carry out the obligations as Producers in the event that they are dealing with unregistered producers, believed it unnecessary and cumbersome to institute individual retailer registration requirements.</p> <p>Would envisage a group registration procedure operated via a waste collection database of an approved compliance scheme as an adequate measure.</p> <p>Would commit to the provision and updating of its membership databases to any approved compliance scheme to prevent leakage, free riders and ensure take back liability is applied equitably in the market place.</p>	Body
<p>Collection points that are registered to accept WEEE will require registration for the acceptance of batteries that presumably means an addition fee. For Civic Amenity Sites (CAS), that collect batteries and are already WEEE registered sites, provision should be made to allow automatic registration without additional registration fees.</p>	Representative Body
<p>Distributors registered for WEEE should be able to extend this registration to batteries where applicable.</p>	Representative Body
<p>Endorses the provision at Article 42(5) that where a distributor is registered with the relevant local authority under the WEEE regulations that such registration shall satisfy the requirement for registration by 1 August 2008 under the Battery regulations.</p>	Representative Body
<p>Welcome the provision for distributors who are already registered under the WEEE regulations to be deemed to be also registered under Article 42 of the batteries regulations. Would appreciate clarification of whether the possibility of distributors registering through a trade association would extend to those who are also EEE distributors.</p>	Retailer
<p>It is assumed that this joint registration shall continue to apply for the annual renewal of registration by a distributor of both EEE and batteries.</p>	Representative Body
<p>Understand that distributors will not have to register with local authorities if they are registered for 'weee'. Suggested that producers who are registered for 'weee' are similarly exempt from separate registration, and that joint registration is considered for producers of both 'eee' and batteries.</p>	Producer
<p>The draft Regulations require all distributors / retailers to register with the relevant local authority. While this adds yet again to the administration burden of retailers, the provision made for a trade association to act as a single register for retailers is welcomed.</p>	Representative Body
<p>It may be problematic to register all retailers and affect scheme participation and battery take back. The suggestion of retailer trade associations registering retailers en masse should be supported.</p>	Representative Body
<p>The registration of collection points should be easy for retailers so as not to restrict the number of flexible collection points available.</p>	Representative Body
<p>Distribution hubs e.g. wholesaler or storage facilities used for waste battery collection after reverse logistics from retailer premises should be able to register as collection points to gain exemptions from storage and collection permits under the limits above and not be required to allow access to the public for the deposit of waste batteries.</p>	Representative Body
<p>Article 42(6) provides that 'an association or corporate body</p>	Representative

representing distributors may....maintain a register for the purposes of this article'. In effect such an entity could provide a block registration service. Recommended that this article empower the producer compliance schemes to register all premises used for distribution and for which they collect WEEE or batteries returned by the public. This should allow for the fact that the distributor might aggregate the WEEE or batteries from several distribution premises at one location for collection by the compliance scheme.	Body
Registration arrangements for distributors should cater for new stores being opened between the dates for annual registration.	Representative Body
Queries whether it is possible to have a requirement to have the format of a register prescribed as it impossible to compile a national register of distributors of EEE as some local authorities have not used the Access database provided for this purpose, and therefore data from the 34 local authorities cannot be collated.	State Body
There should be a provision that the distributors' register should be made available to local authorities, and should be made available to DoEHLG on request if needed to compile a national register.	State Body

Article 43 – Non-Application of Section 34(1)(a) of the Act

Comments	Sector
Caution against exemptions relating to the collection of waste batteries. Recommend the current exemptions proposed in this regard be examined to prevent unscrupulous or uncontrolled operators operating in the sector as is currently the case without exemptions. Proper control of the waste market and high standards of operation are often in direct conflict with exemptions from requirements.	Waste Management Operator
The DEHLG must guarantee that proposed exemptions for retailers in take back systems / logistics from waste authorisations e.g. permits etc., must not lead to a loss of environmental standards that undermine the legitimate waste and resource management industry.	Representative Body

Article 44 - – Non-Application of Section 39(1) of the Act

Comments	Sector
The quantities for temporary storage automotive batteries appear excessive and should be reviewed.	Representative Body
Storage limits for distributors/other collection points including distribution hubs employing reverse logistics should be changed to: (i) 45 cubic metres of waste batteries other than portable batteries (ii) 10 cubic metres of waste portable batteries	Representative Body
The time limit for the storage of waste batteries at a facility where a registration certificate has been granted in lieu of a waste permit should be increased to a period not exceeding 12 months	Representative Body
There should be no registration fees for a facility where a registration certificate for the storage of waste batteries has been granted in lieu of a waste permit should be increased to a period not exceeding 12 months	Representative Body
To allow a cost efficient and effective national collection system for waste batteries and accumulators there should be no requirement for C1 forms or additional waste documentation provided collection points	Representative Body

<p>are registered with a central database and uplift from these points is carried out by contractors working on behalf of an approved body (compliance scheme).</p>	
<p>Recommended maximum quantities:</p> <p>Retail outlets:</p> <p>6 boxes or equivalent 2 X 60 Litres (approx 160 Kg)</p> <p>Schools:</p> <p>4 X 60 Litres (approx. 320 Kg)</p> <p>Universities / Places of Work:</p> <p>12 X 60 Litres (approx. 960 Kg)</p> <p>Distribution Centres:</p> <p>120 X 60 Litres (= 6 to a pallet. 20 pallets to a truck) approx. 9,600 Kg</p> <p>Civic Amenity Sites:</p> <p>As licensed facility should not be regulated under this act and left to / subject to EPA licence.</p>	<p>Waste Management Operator</p>
<p>Quantities for temporary storage of Automotive Batteries are excessive. These batteries are despatched in large plastic bins of approx. 0.85 cubic meters per bin.</p>	<p>Waste Management Operator</p>
<p>How will it be known if a workplace or school has been designated as a collection point by a local authority? Is it a case that the workplace or school will seek approval from the local authority in writing? It may be useful to have a list of such collection points for national reporting purposes.</p> <p>Would such collection points need to be exempted from waste collection and permit under Article 43? Would the school/workplace be transporting the batteries to the civic amenity site, or would compliance scheme or their agents collect them? Article 44 exempts workplace/school collection points having a facility permit if they don't exceed threshold and meet requirements of Article 44(2).</p>	<p>State Body</p>
<p>Registers held by facilities operating under a registration certificate should also be made available for inspection by the EPA.</p> <p>Records should be provided upon request – as opposed to the LA/EPA having to arrive on site to inspect them.</p> <p>Queries whether there should be a requirement for records to be held for a specified period of time (six years?) and in a format that may be specified by the Minister (if it is decided that fixed formats are required, e.g. for reporting for the National Waste Report).</p> <p>Should also be obliged to maintain records on who collected the waste</p>	<p>State Body</p>

and its destination.	
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Article 45 – Increased Environmental Performance

Comments	Sector
Would appreciate if DEHLG could provide some clarification on what the guidance document would incorporate.	Representative Body

Article 46 – Removal of Waste Batteries

Comments	Sector
<p>This article is fine provided that it isn't intended to apply to producers who are not engaged in manufacture or design. Retailers are generally producers because they are importers into the State. They do not have any influence over design matters.</p> <p>For some products the only safe way to remove batteries is by professional dismantlers. For example, rechargeable shavers are not designed to allow the batteries to be replaced. As there are no other serviceable parts, the product casing is often ultrasonically welded together and requires breaking apart to remove the batteries. This is not something the end-user should be expected to do. Some toys have the batteries sealed in to prevent access to small parts, the batteries being expected to last the life of the product.</p>	Retailer with Producer obligations
Clarification is needed on the stage in the waste recovery process at which waste batteries must be readily removable. We suggest that this is not limited to the point where the customer disposes of the battery but should also include the recovery process stage.	Producer
Where a product incorporating a battery is returned the distributor should only be obliged to accept the battery if it can be removed. Where it cannot be removed the compliance scheme should be obliged to accept the product including the battery. The removal of the battery and the environmentally safe recycling or disposal of the product should then also be the responsibility of the compliance scheme.	Representative Body
Welcome the inclusion that it is an offence to provide false or misleading information to an authorised person and/or to obstruct them in the exercise of a power. Suggest including an Authorised Officer here also (mentions authorised person and inspector but not authorised officer).	State Body

Article 47 – Offences

Comments	Sector
Welcome for the inclusion that it is an offence to provide false or misleading information to an authorised person and/or to obstruct them in the exercise of a power. Suggest including an Authorised Officer here also (mentions authorised person and inspector but not authorised officer).	State Body

Article 48 – Penalties

Comments	Sector
None	

Article 49 - Revocation

Comments	Sector
None	

Observations by Government Departments

Comments	Submitted by	Sector
No observations to make on the proposals	Department of Agriculture, Fisheries and Food	Government Department
Welcome for the consultation process	Department of An Taoiseach	Government Department
Support the proposals	Department of Defence	Government Department
No opposition to the Draft Regulations	Department of Enterprise Trade and Employment	Government Department
Welcome for the Regulations	Department of Health and Children	Government Department